

As Reported by the Committee of Conference, Part I

126th General Assembly

Regular Session

2005-2006

Am. Sub. H. B. No. 66

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

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| amended; to amend Section 153 of Am. Sub. H.B. 117 | 267 |
| of the 121st General Assembly, as subsequently | 268 |
| amended; to amend Section 5 of Am. Sub. S.B. 50 of | 269 |
| the 121st General Assembly, as subsequently | 270 |
| amended; and to repeal Sections 59.19, 89.17, and | 271 |
| 147 of Am. Sub. H.B. 95 of the 125th General | 272 |
| Assembly to make operating appropriations for the | 273 |
| biennium beginning July 1, 2005 and ending June | 274 |
| 30, 2007, and to provide authorization and | 275 |
| conditions for the operation of state programs, | 276 |
| and to repeal Section 553.01 of this act on | 277 |
| February 16, 2006. | 278 |

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

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| Section 101.01. That sections 9.24, 9.981, 101.68, 102.02, | 279 |
| 102.06, 108.05, 109.54, 109.57, 109.79, 109.91, 109.98, 117.10, | 280 |
| 120.06, 120.13, 120.23, 120.52, 120.53, 121.37, 121.38, 122.011, | 281 |

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| 122.74, 122.75, 122.751, 122.76, 122.77, 122.78, 122.79, 122.82, | 283 |
| 122.83, 122.95, 122.951, 123.01, 123.152, 123.17, 124.07, 124.321, | 284 |
| 124.328, 125.041, 125.05, 125.11, 125.831, 125.832, 126.25, | 285 |
| 127.16, 131.02, 131.23, 133.08, 133.081, 133.09, 140.01, 141.011, | 286 |
| 141.04, 145.01, 145.33, 147.05, 147.10, 147.11, 147.12, 147.371, | 287 |
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| 181.51, 181.52, 181.54, 181.55, 181.56, 183.28, 184.02, 305.171, | 289 |
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| 1707.23, 1707.25, 1707.261, 1707.431, 1707.44, 1707.46, 1711.52, | 300 |
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5749.02, 5907.15, 5919.33, 5920.01, 6109.21, 6121.04, and 6123.04 386
be amended; that sections 9.833, 9.90, 3311.19, 3313.12, 3313.202, 387
3313.33, 4117.03, and 4117.08 be contingently amended; that 388
sections 181.251 (5502.63), 181.51 (5502.61), 181.52 (5502.62), 389
181.54 (5502.64), 181.55 (5502.65), 181.56 (5502.66), 3314.031 390
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(3318.47), 3317.22 (3318.48), 3317.23 (3318.49), 4723.63 392
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(5111.021), 5111.021 (5111.022), 5111.022 (5111.023), 5111.023 394
(5111.0115), 5111.112 (5111.113), 5111.113 (5111.114), 5111.231 395
(5111.232), 5111.257, (5111.258), 5111.81 (5111.085), 5111.88 396
(5111.97), 5111.97 (5111.86), 5121.01 (5121.02), 5121.02 397
(5121.03), and 5121.03 (5121.01) be amended for the purpose of 398
adopting new section numbers as indicated in parentheses; that 399
Section 41.36 of Am. Sub. H.B. 95 of the 125th General Assembly be 400
amended and that Section 41.36 of Am. Sub. H.B. 95 of the 125th 401
General Assembly be amended for the purpose of codifying it as 402
section 3323.19 of the Revised Code; that new sections 3317.012, 403
3353.02, 3353.03, 3704.14, 4723.63, 5111.02, 5111.112, 5111.231, 404
5111.24, 5111.257, 5111.34, 5111.88, and 5123.048 and sections 405
9.23, 9.231, 9.232, 9.233, 9.234, 9.235, 9.236, 9.237, 9.238, 406
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5101.803, 5101.93, 5101.98, 5107.301, 5111.0114, 5111.027, 432
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5729.032, 5739.012, 5739.36, 5743.031, 5743.072, 5743.331, 449
5743.71, 5747.056, 5751.01, 5751.011, 5751.012, 5751.013, 5751.02, 450
5751.03, 5751.031, 5751.032, 5751.033, 5751.04, 5751.05, 5751.051, 451
5751.06, 5751.07, 5751.08, 5751.081, 5751.09, 5751.10, 5751.11, 452
5751.12, 5751.20, 5751.21, 5751.22, 5751.23, 5751.31, 5751.50, 453
5751.51, 5751.52, 5751.53, 5751.98, 5751.99, 5919.31, 5919.341, 454
6111.30, 6111.31, and 6111.32 be enacted; and that section 9.901 455
of the Revised Code be enacted (certain of its phases 456
contingently) to read as follows: 457

Sec. 9.23. As used in sections 9.23 to 9.239 of the Revised 458
Code: 459

(A) "Allocable nondirect costs" means the amount of nondirect 460
costs allocated as a result of actual expenditures on direct 461
costs. "Allocable nondirect costs" shall be calculated as follows: 462
direct costs actually incurred for the provision of services 463
pursuant to a contract entered into under section 9.231 of the 464
Revised Code divided by the minimum percentage of money that is to 465
be expended on the recipient's direct costs, as specified in the 466
contract, minus the direct costs actually incurred. 467

(B) "Contract payment earned" means payment pursuant to a 468
contract entered into under section 9.231 of the Revised Code for 469
direct costs actually incurred in performing the contract, up to 470
the minimum percentage of money that is to be expended on the 471
recipient's direct costs, as specified in the contract, plus 472

allocable nondirect costs associated with those direct costs. 473

(C) "Direct costs" means the costs of providing services that 474
directly benefit a patient, client, or the public and that are set 475
forth in the contract entered into under section 9.231 of the 476
Revised Code. "Direct costs" does not include the costs of any 477
financial review or audit required under section 9.234 of the 478
Revised Code. 479

(D)(1) "Governmental entity" means a state agency or a 480
political subdivision of the state. 481

(2) "Contracting authority" of a governmental entity means 482
the director or chief executive officer, in the case of a state 483
agency, or the legislative authority, in the case of a political 484
subdivision. 485

(E) "Minimum percentage of money that is to be expended on 486
the recipient's direct costs" means the percentage of the total 487
amount of the contract entered into under section 9.231 of the 488
Revised Code that, at a minimum, has to be expended on the 489
recipient's direct costs in performing the contract in order for 490
the recipient to earn the total amount of the contract. 491

(F) "Political subdivision" means a county, township, 492
municipal corporation, or any other body corporate and politic 493
that is responsible for government activities in a geographic area 494
smaller than that of the state. 495

(G) "Recipient" means a person that enters into a contract 496
with a governmental entity under section 9.231 of the Revised 497
Code. 498

(H) "State agency" means any organized body, office, agency, 499
institution, or other entity established by the laws of the state 500
for the exercise of any function of state government. 501

(I) A judgment is "uncollectible" if, at least ninety days 502

after the judgment is obtained, the full amount of the judgment 503
has not been collected and either a settlement agreement between 504
the governmental entity and the recipient has not been entered 505
into or a settlement agreement has been entered into but has not 506
been materially complied with. 507

Sec. 9.231. (A)(1) Subject to divisions (A)(2) and (3) of 508
this section, a governmental entity shall not disburse money 509
totaling twenty-five thousand dollars or more to any person for 510
the provision of services for the primary benefit of individuals 511
or the public and not for the primary benefit of a governmental 512
entity or the employees of a governmental entity, unless the 513
contracting authority of the governmental entity first enters into 514
a written contract with the person that is signed by the person or 515
by an officer or agent of the person authorized to legally bind 516
the person and that embodies all of the requirements and 517
conditions set forth in sections 9.23 to 9.236 of the Revised 518
Code. If the disbursement of money occurs over the course of a 519
governmental entity's fiscal year, rather than in a lump sum, the 520
contracting authority of the governmental entity shall enter into 521
the written contract with the person at the point during the 522
governmental entity's fiscal year that at least seventy-five 523
thousand dollars has been disbursed by the governmental entity to 524
the person. Thereafter, the contracting authority of the 525
governmental entity shall enter into the written contract with the 526
person at the beginning of the governmental entity's fiscal year, 527
if, during the immediately preceding fiscal year, the governmental 528
entity disbursed to that person an aggregate amount totaling at 529
least seventy-five thousand dollars. 530

(2) If the money referred to in division (A)(1) of this 531
section is disbursed by or through more than one state agency to 532
the person for the provision of services to the same population, 533
the contracting authorities of those agencies shall determine 534

which one of them will enter into the written contract with the 535
person. 536

(3) The requirements and conditions set forth in divisions 537
(A), (B), (C), and (F) of section 9.232, divisions (A)(1) and (2) 538
and (B) of section 9.234, divisions (A)(2) and (B) of section 539
9.235, and sections 9.233 and 9.236 of the Revised Code do not 540
apply with respect to the following: 541

(a) Contracts to which all of the following apply: 542

(i) The amount received for the services is a set fee for 543
each time the services are provided, is determined in accordance 544
with a fixed rate per unit of time or per service, or is a 545
capitated rate, and the fee or rate is established by competitive 546
bidding or by a market rate survey of similar services provided in 547
a defined market area. The market rate survey may be one conducted 548
by or on behalf of the governmental entity or an independent 549
survey accepted by the governmental entity as statistically valid 550
and reliable. 551

(ii) The services are provided in accordance with standards 552
established by state or federal law, or by rules or regulations 553
adopted thereunder, for their delivery, which standards are 554
enforced by the federal government, a governmental entity, or an 555
accrediting organization recognized by the federal government or a 556
governmental entity. 557

(iii) Payment for the services is made after the services are 558
delivered and upon submission to the governmental entity of an 559
invoice or other claim for payment as required by any applicable 560
local, state, or federal law or, if no such law applies, by the 561
terms of the contract. 562

(b) Contracts under which the services are reimbursed through 563
or in a manner consistent with a federal program that meets all of 564
the following requirements: 565

(i) The program calculates the reimbursement rate on the basis of the previous year's experience or in accordance with an alternative method set forth in rules adopted by the Ohio department of job and family services. 566
567
568
569

(ii) The reimbursement rate is derived from a breakdown of direct and indirect costs. 570
571

(iii) The program's guidelines describe types of expenditures that are allowable and not allowable under the program and delineate which costs are acceptable as direct costs for purposes of calculating the reimbursement rate. 572
573
574
575

(iv) The program includes a uniform cost reporting system with specific audit requirements. 576
577

(c) Contracts under which the services are reimbursed through or in a manner consistent with a federal program that calculates the reimbursement rate on a fee for service basis in compliance with United States office of management and budget Circular A-87, as revised May 10, 2004. 578
579
580
581
582

(d) Contracts for services that are paid pursuant to the earmarking of an appropriation made by the general assembly for that purpose. 583
584
585

(B) Division (A) of this section does not apply if the money is disbursed to a person pursuant to a contract with the United States or a governmental entity under any of the following circumstances: 586
587
588
589

(1) The person receives the money directly or indirectly from the United States, and no governmental entity exercises any oversight or control over the use of the money. 590
591
592

(2) The person receives the money solely in return for the performance of one or more of the following types of services: 593
594

(a) Medical, therapeutic, or other health-related services 595

provided by a person if the amount received is a set fee for each 596
time the person provides the services, is determined in accordance 597
with a fixed rate per unit of time, or is a capitated rate, and 598
the fee or rate is reasonable and customary in the person's trade 599
or profession; 600

(b) Medicaid-funded services, including administrative and 601
management services, provided pursuant to a contract or medicaid 602
provider agreement that meets the requirements of the medicaid 603
program established under Chapter 5111. of the Revised Code. 604

(c) Services, other than administrative or management 605
services or any of the services described in division (B)(2)(a) or 606
(b) of this section, that are commonly purchased by the public at 607
an hourly rate or at a set fee for each time the services are 608
provided, unless the services are performed for the benefit of 609
children, persons who are eligible for the services by reason of 610
advanced age, medical condition, or financial need, or persons who 611
are confined in a detention facility as defined in section 2921.01 612
of the Revised Code, and the services are intended to help promote 613
the health, safety, or welfare of those children or persons; 614

(d) Educational services provided by a school to children 615
eligible to attend that school. For purposes of division (B)(2)(d) 616
of this section, "school" means any school operated by a school 617
district board of education, any community school established 618
under Chapter 3314. of the Revised Code, or any nonpublic school 619
for which the state board of education prescribes minimum 620
education standards under section 3301.07 of the Revised Code. 621

(e) Services provided by a foster home as defined in section 622
5103.02 of the Revised Code; 623

(f) "Routine business services other than administrative or 624
management services," as that term is defined by the attorney 625
general by rule adopted in accordance with Chapter 119. of the 626

Revised Code; 627

(g) Services to protect the environment or promote 628
environmental education that are provided by a nonprofit entity or 629
services to protect the environment that are funded with federal 630
grants or revolving loan funds and administered in accordance with 631
federal law. 632

(3) The person receives the money solely in return for the 633
performance of services intended to help preserve public health or 634
safety under circumstances requiring immediate action as a result 635
of a natural or man-made emergency. 636

(C) With respect to a nonprofit association, corporation, or 637
organization established for the purpose of providing educational, 638
technical, consulting, training, financial, or other services to 639
its members in exchange for membership dues and other fees, any of 640
the services provided to a member that is a governmental entity 641
shall, for purposes of this section, be considered services "for 642
the primary benefit of a governmental entity or the employees of a 643
governmental entity." 644

Sec. 9.232. A contract entered into under section 9.231 of 645
the Revised Code shall, at a minimum, set forth all of the 646
following: 647

(A) The minimum percentage of money that is to be expended on 648
the recipient's direct costs; 649

(B) The records that a recipient must maintain to document 650
direct costs; 651

(C) If some of the recipient's obligations under the contract 652
involve the performance of any of the types of services described 653
in division (B)(2)(a), (c), or (f) of section 9.231 of the Revised 654
Code, the name and telephone number of the individual designated 655
by the governmental entity as the contact for obtaining approval 656

of contract amounts for purposes of division (A)(2)(a)(ii) of 657
section 9.235 of the Revised Code; 658

(D) The financial review and audit requirements established 659
under section 9.234 of the Revised Code and by rules of the 660
auditor of state adopted under section 9.238 of the Revised Code 661
or, with respect to any contract described in division (A)(3) of 662
section 9.231 of the Revised Code, any financial compliance 663
requirements established for purposes of that contract; 664

(E) The provisions established by rules of the attorney 665
general adopted under section 9.237 of the Revised Code; 666

(F) Permissible dispositions of money received by a recipient 667
in excess of the contract payment earned, if the excess is not to 668
be repaid to the governmental entity. 669

Sec. 9.233. (A) A recipient shall be entitled to the contract 670
payment earned. In no event shall a recipient be entitled to more 671
than the contract payment earned. A recipient shall repay any 672
money received in excess of the contract payment earned to the 673
governmental entity or, if a different disposition is provided for 674
in the recipient's contract with the governmental entity, dispose 675
of that money in accordance with the terms of the contract. 676

(B) In order to determine the contract payment earned, all 677
financial books and records open to inspection pursuant to section 678
9.235 of the Revised Code shall be held to standards consistent 679
with generally accepted accounting principles. 680

Sec. 9.234. (A) Unless otherwise explicitly provided in the 681
Revised Code, a recipient shall do all of the following: 682

(1) With respect to any money received prior to the 683
performance of the recipient's obligations under the contract 684
entered into under section 9.231 of the Revised Code, and any 685
money received in excess of the contract payment earned, keep 686

current and accurate records of the receipt and use of the money 687
in a manner consistent with the contract; 688

(2) With respect to any money received after the recipient 689
has performed its obligations under the contract entered into 690
under section 9.231 of the Revised Code, keep current and accurate 691
records of the recipient's expenditures on direct costs; 692

(3) Annually provide the contracting authority of the 693
governmental entity with a report that includes both of the 694
following: 695

(a) (i) Subject to division (A)(3)(a)(ii) of this section, an 696
audit report, if a financial audit is required by division (B)(3) 697
of this section; a financial review, if a financial review is 698
required by division (B)(2) of this section; a financial review, 699
if a financial review is required by division (B)(1) of this 700
section and is not waived; or financial statements, major 701
categories of expenditure of the money, and a summary of the 702
activities for which the recipient used the money. 703

(ii) With respect to any contract described in division 704
(A)(3) of section 9.231 of the Revised Code, an audit report or 705
financial review if the performance of a financial audit or review 706
is a compliance requirement established for purposes of that 707
contract. 708

(b) Any other information that may be required by the 709
contract. 710

(B) (1) A recipient that, pursuant to one or more contracts 711
entered into under section 9.231 of the Revised Code, receives 712
money totaling at least one hundred thousand dollars but less than 713
three hundred thousand dollars in any fiscal year shall have a 714
financial review performed for each fiscal year in which it 715
receives that amount of money in accordance with the financial 716
review standards of the American institute of certified public 717

accountants. The financial review shall be performed by an 718
independent public accounting firm. The financial review contract 719
between the recipient and the firm shall provide that the state is 720
an intended third-party beneficiary of the contract. 721

This financial review requirement may be waived, however, if 722
the contracting authority of each governmental entity from which 723
the recipient received money that fiscal year pursuant to a 724
contract entered into under section 9.231 of the Revised Code 725
agrees to the waiver. 726

(2) A recipient that, pursuant to one or more contracts 727
entered into under section 9.231 of the Revised Code, receives 728
money totaling at least three hundred thousand dollars but less 729
than five hundred thousand dollars in any fiscal year shall have a 730
financial review performed for each fiscal year in which it 731
receives that amount of money in accordance with the financial 732
review standards of the American institute of certified public 733
accountants. The financial review shall be performed by an 734
independent public accounting firm. The financial review contract 735
between the recipient and the firm shall provide that the state is 736
an intended third-party beneficiary of the contract. 737

(3) A recipient that, pursuant to one or more contracts 738
entered into under section 9.231 of the Revised Code, receives 739
money totaling five hundred thousand dollars or more in any fiscal 740
year shall have a financial audit performed for each fiscal year 741
in which it receives that amount of money according to generally 742
accepted auditing standards by an independent public accounting 743
firm. The engagement letter between the recipient and the firm 744
shall provide that the state is an intended third-party 745
beneficiary of the contract. The audit shall comply with rules 746
adopted by the auditor of state under section 9.238 of the Revised 747
Code. An audit performed pursuant to the federal "Single Audit Act 748
of 1984," 98 Stat. 2327, 31 U.S.C. 7501 et seq., as amended, is 749

sufficient if the state is an intended third-party beneficiary of 750
the audit contract. 751

(C)(1) An audit conducted by the auditor of state pursuant to 752
any other provision of the Revised Code is sufficient for purposes 753
of division (B) of this section. 754

(2) A financial audit meeting the requirements of division 755
(B)(3) of this section satisfies the financial review requirements 756
of divisions (B)(1) and (2) of this section. 757

(3) The references in division (B) of this section to fiscal 758
year mean the recipient's fiscal year. 759

(D) Nothing in this section shall be construed to limit in 760
any way the authority of the auditor of state to conduct audits 761
pursuant to any other provision of the Revised Code. 762

Sec. 9.235. (A)(1) Subject to division (A)(2) of this 763
section, the financial books and records of a recipient, and the 764
financial books and records of any person with which the recipient 765
contracts for the performance of the recipient's obligations under 766
the recipient's contract with the governmental entity, shall be 767
open to inspection by the governmental entity and by the state 768
from the time the recipient first applies for payment under the 769
contract. If the recipient is paid before the performance of its 770
obligations under the contract, the financial books and records of 771
the recipient and of any person with which the recipient contracts 772
for the performance of the recipient's obligations shall be open 773
to inspection from the first anniversary of the payment or from 774
any earlier date that the contract may provide. 775

(2) Division (A)(1) of this section does not apply to any 776
person that contracts with the recipient solely for the 777
performance of some of the recipient's obligations under the 778
recipient's contract with the governmental entity that directly 779

benefit the recipient's patients or clients, if either of the 780
following applies: 781

(a) The services provided by the person are any of the types 782
of services described in division (B)(2)(a), (c), or (f) of 783
section 9.231 of the Revised Code and the full amount of the 784
person's contract constitutes direct costs for the recipient and 785
is reasonable and customary in the person's trade or profession. 786
For purposes of division (A)(2)(a) of this section, the amount of 787
the person's contract with the recipient shall be considered 788
"reasonable and customary in the person's trade or profession" if 789
any of the following applies: 790

(i) The amount is equal to or less than the maximum amount 791
for those services specified in the recipient's contract with the 792
governmental entity. 793

(ii) The amount was approved by the governmental entity after 794
the recipient entered into the contract with the governmental 795
entity. 796

(iii) A maximum amount for those services was specified in 797
the recipient's contract with the governmental entity, the 798
recipient's original contract with a person for the performance of 799
those services was subsequently canceled or otherwise unfulfilled, 800
the recipient entered into a replacement contract with another 801
person, and the amount of that contract is not more than 802
twenty-five per cent above the maximum amount for the services 803
specified in the recipient's contract with the governmental 804
entity. 805

(b) The services provided by the person are any of the types 806
of services described in division (B)(2)(b), (d), or (e) of 807
section 9.231 of the Revised Code. 808

(B)(1) Subject to division (B)(2) of this section, if a 809
recipient contracts with another person for the performance of 810

some or all of the recipient's obligations under the recipient's 811
contract with the governmental entity, the recipient shall be 812
entitled to claim spending by the other person as direct costs 813
only to the extent the other person has spent money on direct 814
costs in the performance of the recipient's obligations and only 815
if the other person complies with all of the terms and conditions 816
relating to the performance that the recipient is required to 817
comply with under the contract with the governmental entity. 818

(2) The conditions set forth in division (B)(1) of this 819
section do not apply with respect to any person described in 820
division (A)(2) of this section. 821

(C)(1) Nothing in this section shall be construed as making 822
any record of the receipt or expenditure of nonpublic money a 823
public record for purposes of section 149.43 of the Revised Code. 824

(2) Division (C)(1) of this section does not limit in any way 825
the authority of the auditor of state to conduct audits or other 826
investigations when public money is commingled with nonpublic 827
money. 828

Sec. 9.236. (A) A recipient is liable to repay to the 829
governmental entity any money received in excess of the contract 830
payment earned. 831

(B)(1) A governmental entity may bring a civil action for the 832
recovery of money due to the governmental entity from a recipient 833
under division (A) of this section. In such an action, any person 834
with which the recipient has contracted for the performance of the 835
recipient's material obligations to a group of beneficiaries under 836
the recipient's contract with the governmental entity may be made 837
a party defendant if the person is unable to demonstrate to the 838
satisfaction of the governmental entity that the person has 839
materially complied with the terms of the contract with the 840
recipient. In such a case, the person may be made a party 841

defendant and the governmental entity may obtain a judgment 842
against the person in accordance with division (B)(2) of this 843
section. 844

(2) If a governmental entity obtains a judgment against a 845
recipient in a civil action brought under division (B)(1) of this 846
section and the judgment is uncollectible, the governmental entity 847
may recover from the person with which the recipient contracted an 848
amount not exceeding the lesser of the following: 849

(a) The unsatisfied amount of the judgment; 850

(b) The total amount received by the person from the 851
recipient minus the total amount spent by the person on direct 852
costs for services actually performed and retained by the person 853
as allocable nondirect costs associated with those direct costs. 854

(C) If a governmental entity, pursuant to this section, 855
obtains a judgment against a recipient or against a person with 856
which the recipient contracted and that judgment debtor does not 857
voluntarily pay the amount of the judgment, that judgment debtor 858
shall be precluded from contracting with a governmental entity to 859
the extent provided in divisions (A) and (B) of section 9.24 of 860
the Revised Code for a debtor against whom a finding of recovery 861
has been issued. 862

(D) In addition to other remedies provided in divisions (A) 863
to (C) of this section, a governmental entity may void a contract 864
between a recipient and another person for the performance by the 865
other person of the recipient's obligations under the recipient's 866
contract with the governmental entity to the extent that the other 867
person has not yet performed its obligations under the contract or 868
cannot demonstrate that the money it received was expended on 869
direct costs or retained as allocable nondirect costs. 870

(E) If a recipient is liable to repay money to a governmental 871
entity under this section and the judgment obtained by the 872

governmental entity against the recipient is uncollectible, then 873
in addition to other remedies provided in divisions (A) to (C) of 874
this section, and after the governmental entity has obtained a 875
judgment against any necessary third party, the governmental 876
entity may void any of the following contracts: 877

(1) A contract made not more than one hundred eighty days 878
before the judgment against the recipient became uncollectible 879
between the recipient and a director, trustee, or officer of the 880
recipient or a business in which a director, trustee, or officer 881
of the recipient has a material financial interest, if either of 882
the following applies: 883

(a) The recipient has paid substantial value for property 884
received and the property can be returned to the other person. If 885
the property has experienced only normal wear and tear, the person 886
shall be liable to the governmental entity for the full amount the 887
recipient paid for the property. Otherwise, the person shall be 888
liable to the governmental entity only for the market value of the 889
property. 890

(b) The person with which the recipient contracted has 891
received money that the recipient obtained pursuant to the 892
contract with the governmental entity and the money was not 893
expended on direct costs or retained as allocable nondirect costs. 894
In such a case, the governmental entity may void the contract to 895
the extent the money was not expended on direct costs or retained 896
as allocable nondirect costs, and the person shall be liable to 897
the governmental entity for that amount. 898

(2) A contract made not more than one hundred eighty days 899
before the judgment against the recipient became uncollectible 900
between the recipient and an employee of the recipient or a 901
business in which an employee of the recipient has a material 902
financial interest, if the employee has direct knowledge of the 903
use of the money that the recipient obtained pursuant to the 904

contract with the governmental entity and either division 905
(E)(1)(a) or (b) of this section applies; 906

(3) A contract between the recipient and another person 907
pursuant to which the recipient has paid or agreed to pay money to 908
the other person, to the extent that the other person has not yet 909
performed its obligations under the contract; 910

(4) A contract made not more than one year before the 911
judgment against the recipient became uncollectible between the 912
recipient and a person other than the governmental entity if the 913
other person has not given or agreed to give consideration of 914
reasonable and substantial value for the consideration given by 915
the recipient. 916

Sec. 9.237. The attorney general shall adopt rules in 917
accordance with Chapter 119. of the Revised Code governing the 918
terms of any contract entered into under section 9.231 of the 919
Revised Code. The rules shall set forth all of the following: 920

(A) A definition of permissible components of direct costs, 921
including a list of expenditures that may never be included in 922
direct costs and a nonexclusive list of expenditures that may be 923
included in direct costs pursuant to agreement of the parties; 924

(B) Permissible methods by which a recipient may keep records 925
documenting direct costs and how long those records must be 926
retained; 927

(C) Remedies not inconsistent with section 9.236 of the 928
Revised Code in the event of a breach of the contract; 929

(D) Terms to be included in contracts between recipients and 930
persons other than the governmental entity, including the notice 931
of the remedies available to the governmental entity if the money 932
under the contract with the governmental entity is not expended on 933
direct costs or retained as allocable nondirect costs or, with 934

respect to any contract described in division (A)(3) of section 935
9.231 of the Revised Code, is not earned under the terms of the 936
contract with the governmental entity; 937

(E) Any other provisions that the attorney general considers 938
necessary to carry out the purposes of sections 9.23 to 9.236 of 939
the Revised Code. 940

Sec. 9.238. (A) The auditor of state shall prescribe a single 941
form of the financial reviews required by divisions (B)(1) and (2) 942
of section 9.234 of the Revised Code to be used for all 943
governmental entities. 944

(B) The auditor of state may adopt rules in accordance with 945
Chapter 119. of the Revised Code governing the form and content of 946
the audit reports required by division (B)(3) of section 9.234 of 947
the Revised Code and may prescribe a single form of the report to 948
be used for all governmental entities. Upon request made by a 949
recipient, the auditor of state shall, to the extent possible, 950
require all governmental entities that have entered into a 951
contract with that recipient under section 9.231 of the Revised 952
Code to accept a particular audit report. 953

Sec. 9.239. (A) There is hereby created the government 954
contracting advisory council. The attorney general and auditor of 955
state shall consult with the council on the performance of their 956
rule-making functions under sections 9.237 and 9.238 of the 957
Revised Code and shall consider any recommendations of the 958
council. The director of job and family services shall annually 959
report to the council the cost methodology of the medicaid-funded 960
services described in division (A)(3)(d) of section 9.231 of the 961
Revised Code. The council shall consist of the following members 962
or their designees: 963

(1) The attorney general; 964

| | |
|--|-------------------|
| <u>(2) The auditor of state;</u> | 965 |
| <u>(3) The director of administrative services;</u> | 966 |
| <u>(4) The director of aging;</u> | 967 |
| <u>(5) The director of alcohol and drug addiction services;</u> | 968 |
| <u>(6) The director of budget and management;</u> | 969 |
| <u>(7) The director of development;</u> | 970 |
| <u>(8) The director of job and family services;</u> | 971 |
| <u>(9) The director of mental health;</u> | 972 |
| <u>(10) The director of mental retardation and developmental disabilities;</u> | 973 974 |
| <u>(11) The director of rehabilitation and correction;</u> | 975 |
| <u>(12) The administrator of workers' compensation;</u> | 976 |
| <u>(13) The executive director of the county commissioners' association of Ohio;</u> | 977 978 |
| <u>(14) The president of the Ohio grantmakers forum;</u> | 979 |
| <u>(15) The president of the Ohio chamber of commerce;</u> | 980 |
| <u>(16) The president of the Ohio state bar association;</u> | 981 |
| <u>(17) The president of the Ohio society of certified public accountants;</u> | 982 983 |
| <u>(18) The executive director of the Ohio association of nonprofit organizations;</u> | 984 985 |
| <u>(19) The president of the Ohio united way;</u> | 986 |
| <u>(20) One additional member appointed by the attorney general;</u> | 987 |
| <u>(21) One additional member appointed by the auditor of state.</u> | 988 |
| <u>(B) If an agency or organization represented on the council ceases to exist in the form it has on the effective date of this section, the successor agency or organization shall be represented</u> | 989 990 991 |

in its place. If there is no successor agency or organization, or 992
if it is not clear what agency or organization is the successor, 993
the attorney general shall designate an agency or organization to 994
be represented in place of the agency or organization originally 995
represented on the council. 996

(C) The two members appointed to the council shall serve 997
three-year terms. Original appointments shall be made not later 998
than sixty days after the effective date of this section. 999
Vacancies on the council shall be filled in the same manner as the 1000
original appointment. 1001

(D) The attorney general or the attorney general's designee 1002
shall be the chairperson of the council. The council shall meet at 1003
least once every two years to review the rules adopted under 1004
sections 9.237 and 9.238 of the Revised Code and to make 1005
recommendations to the attorney general and auditor of state 1006
regarding the adoption, amendment, or repeal of those rules. The 1007
council shall also meet at other times as requested by the 1008
attorney general or auditor of state. 1009

(E) Members of the council shall serve without compensation 1010
or reimbursement. 1011

(F) The office of the attorney general shall provide 1012
necessary staff, facilities, supplies, and services to the 1013
council. 1014

(G) Sections 101.82 to 101.87 of the Revised Code do not 1015
apply to the council. 1016

Sec. 9.24. (A) Except as may be allowed under division (F) of 1017
this section, no state agency and no political subdivision shall 1018
award a contract as described in division (G)(1) of this section 1019
for goods, services, or construction, paid for in whole or in part 1020
with state funds, to a person against whom a finding for recovery 1021

has been issued by the auditor of state on and after January 1, 1022
2001, if the finding for recovery is unresolved. 1023

A contract is considered to be awarded when it is entered 1024
into or executed, irrespective of whether the parties to the 1025
contract have exchanged any money. 1026

(B) For purposes of this section, a finding for recovery is 1027
unresolved unless one of the following criteria applies: 1028

(1) The money identified in the finding for recovery is paid 1029
in full to the state agency or political subdivision to whom the 1030
money was owed; 1031

(2) The debtor has entered into a repayment plan that is 1032
approved by the attorney general and the state agency or political 1033
subdivision to whom the money identified in the finding for 1034
recovery is owed. A repayment plan may include a provision 1035
permitting a state agency or political subdivision to withhold 1036
payment to a debtor for goods, services, or construction provided 1037
to or for the state agency or political subdivision pursuant to a 1038
contract that is entered into with the debtor after the date the 1039
finding for recovery was issued. 1040

(3) The attorney general waives a repayment plan described in 1041
division (B)(2) of this section for good cause; 1042

(4) The debtor and state agency or political subdivision to 1043
whom the money identified in the finding for recovery is owed have 1044
agreed to a payment plan established through an enforceable 1045
settlement agreement. 1046

(5) The state agency or political subdivision desiring to 1047
enter into a contract with a debtor certifies, and the attorney 1048
general concurs, that all of the following are true: 1049

(a) Essential services the state agency or political 1050
subdivision is seeking to obtain from the debtor cannot be 1051

provided by any other person besides the debtor; 1052

(b) Awarding a contract to the debtor for the essential 1053
services described in division (B)(5)(a) of this section is in the 1054
best interest of the state; 1055

(c) Good faith efforts have been made to collect the money 1056
identified in the finding of recovery. 1057

(6) The debtor has commenced an action to contest the finding 1058
for recovery and a final determination on the action has not yet 1059
been reached. 1060

(C) The attorney general shall submit an initial report to 1061
the auditor of state, not later than December 1, 2003, indicating 1062
the status of collection for all findings for recovery issued by 1063
the auditor of state for calendar years 2001, 2002, and 2003. 1064
Beginning on January 1, 2004, the attorney general shall submit to 1065
the auditor of state, on the first day of every January, April, 1066
July, and October, a list of all findings for recovery that have 1067
been resolved in accordance with division (B) of this section 1068
during the calendar quarter preceding the submission of the list 1069
and a description of the means of resolution. The attorney general 1070
shall notify the auditor of state when a judgment is issued 1071
against an entity described in division (F)(1) of this section. 1072

(D) The auditor of state shall maintain a database, 1073
accessible to the public, listing persons against whom an 1074
unresolved finding for recovery has been issued, and the amount of 1075
the money identified in the unresolved finding for recovery. The 1076
auditor of state shall have this database operational on or before 1077
January 1, 2004. The initial database shall contain the 1078
information required under this division for calendar years 2001, 1079
2002, and 2003. 1080

Beginning January 15, 2004, the auditor of state shall update 1081
the database by the fifteenth day of every January, April, July, 1082

and October to reflect resolved findings for recovery that are 1083
reported to the auditor of state by the attorney general on the 1084
first day of the same month pursuant to division (C) of this 1085
section. 1086

(E) Before awarding a contract as described in division 1087
(G)(1) of this section for goods, services, or construction, paid 1088
for in whole or in part with state funds, a state agency or 1089
political subdivision shall verify that the person to whom the 1090
state agency or political subdivision plans to award the contract 1091
has no unresolved finding for recovery issued against the person. 1092
A state agency or political subdivision shall verify that the 1093
person does not appear in the database described in division (D) 1094
of this section or shall obtain other proof that the person has no 1095
unresolved finding for recovery issued against the person. 1096

(F) The prohibition of division (A) of this section and the 1097
requirement of division (E) of this section do not apply with 1098
respect to the companies or agreements described in divisions 1099
(F)(1) and (2) of this section, or in the circumstance described 1100
in division (F)(3) of this section. 1101

(1) A bonding company or a company authorized to transact the 1102
business of insurance in this state, a self-insurance pool, joint 1103
self-insurance pool, risk management program, or joint risk 1104
management program, unless a court has entered a final judgment 1105
against the company and the company has not yet satisfied the 1106
final judgment. 1107

(2) To medicaid provider agreements under Chapter 5111. of 1108
the Revised Code ~~or payments or provider agreements under~~ 1109
~~disability assistance medical assistance established under Chapter~~ 1110
~~5115. of the Revised Code.~~ 1111

(3) When federal law dictates that a specified entity provide 1112
the goods, services, or construction for which a contract is being 1113

awarded, regardless of whether that entity would otherwise be 1114
prohibited from entering into the contract pursuant to this 1115
section. 1116

(G)(1) This section applies only to contracts for goods, 1117
services, or construction that satisfy the criteria in either 1118
division (G)(1)(a) or (b) of this ~~division~~ section. This section 1119
may apply to contracts for goods, services, or construction that 1120
satisfy the criteria in division (G)(1)(c) of this section, 1121
provided that the contracts also satisfy the criteria in either 1122
division (G)(1)(a) or (b) of this ~~division~~ section. 1123

(a) The cost for the goods, services, or construction 1124
provided under the contract is estimated to exceed twenty-five 1125
thousand dollars. 1126

(b) The aggregate cost for the goods, services, or 1127
construction provided under multiple contracts entered into by the 1128
particular state agency and a single person or the particular 1129
political subdivision and a single person within the fiscal year 1130
preceding the fiscal year within which a contract is being entered 1131
into by that same state agency and the same single person or the 1132
same political subdivision and the same single person, exceeded 1133
fifty thousand dollars. 1134

(c) The contract is a renewal of a contract previously 1135
entered into and renewed pursuant to that preceding contract. 1136

(2) This section does not apply to employment contracts. 1137

(H) As used in this section: 1138

(1) "State agency" has the same meaning as in section 9.66 of 1139
the Revised Code. 1140

(2) "Political subdivision" means a political subdivision as 1141
defined in section 9.82 of the Revised Code that has received more 1142
than fifty thousand dollars of state money in the current fiscal 1143

year or the preceding fiscal year. 1144

(3) "Finding for recovery" means a determination issued by 1145
the auditor of state, contained in a report the auditor of state 1146
gives to the attorney general pursuant to section 117.28 of the 1147
Revised Code, that public money has been illegally expended, 1148
public money has been collected but not been accounted for, public 1149
money is due but has not been collected, or public property has 1150
been converted or misappropriated. 1151

(4) "Debtor" means a person against whom a finding for 1152
recovery has been issued. 1153

(5) "Person" means the person named in the finding for 1154
recovery. 1155

(6) "State money" does not include funds the state receives 1156
from another source and passes through to a political subdivision. 1157

Sec. 9.241. (A) As used in this section: 1158

(1) "Governmental entity" and "a judgment is uncollectible" 1159
have the same meanings as in section 9.23 of the Revised Code. 1160

(2) "Recipient" means a person that enters into or is awarded 1161
a contract with a governmental entity for the provision of goods, 1162
services, or construction. 1163

(B) A recipient is liable to repay to the governmental entity 1164
any money received but not earned under the terms of the contract 1165
with the governmental entity. 1166

(C)(1) A governmental entity may bring a civil action for the 1167
recovery of money due to the governmental entity from a recipient 1168
under division (B) of this section. In such an action, any person 1169
with which the recipient has contracted for the performance of the 1170
recipient's material obligations under the recipient's contract 1171
with the governmental entity may be made a party defendant if the 1172
person is unable to demonstrate to the satisfaction of the 1173

governmental entity that the person has materially complied with 1174
the terms of the contract with the recipient. In such a case, the 1175
person may be made a party defendant and the governmental entity 1176
may obtain a judgment against the person in accordance with 1177
division (C)(2) of this section. 1178

(2) If a governmental entity obtains a judgment against a 1179
recipient in a civil action brought under division (C)(1) of this 1180
section and the judgment is uncollectible, the governmental entity 1181
may recover from the person with which the recipient contracted an 1182
amount not exceeding the lesser of the following: 1183

(a) The unsatisfied amount of the judgment; 1184

(b) The total amount received by the person from the 1185
recipient minus the total amount earned by the person under the 1186
terms of the recipient's contract with the governmental entity. 1187

(D) If a governmental entity, pursuant to this section, 1188
obtains a judgment against a recipient or against a person with 1189
which the recipient contracted and that judgment debtor does not 1190
voluntarily pay the amount of the judgment, that judgment debtor 1191
shall be precluded from contracting with a governmental entity to 1192
the extent provided in divisions (A) and (B) of section 9.24 of 1193
the Revised Code for a debtor against whom a finding of recovery 1194
has been issued. 1195

(E) In addition to other remedies provided in divisions (B) 1196
to (D) of this section, a governmental entity may void a contract 1197
between a recipient and another person for the performance by the 1198
other person of the recipient's obligations under the recipient's 1199
contract with the governmental entity to the extent that the other 1200
person has not yet performed its obligations under the contract. 1201

(F) If a recipient is liable to repay money to a governmental 1202
entity under this section and the judgment obtained by the 1203
governmental entity against the recipient is uncollectible, then 1204

in addition to other remedies provided in divisions (B) to (D) of 1205
this section, and after the governmental entity has obtained a 1206
judgment against any necessary third party, the governmental 1207
entity may void any of the following contracts: 1208

(1) A contract made not more than one hundred eighty days 1209
before the judgment against the recipient became uncollectible 1210
between the recipient and a director, trustee, or officer of the 1211
recipient or a business in which a director, trustee, or officer 1212
of the recipient has a material financial interest, if either of 1213
the following applies: 1214

(a) The recipient has paid substantial value for property 1215
received and the property can be returned to the other person. If 1216
the property has experienced only normal wear and tear, the person 1217
shall be liable to the governmental entity for the full amount the 1218
recipient paid for the property. Otherwise, the person shall be 1219
liable to the governmental entity only for the market value of the 1220
property. 1221

(b) The person with which the recipient contracted has 1222
received money that the recipient obtained pursuant to the 1223
contract with the governmental entity and has used the money other 1224
than for the performance of the contract. In such a case, the 1225
governmental entity may void the contract to the extent that the 1226
person has used the money other than for the performance of the 1227
contract, and the person shall be liable to the governmental 1228
entity for that amount. 1229

(2) A contract made not more than one hundred eighty days 1230
before the judgment against the recipient became uncollectible 1231
between the recipient and an employee of the recipient or a 1232
business in which an employee of the recipient has a material 1233
financial interest, if the employee has direct knowledge of the 1234
use of the money that the recipient obtained pursuant to the 1235
contract with the governmental entity and either division 1236

| | |
|---|------|
| <u>(F)(1)(a) or (b) of this section applies;</u> | 1237 |
| <u>(3) A contract between the recipient and another person</u> | 1238 |
| <u>pursuant to which the recipient has paid or agreed to pay money to</u> | 1239 |
| <u>the other person, to the extent that the other person has not yet</u> | 1240 |
| <u>performed its obligations under the contract;</u> | 1241 |
| <u>(4) A contract made not more than one year before the</u> | 1242 |
| <u>judgment against the recipient became uncollectible between the</u> | 1243 |
| <u>recipient and a person other than the governmental entity if the</u> | 1244 |
| <u>other person has not given or agreed to give consideration of</u> | 1245 |
| <u>reasonable and substantial value for the consideration given by</u> | 1246 |
| <u>the recipient.</u> | 1247 |
| <u>(G) This section does not apply with respect to any contract</u> | 1248 |
| <u>entered into by a governmental entity under section 9.231 of the</u> | 1249 |
| <u>Revised Code that is subject to section 9.236 of the Revised Code.</u> | 1250 |
| Sec. 9.833. (A) As used in this section, "political | 1251 |
| subdivision" means a municipal corporation, township, county, | 1252 |
| school district, or other body corporate and politic responsible | 1253 |
| for governmental activities in a geographic area smaller than that | 1254 |
| of the state, <u>and agencies and instrumentalities of these</u> | 1255 |
| <u>entities. For purposes of this section, a school district is not a</u> | 1256 |
| <u>"political subdivision."</u> | 1257 |
| (B) Political subdivisions that provide health care benefits | 1258 |
| for their officers or employees may do any of the following: | 1259 |
| (1) Establish and maintain an individual self-insurance | 1260 |
| program with public moneys to provide authorized health care | 1261 |
| benefits, including but not limited to, health care, prescription | 1262 |
| drugs, dental care, and vision care, in accordance with division | 1263 |
| (C) of this section; | 1264 |
| (2) After establishing an individual self-insurance program, | 1265 |
| agree with other political subdivisions that have established | 1266 |

individual self-insurance programs for health care benefits, that 1267
their programs will be jointly administered in a manner specified 1268
in the agreement; 1269

(3) Pursuant to a written agreement and in accordance with 1270
division (C) of this section, join in any combination with other 1271
political subdivisions to establish and maintain a joint 1272
self-insurance program to provide health care benefits; 1273

(4) Pursuant to a written agreement, join in any combination 1274
with other political subdivisions to procure or contract for 1275
policies, contracts, or plans of insurance to provide health care 1276
benefits for their officers and employees subject to the 1277
agreement; 1278

(5) Use in any combination any of the policies, contracts, 1279
plans, or programs authorized under this division. 1280

(C) Except as otherwise provided in division (E) of this 1281
section, the following apply to individual or joint self-insurance 1282
programs established pursuant to this section: 1283

(1) Such funds shall be reserved as are necessary, in the 1284
exercise of sound and prudent actuarial judgment, to cover 1285
potential cost of health care benefits for the officers and 1286
employees of the political subdivision. A report of amounts so 1287
reserved and disbursements made from such funds, together with a 1288
written report of a member of the American academy of actuaries 1289
certifying whether the amounts reserved conform to the 1290
requirements of this division, are computed in accordance with 1291
accepted loss reserving standards, and are fairly stated in 1292
accordance with sound loss reserving principles, shall be prepared 1293
and maintained, within ninety days after the last day of the 1294
fiscal year of the entity for which the report is provided for 1295
that fiscal year, in the office of the program administrator 1296
described in division (C)(3) of this section. 1297

The report required by division (C)(1) of this section shall 1298
include, but not be limited to, disbursements made for the 1299
administration of the program, including claims paid, costs of the 1300
legal representation of political subdivisions and employees, and 1301
fees paid to consultants. 1302

The program administrator described in division (C)(3) of 1303
this section shall make the report required by this division 1304
available for inspection by any person at all reasonable times 1305
during regular business hours, and, upon the request of such 1306
person, shall make copies of the report available at cost within a 1307
reasonable period of time. 1308

(2) Each political subdivision shall reserve funds necessary 1309
for an individual or joint self-insurance program in a special 1310
fund that may be established for political subdivisions other than 1311
an agency or instrumentality pursuant to an ordinance or 1312
resolution of the political subdivision and not subject to section 1313
5705.12 of the Revised Code. An agency or instrumentality shall 1314
reserve the funds necessary for an individual or joint 1315
self-insurance program in a special fund established pursuant to a 1316
resolution duly adopted by the agency's or instrumentality's 1317
governing board. The political subdivision may allocate the costs 1318
of insurance or any self-insurance program, or both, among the 1319
funds or accounts ~~in the subdivision's treasury~~ established under 1320
this division on the basis of relative exposure and loss 1321
experience. 1322

(3) A contract may be awarded, without the necessity of 1323
competitive bidding, to any person, political subdivision, 1324
nonprofit corporation organized under Chapter 1702. of the Revised 1325
Code, or regional council of governments created under Chapter 1326
167. of the Revised Code for purposes of administration of an 1327
individual or joint self-insurance program. No such contract shall 1328
be entered into without full, prior, public disclosure of all 1329

terms and conditions. The disclosure shall include, at a minimum, 1330
a statement listing all representations made in connection with 1331
any possible savings and losses resulting from the contract, and 1332
potential liability of any political subdivision or employee. The 1333
proposed contract and statement shall be disclosed and presented 1334
at a meeting of the political subdivision not less than one week 1335
prior to the meeting at which the political subdivision authorizes 1336
the contract. 1337

A contract awarded to a nonprofit corporation or a regional 1338
council of governments under this division may provide that all 1339
employees of the nonprofit corporation or regional council of 1340
governments and the employees of all entities related to the 1341
nonprofit corporation or regional council of governments may be 1342
covered by the individual or joint self-insurance program under 1343
the terms and conditions set forth in the contract. 1344

(4) The individual or joint self-insurance program shall 1345
include a contract with a member of the American academy of 1346
actuaries for the preparation of the written evaluation of the 1347
reserve funds required under division (C)(1) of this section. 1348

(5) A joint self-insurance program may allocate the costs of 1349
funding the program among the funds or accounts ~~in the treasuries~~ 1350
~~of~~ established under this division to the participating political 1351
subdivisions on the basis of their relative exposure and loss 1352
experience. 1353

(6) An individual self-insurance program may allocate the 1354
costs of funding the program among the funds or accounts ~~in the~~ 1355
~~treasury of~~ established under this division to the political 1356
subdivision that established the program. 1357

(7) Two or more political subdivisions may also authorize the 1358
establishment and maintenance of a joint health care cost 1359
containment program, including, but not limited to, the employment 1360

of risk managers, health care cost containment specialists, and 1361
consultants, for the purpose of preventing and reducing health 1362
care costs covered by insurance, individual self-insurance, or 1363
joint self-insurance programs. 1364

(8) A political subdivision is not liable under a joint 1365
self-insurance program for any amount in excess of amounts payable 1366
pursuant to the written agreement for the participation of the 1367
political subdivision in the joint self-insurance program. Under a 1368
joint self-insurance program agreement, a political subdivision 1369
may, to the extent permitted under the written agreement, assume 1370
the risks of any other political subdivision. A joint 1371
self-insurance program established under this section is deemed a 1372
separate legal entity for the public purpose of enabling the 1373
members of the joint self-insurance program to obtain insurance or 1374
to provide for a formalized, jointly administered self-insurance 1375
fund for its members. An entity created pursuant to this section 1376
is exempt from all state and local taxes. 1377

(9) Any political subdivision, other than an agency or 1378
instrumentality, may issue general obligation bonds, or special 1379
obligation bonds that are not payable from real or personal 1380
property taxes, and may also issue notes in anticipation of such 1381
bonds, pursuant to an ordinance or resolution of its legislative 1382
authority or other governing body for the purpose of providing 1383
funds to pay expenses associated with the settlement of claims, 1384
whether by way of a reserve or otherwise, and to pay the political 1385
subdivision's portion of the cost of establishing and maintaining 1386
an individual or joint self-insurance program or to provide for 1387
the reserve in the special fund authorized by division (C)(2) of 1388
this section. 1389

In its ordinance or resolution authorizing bonds or notes 1390
under this section, a political subdivision may elect to issue 1391
such bonds or notes under the procedures set forth in Chapter 133. 1392

of the Revised Code. In the event of such an election, 1393
notwithstanding Chapter 133. of the Revised Code, the maturity of 1394
the bonds may be for any period authorized in the ordinance or 1395
resolution not exceeding twenty years, which period shall be the 1396
maximum maturity of the bonds for purposes of section 133.22 of 1397
the Revised Code. 1398

Bonds and notes issued under this section shall not be 1399
considered in calculating the net indebtedness of the political 1400
subdivision under sections 133.04, 133.05, 133.06, and 133.07 of 1401
the Revised Code. Sections 9.98 to 9.983 of the Revised Code are 1402
hereby made applicable to bonds or notes authorized under this 1403
section. 1404

(10) A joint self-insurance program is not an insurance 1405
company. Its operation does not constitute doing an insurance 1406
business and is not subject to the insurance laws of this state. 1407

(D) A political subdivision may procure group life insurance 1408
for its employees in conjunction with an individual or joint 1409
self-insurance program authorized by this section, provided that 1410
the policy of group life insurance is not self-insured. 1411

(E) Divisions (C)(1), (2), and (4) of this section do not 1412
apply to individual self-insurance programs in municipal 1413
corporations, townships, or counties. 1414

(F) A public official or employee of a political subdivision 1415
who is or becomes a member of the governing body of the program 1416
administrator of a joint self-insurance program in which the 1417
political subdivision participates is not in violation of division 1418
(D) or (E) of section 102.03, division (C) of section 102.04, or 1419
section 2921.42 of the Revised Code as a result of either of the 1420
following: 1421

(1) The political subdivision's entering under this section 1422
into the written agreement to participate in the joint 1423

self-insurance program; 1424

(2) The political subdivision's entering under this section 1425

into any other contract with the joint self-insurance program. 1426

Sec. 9.90. (A) The governing board of any public institution 1427

of higher education, including without limitation state 1428

universities and colleges, community college districts, university 1429

branch districts, technical college districts, and municipal 1430

universities, ~~or the board of education of any school district,~~ 1431

may, in addition to all other powers provided in the Revised Code: 1432

(1) Contract for, purchase, or otherwise procure from an 1433

insurer or insurers licensed to do business by the state of Ohio 1434

for or on behalf of such of its employees as it may determine, 1435

life insurance, or sickness, accident, annuity, endowment, health, 1436

medical, hospital, dental, or surgical coverage and benefits, or 1437

any combination thereof, by means of insurance plans or other 1438

types of coverage, family, group or otherwise, and may pay from 1439

funds under its control and available for such purpose all or any 1440

portion of the cost, premium, or charge for such insurance, 1441

coverage, or benefits. However, the governing board, in addition 1442

to or as an alternative to the authority otherwise granted by 1443

division (A)(1) of this section, may elect to procure coverage for 1444

health care services, for or on behalf of such of its employees as 1445

it may determine, by means of policies, contracts, certificates, 1446

or agreements issued by at least two health insuring corporations 1447

holding a certificate of authority under Chapter 1751. of the 1448

Revised Code and may pay from funds under the governing board's 1449

control and available for such purpose all or any portion of the 1450

cost of such coverage. 1451

(2) Make payments to a custodial account for investment in 1452

regulated investment company stock for the purpose of providing 1453

retirement benefits as described in section 403(b)(7) of the 1454

Internal Revenue Code of 1954, as amended. Such stock shall be 1455
purchased only from persons authorized to sell such stock in this 1456
state. 1457

Any income of an employee deferred under divisions (A)(1) and 1458
(2) of this section in a deferred compensation program eligible 1459
for favorable tax treatment under the Internal Revenue Code of 1460
1954, as amended, shall continue to be included as regular 1461
compensation for the purpose of computing the contributions to and 1462
benefits from the retirement system of such employee. Any sum so 1463
deferred shall not be included in the computation of any federal 1464
and state income taxes withheld on behalf of any such employee. 1465

(B) All or any portion of the cost, premium, or charge 1466
therefor may be paid in such other manner or combination of 1467
manners as the governing board ~~or the school board~~ may determine, 1468
including direct payment by the employee in cases under division 1469
(A)(1) of this section, and, if authorized in writing by the 1470
employee in cases under division (A)(1) or (2) of this section, by 1471
such governing board ~~or school board~~ with moneys made available by 1472
deduction from or reduction in salary or wages or by the foregoing 1473
of a salary or wage increase. Division (B)(7) of section 3917.01 1474
and the last paragraph of section 3917.06 of the Revised Code 1475
shall not prohibit the issuance or purchase of group life 1476
insurance authorized by this section by reason of payment of 1477
premiums therefor by the governing board ~~or the school board~~ from 1478
its funds, and such group life insurance may be so issued and 1479
purchased if otherwise consistent with the provisions of sections 1480
3917.01 to 3917.07 of the Revised Code. 1481

(C) The board of education of any school district may 1482
exercise any of the powers granted to the governing boards of 1483
public institutions of higher education under divisions (A) and 1484
(B) of this section, except in relation to the provision of health 1485
care benefits to employees. All health care benefits provided to 1486

persons employed by the public schools of this state shall be 1487
medical plans designed by the school employees health care board 1488
pursuant to section 9.901 of the Revised Code. 1489

Sec. 9.901. (A)(1) All health care benefits provided to 1490
persons employed by the public schools of this state shall be 1491
provided by medical plans designed pursuant to this section by the 1492
school employees health care board. The board, in consultation 1493
with the superintendent of insurance, shall negotiate with and, in 1494
accordance with the competitive selection procedures of Chapter 1495
125. of the Revised Code, contract with one or more insurance 1496
companies authorized to do business in this state for the issuance 1497
of the plans. Any or all of the medical plans designed by the 1498
board may be self-insured. All self-insured plans adopted shall be 1499
administered by the board in accordance with this section. As used 1500
in this section, a "public school" means a school in a city, 1501
local, exempted village, or joint vocational school district, and 1502
includes the educational service centers associated with those 1503
schools. 1504

(2) Prior to soliciting proposals from insurance companies 1505
for the issuance of medical plans, the board shall determine what 1506
geographic regions exist in the state based on the availability of 1507
providers, networks, costs, and other factors relating to 1508
providing health care benefits. The board shall then determine 1509
what medical plans are offered by school districts and existing 1510
consortiums in the state. The board shall determine what medical 1511
plan offered by a school district or existing consortium in the 1512
region offers the lowest premium cost plan. 1513

(3) The board shall develop a request for proposals and 1514
solicit bids for medical plans for the school districts in a 1515
region similar to the existing plans. The board shall also 1516
determine the benefits offered by existing medical plans, the 1517

employees' costs, and the cost-sharing arrangements used by public 1518
schools participating in a consortium. The board shall determine 1519
what strategies are used by the existing medical plans to manage 1520
health care costs and shall study the potential benefits of state 1521
or regional consortiums of public schools offering multiple health 1522
care plans. 1523

(4) As used in this section, a "medical plan" includes group 1524
policies, contracts, and agreements that provide hospital, 1525
surgical, or medical expense coverage, including self-insured 1526
plans. A "medical plan" does not include an individual plan 1527
offered to the employees of a public school, or a plan that 1528
provides coverage only for specific disease or accidents, or a 1529
hospital indemnity, medicare supplement, or other plan that 1530
provides only supplemental benefits, paid for by the employees of 1531
a public school. 1532

(B) The school employees health care board is hereby created. 1533
The school employees health care board shall consist of the 1534
following nine members and shall include individuals with 1535
experience with public school benefit programs, health care 1536
industry providers, and medical plan beneficiaries: 1537

(1) Three members appointed by the governor; 1538

(2) Three members appointed by the president of the senate; 1539

(3) Three members appointed by the speaker of the house of 1540
representatives. 1541

A member of the school employees health care board shall not 1542
be employed by, represent, or in any way be affiliated with a 1543
private entity that is providing services to the board, an 1544
individual school district, employers, or employees in the state 1545
of Ohio. 1546

(C)(1) Members of the school employees health care board 1547
shall serve four-year terms; however, one of each of the initial 1548

members appointed under divisions (B)(1) to (3) of this section 1549
shall be appointed to a term of one year. The initial appointments 1550
under this section shall be made within forty-five days after the 1551
effective date of this section. 1552

Members' terms shall end on the same day of the same month as 1553
the effective date of this section, but a member shall continue to 1554
serve subsequent to the expiration of the member's term until a 1555
successor is appointed. Any vacancy occurring during a member's 1556
term shall be filled in the same manner as the original 1557
appointment, except that the person appointed to fill the vacancy 1558
shall be appointed to the remainder of the unexpired term. 1559

(2) Members shall serve without compensation but shall be 1560
reimbursed from the school employees health care fund for actual 1561
and necessary expenses incurred in the performance of their 1562
official duties as members of the board. 1563

(3) Members may be removed by their appointing authority for 1564
misfeasance, malfeasance, incompetence, dereliction of duty, or 1565
other just cause. 1566

(D)(1) The governor shall call the first meeting of the 1567
school employees health care board. At that meeting, and annually 1568
thereafter, the board shall elect a chairperson and may elect 1569
members to other positions on the board as the board considers 1570
necessary or appropriate. The board shall meet at least four times 1571
each calendar year and shall also meet at the call of the 1572
chairperson or three or more board members. The chairperson shall 1573
provide reasonable advance notice of the time and place of board 1574
meetings to all members. 1575

(2) A majority of the board constitutes a quorum for the 1576
transaction of business at a board meeting. A majority vote of the 1577
members present is necessary for official action. 1578

(E) The school employees health care board shall conduct its 1579

business at open meetings; however, the records of the board are 1580
not public records for purposes of section 149.43 of the Revised 1581
Code. 1582

(F) The school employees health care fund is hereby created 1583
in the state treasury. The public schools shall pay all school 1584
employees health care board plan premiums in the manner prescribed 1585
by the school employees health care board to the board for deposit 1586
into the school employees health care fund. All funds in the 1587
school employees health care fund shall be used solely for the 1588
provision of health care benefits to public schools employees 1589
pursuant to this section and related administrative costs. 1590
Premiums received by the board or insurance companies contracted 1591
pursuant to division (A) of this section are not subject to any 1592
state insurance premium tax. 1593

(G) The school employees health care board shall do all of 1594
the following: 1595

(1) Design multiple medical plans, including regional plans, 1596
to provide, in the board's judgment, the optimal combination of 1597
coverage, cost, choice, and stability of health cost benefits. The 1598
board may establish more than one tier of premium rates for any 1599
medical plan. The board shall establish regions as necessary for 1600
the implementation of the board's medical plans. Plans and premium 1601
rates may vary across the regions established by the board. 1602

(2) Set an aggregate goal for employee and employer portions 1603
of premiums for the board's medical plans so as to manage plan 1604
participation and encourage the use of value-based plan 1605
participation by employees; 1606

(3) Set employer and employee plan copayments, deductibles, 1607
exclusions, limitations, formularies, premium shares, and other 1608
responsibilities; 1609

(4) Include disease management and consumer education 1610

programs, to the extent that the board determines is appropriate, 1611
in all medical plans designed by the board, which programs shall 1612
include, but are not limited to, wellness programs and other 1613
measures designed to encourage the wise use of medical plan 1614
coverage. These programs are not services or treatments for 1615
purposes of section 3901.71 of the Revised Code. 1616

(5) Create and distribute to the governor, the speaker of the 1617
house of representatives, and the president of the senate, an 1618
annual report covering the plan background; plan coverage options; 1619
plan administration, including procedures for monitoring and 1620
managing objectives, scope, and methodology; plan operations; 1621
employee and employer contribution rates and the relationship 1622
between the rates and the school employees health care fund 1623
balance; a means to develop and maintain identity and evaluate 1624
alternative employee and employer cost-sharing strategies; an 1625
evaluation of the effectiveness of cost-saving services and 1626
programs; an evaluation of efforts to control and manage member 1627
eligibility and to insure that proper employee and employer 1628
contributions are remitted to the trust fund; efforts to prevent 1629
and detect fraud; and efforts to manage and monitor board 1630
contracts; 1631

(6) Utilize cost containment measures aligned with patient, 1632
plan, and provider management strategies in developing and 1633
managing medical plans. 1634

(H) The sections in Chapter 3923. of the Revised Code 1635
regulating public employee benefit plans are not applicable to the 1636
medical plans designed pursuant to this section. 1637

(I)(1) Public schools are not subject to this section prior 1638
to the release of medical plans designed pursuant to this section. 1639

(2) Prior to the school employees health care board's release 1640
of the board's initial medical plans, the board shall contract 1641

with an independent consultant to analyze costs related to 1642
employee health care benefits provided by existing school district 1643
plans in this state. The consultant shall determine the benefits 1644
offered by existing medical plans, the employees' costs, and the 1645
cost-sharing arrangements used by public schools either 1646
participating in a consortium or by other means. The consultant 1647
shall determine what strategies are used by the existing medical 1648
plans to manage health care costs and shall study the potential 1649
benefits of state or regional consortiums of public schools 1650
offering multiple health care plans. Based on the findings of the 1651
analysis, the consultant shall submit written recommendations to 1652
the board for the development and implementation of a successful 1653
program for pooling school districts' purchasing power for the 1654
acquisition of employee medical plans. The consultant's 1655
recommendations shall address, at a minimum, all of the following 1656
issues: 1657

(a) The establishment of regions for the provision of medical 1658
plans, based on the availability of providers and plans in the 1659
state at the time that the school employees health care board is 1660
established; 1661

(b) The use of regional preferred provider and closed panel 1662
plans, health savings accounts, and alternative medical plans, to 1663
stabilize both costs and the premiums charged school districts and 1664
district employees; 1665

(c) The development of a system to obtain eligibility data 1666
and data compiled pursuant to the Consolidated Omnibus Budget 1667
Reconciliation Act of 1985 (COBRA), 100 Stat. 227, 29 U.S.C. 1161, 1668
as amended; 1669

(d) The use of the competitive bidding process for regional 1670
medical plans; 1671

(e) The development of a timeline planning for the design and 1672

| | |
|---|----------------------|
| <u>use of board medical plans by not later than December 31, 2007;</u> | 1673 |
| <u>(f) The use of information on claims and costs and of information reported by districts pursuant to COBRA in analyzing administrative and premium costs;</u> | 1674 1675 1676 |
| <u>(g) The experience of states that have mandated statewide medical plans for public school employees, including the implementation strategies used by those states;</u> | 1677 1678 1679 |
| <u>(h) Recommended strategies for the use of first-year roll-in premiums in the transition from district medical plans to school employees health care board plans;</u> | 1680 1681 1682 |
| <u>(i) The option of allowing school districts to join an existing regional consortium as an alternative to school employees health care board plans;</u> | 1683 1684 1685 |
| <u>(j) Mandatory and optional coverages to be offered by the board's medical plans;</u> | 1686 1687 |
| <u>(k) Potential risks to the state from the use of medical plans developed pursuant to this section;</u> | 1688 1689 |
| <u>(l) Any legislation needed to ensure the long-term financial solvency and stability of a health care purchasing system;</u> | 1690 1691 |
| <u>(m) The potential impacts of any changes to the existing purchasing structure on all of the following:</u> | 1692 1693 |
| <u>(i) Existing health care pooling and consortiums;</u> | 1694 |
| <u>(ii) School district employees;</u> | 1695 |
| <u>(iii) Individual school districts.</u> | 1696 |
| <u>(n) Issues that could arise when school districts transition from the existing purchasing structure to a new purchasing structure;</u> | 1697 1698 1699 |
| <u>(o) Strategies available to the board in the creation of fund reserves and the need for stop-loss insurance coverage for</u> | 1700 1701 |

catastrophic losses; 1702

(p) Any legislation needed to establish and maintain medical 1703
plans designed pursuant to this section. The consultant shall 1704
submit all legislative recommendations not later than December 31, 1705
2005, in writing, to the school employees health care board and to 1706
the governor, the speaker of the house of representatives, and the 1707
president of the senate. 1708

(3) The public schools health care advisory committee is 1709
hereby created under the school employees health care board. The 1710
committee shall make recommendations to the school employees 1711
health care board related to the board's accomplishment of the 1712
duties assigned to the board under this section. The committee 1713
shall consist of eighteen members. The governor, the speaker of 1714
the house of representatives, and the president of the senate 1715
shall each appoint a representative from the Ohio education 1716
association, the Ohio school boards association, the Ohio 1717
association of school business officials, the Ohio association of 1718
health underwriters, an existing health care consortium serving 1719
public schools, and a health insuring corporation licensed to do 1720
business in Ohio and recommended by the Ohio association of health 1721
plans. The initial appointees shall be appointed to a one-year 1722
term not later than July 31, 2005, the members' term to begin on 1723
that date. Subsequent one-year appointments, to commence on the 1724
thirty-first day of July of each year, shall be made in the same 1725
manner. A member shall continue to serve subsequent to the 1726
expiration of the member's term until the member's successor is 1727
appointed. Any vacancy occurring during a member's term shall be 1728
filled in the same manner as the original appointment, except that 1729
the person appointed to fill the vacancy shall be appointed to the 1730
remainder of the unexpired term. The governor shall call the first 1731
meeting of each newly appointed committee. At that meeting the 1732
board shall elect a chairperson who shall call the time and place 1733

of future committee meetings. Committee members are not subject to 1734
the conditions for eligibility set by division (B) of this section 1735
for members of the school employees health care board. 1736

(4) The school employees health care board shall submit a 1737
written study to the governor and the general assembly not later 1738
than January 15, 2006, of a plan to operate in compliance with 1739
this section, and on the governance of the school employees health 1740
care board. A copy of the board's plan of operation, including 1741
audit provisions, shall accompany the report on the board's 1742
governance and the report shall include the board's 1743
recommendations on any legislation needed to enforce the 1744
recommendations of the board on implementing the provisions of 1745
this section. 1746

(5) Not later than January 15, 2009, and not later than the 1747
same day of each subsequent year, the school employees health care 1748
board shall submit a written report to the governor and each 1749
member of the general assembly, which report evaluates the 1750
performance of school employees health care board medical plans 1751
during the previous year. Districts offering employee health care 1752
benefits through a plan offered by a consortium of two or more 1753
districts, or a consortium of one or more districts and one or 1754
more political subdivisions as defined in section 9.833 of the 1755
Revised Code, representing five thousand or more employees as of 1756
January 1, 2005, may request permission from the school employees 1757
health care board to continue offering consortium plans to the 1758
districts' employees at the discretion of the board. If the board 1759
grants permission, the permission is valid for only one year but 1760
may be renewed annually thereafter upon application to an approval 1761
of the board. The board shall grant initial or continued approval 1762
upon finding, based on an actuarial evaluation of the existing 1763
consortium plan offerings, that benefit design, premium costs, 1764
administrative cost, and other factors considered by the board are 1765

equivalent to or lower than comparable costs of the board's plan 1766
options offered to the local district. Age and gender adjustments, 1767
benefit comparison adjustments, and the total cost of the 1768
consortium plan, including administration, benefit cost, stop-loss 1769
insurance, and all other expenses or information requested by the 1770
board shall be presented to the board prior to the board's 1771
decision to allow a local district to continue to offer health 1772
care benefits under a consortium plan. A district shall not 1773
participate in the consortium plan once the district has chosen to 1774
offer plans designed by the board to the district's employees and 1775
begins premium payments for deposit into the school employees 1776
health care fund. 1777

(6) Any districts providing medical plan coverage for the 1778
employees of public schools, or that have provided coverage within 1779
two years prior to the effective date of this section, shall 1780
provide nonidentifiable aggregate claims data for the coverage to 1781
the school employees health care board or the department of 1782
administrative services, without charge, within thirty days after 1783
receiving a written request from the board or the department. The 1784
claims data shall include data relating to employee group benefit 1785
sets, demographics, and claims experience. 1786

(J) The school employees health care board may contract with 1787
other state agencies as the board deems necessary for the 1788
implementation and operation of this section, based on 1789
demonstrated experience and expertise in administration, 1790
management, data handling, actuarial studies, quality assurance, 1791
or other needed services. The school employees health care board 1792
shall contract with the department of administrative services for 1793
central services until the board is able to obtain such services 1794
from other sources. The board shall reimburse the department of 1795
administrative services for the reasonable cost of those services. 1796

(K) The board's administrative functions shall include, but 1797

are not limited to, the following: 1798

(1) Maintaining reserves in the school employees health care 1799
fund, reinsurance, and other measures that in the judgment of the 1800
board will result in the long-term stability and solvency of the 1801
medical plans designed by the board. The board shall bill school 1802
districts, in proportion to a district's premium payments to all 1803
premium payments paid into the school employees health care fund 1804
during the previous year, in order to maintain necessary reserves, 1805
reinsurance, and administrative and operating funds. Each school 1806
district contributing to a board medical plan shall share any 1807
losses due to the expense of claims paid by the plan. In the event 1808
of a loss, the board may bill each district an amount, in 1809
proportion to the district's premium payments to all premium 1810
payments paid into the school employees health care fund during 1811
the previous year, sufficient in total to cover the loss. The 1812
state is not liable for any obligations of the school employees 1813
health care board or the school employees health care fund, or for 1814
expenses of public schools or school districts related to the 1815
board's medical plans. 1816

(2) Providing health care information, wellness programs, and 1817
other preventive health care measures to medical plan 1818
beneficiaries, to the extent that the board determines to be 1819
appropriate; 1820

(3) Coordinating contracts for services related to the 1821
board's medical plans. Contracts shall be approved by the school 1822
employees health care board. 1823

(L) Not less than ninety days before coverage begins for 1824
public school employees under medical plans designed by the school 1825
employees health care board, a school district's board of 1826
education shall provide detailed information about the medical 1827
plans to the employees. 1828

(M) Nothing in this section shall be construed as prohibiting public schools or school districts from consulting with and compensating insurance agents and brokers for professional services. 1829
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(N) The department of administrative services shall report to the governor, the speaker of the house of representatives, and the president of the senate within eighteen months after the effective date of this section on the feasibility of achieving all of the following: 1833
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(1) Designing multiple medical plans to cover persons employed by public institutions of higher education that achieve an optimal combination of coverage, cost, choice, and stability, which plans include both state and regional preferred provider plans, set employee and employer premiums, and set employee plan copayments, deductibles, exclusions, limitations, formularies, and other responsibilities. For this purpose, "public institutions of higher education" include, without limitation, state universities and colleges, state community college districts, community college districts, university branch districts, technical college districts, and municipal universities. 1838
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(2) Maintaining reserves, reinsurance, and other measures to insure the long-term stability and solvency of the medical plans; 1849
1850

(3) Providing appropriate health care information, wellness programs, and other preventive health care measures to medical plan beneficiaries; 1851
1852
1853

(4) Coordinating contracts for services related to the medical plans. 1854
1855

Sec. 9.981. (A) Sections 9.98 to 9.983 of the Revised Code are applicable to bonds: 1856
1857

(1) The payment of the debt service on which is to be 1858

provided for directly or indirectly by payments contracted to be 1859
made in the bond proceedings by the absolute obligors, being 1860
persons other than the issuer; and 1861

(2) Which are authorized to be issued under sections 122.39 1862
to 122.62, Chapter 165., 902., 3377., 3706., division (A)(4) of 1863
section 4582.06, division (A)(8) of section 4582.31, section 1864
4582.48, or Chapter 6121. or 6123. of the Revised Code, 1865
notwithstanding other provisions therein. 1866

(B) Sections 9.98 to 9.983 of the Revised Code are applicable 1867
to bonds issued under sections 306.37 and 6119.12 of the Revised 1868
Code and Chapters ~~133.7~~ 140., 152., 154., 175., and 349. of the 1869
Revised Code, and to any bonds authorized under laws which 1870
expressly make those sections applicable. 1871

(C) Subject to division (A) of this section, the authority 1872
provided in sections 9.98 to 9.983 of the Revised Code is 1873
supplemental to and not in derogation of any similar authority 1874
provided by, derived from, or implied by, any law, the Ohio 1875
Constitution, or any charter, resolution, or ordinance, and no 1876
inference shall be drawn to negate the authority thereunder by 1877
reason of the express provisions of sections 9.98 to 9.983 of the 1878
Revised Code. 1879

(D) Sections 9.98 to 9.983 of the Revised Code shall be 1880
liberally construed to permit flexibility in the arrangements 1881
therein provided to enhance the issuance of such bonds and provide 1882
for terms most beneficial and satisfactory to the persons which 1883
undertake to provide for their payment, security, and liquidity. 1884

Sec. 101.391. (A) There is hereby created the joint 1885
legislative committee on medicaid technology and reform. The 1886
committee may review or study any matter that it considers 1887
relevant to the operation of the medicaid program established 1888
under Chapter 5111. of the Revised Code, with priority given to 1889

the study or review of mechanisms to enhance the program's 1890
effectiveness through improved technology systems and program 1891
reform. 1892

(B) The committee shall consist of five members of the house 1893
of representatives appointed by the speaker of the house of 1894
representatives and five members of the senate appointed by the 1895
president of the senate. Not more than three members appointed by 1896
the speaker of the house of representatives and not more than 1897
three members appointed by the president of the senate may be of 1898
the same political party. 1899

Each member of the committee shall hold office during the 1900
general assembly in which the member is appointed and until a 1901
successor has been appointed, notwithstanding the adjournment sine 1902
die of the general assembly in which the member was appointed or 1903
the expiration of the member's term as a member of the general 1904
assembly. Any vacancies occurring among the members of the 1905
committee shall be filled in the manner of the original 1906
appointment. 1907

(C) The committee has the same powers as other standing or 1908
select committees of the general assembly. The committee may 1909
employ an executive director. 1910

Sec. 101.68. (A) Within Subject to division (D) of this 1911
section, within thirty days of the convening of the first regular 1912
session of the general assembly, each agency required to submit 1913
reports or similar documents to the general assembly pursuant to 1914
section 103.43, 3301.07, 5139.33, 5501.07, 5537.17, or 5593.21 of 1915
the Revised Code shall send written notice to each member of the 1916
general assembly in order to determine whether the member desires 1917
to personally receive the reports or similar documents as they are 1918
made available by the agency. If the member desires to personally 1919
receive the reports or similar documents as they become available, 1920

the member shall send a written request to the agency within 1921
thirty days of receiving the notice. 1922

(B) Whenever any statute or rule requires that a report, 1923
recommendation, or other similar document be submitted to the 1924
general assembly under a law not cited in division (A) of this 1925
section, to the members of the general assembly, to one house of 1926
the general assembly, or to the members of one house of the 1927
general assembly, the requirement shall be fulfilled by the 1928
submission of a copy of the report, recommendation, or document to 1929
the director of the legislative service commission, the president 1930
of the senate, the minority leader of the senate, the speaker of 1931
the house of representatives, and the minority leader of the house 1932
of representatives if both houses of the general assembly or their 1933
members are specified, or to the director of the legislative 1934
service commission, the president of the senate, and the minority 1935
leader of the senate if only the senate or its members are 1936
specified, or to the director of the legislative service 1937
commission, the speaker of the house of representatives, and the 1938
minority leader of the house of representatives if only the house 1939
of representatives or its members are specified. This division 1940
does not apply to items required to be distributed to members of 1941
the general assembly pursuant to section 103.14, 149.04, 149.07, 1942
or 149.17 of the Revised Code. 1943

(C) Each month the legislative service commission shall 1944
provide to each member of the senate and to each member of the 1945
house of representatives a list of all reports, recommendations, 1946
and documents submitted to the officers of the general assembly 1947
under division (B) of this section. The list shall include a short 1948
and accurate description of the content, length, and form of each 1949
report, recommendation, or document submitted, as well as a 1950
statement setting forth the number printed, if applicable, and the 1951
cost of preparation. Each member may request from the legislative 1952

service commission a copy of any report, recommendation, or 1953
document on the list, and the legislative service commission shall 1954
comply with any such request. 1955

(D) Notwithstanding any provision of the Revised Code to the 1956
contrary, whenever any statute or rule requires that an agency 1957
submit a report, recommendation, or other similar document to the 1958
general assembly or otherwise as described in division (B) of this 1959
section in a paper, book, or other hard copy format, the report, 1960
recommendation, or other document, to the extent technologically 1961
feasible, shall be submitted to the general assembly or otherwise 1962
as described in division (B) of this section through electronic 1963
means, rather than in the hard copy format, and shall be displayed 1964
by the agency on a web site it maintains. 1965

Sec. 102.02. (A) Except as otherwise provided in division (H) 1966
of this section, all of the following shall file with the 1967
appropriate ethics commission the disclosure statement described 1968
in this division on a form prescribed by the appropriate 1969
commission: every person who is elected to or is a candidate for a 1970
state, county, or city office and every person who is appointed to 1971
fill a vacancy for an unexpired term in such an elective office; 1972
all members of the state board of education; the director, 1973
assistant directors, deputy directors, division chiefs, or persons 1974
of equivalent rank of any administrative department of the state; 1975
the president or other chief administrative officer of every state 1976
institution of higher education as defined in section 3345.011 of 1977
the Revised Code; the executive director and the members of the 1978
capitol square review and advisory board appointed or employed 1979
pursuant to section 105.41 of the Revised Code; the chief 1980
executive officer and the members of the board of each state 1981
retirement system; each employee of a state retirement board who 1982
is a state retirement system investment officer licensed pursuant 1983
to section 1707.163 of the Revised Code; the members of the Ohio 1984

retirement study council appointed pursuant to division (C) of 1985
section 171.01 of the Revised Code; employees of the Ohio 1986
retirement study council, other than employees who perform purely 1987
administrative or clerical functions; the administrator of 1988
workers' compensation and each voting member of the workers' 1989
compensation oversight commission; the chief investment officer of 1990
the bureau of workers' compensation; all members of the board of 1991
commissioners on grievances and discipline of the supreme court 1992
and the ethics commission created under section 102.05 of the 1993
Revised Code; every business manager, treasurer, or superintendent 1994
of a city, local, exempted village, joint vocational, or 1995
cooperative education school district or an educational service 1996
center; every person who is elected to or is a candidate for the 1997
office of member of a board of education of a city, local, 1998
exempted village, joint vocational, or cooperative education 1999
school district or of a governing board of an educational service 2000
center that has a total student count of twelve thousand or more 2001
as most recently determined by the department of education 2002
pursuant to section 3317.03 of the Revised Code; every person who 2003
is appointed to the board of education of a municipal school 2004
district pursuant to division (B) or (F) of section 3311.71 of the 2005
Revised Code; all members of the board of directors of a sanitary 2006
district that is established under Chapter 6115. of the Revised 2007
Code and organized wholly for the purpose of providing a water 2008
supply for domestic, municipal, and public use, and that includes 2009
two municipal corporations in two counties; every public official 2010
or employee who is paid a salary or wage in accordance with 2011
schedule C of section 124.15 or schedule E-2 of section 124.152 of 2012
the Revised Code; members of the board of trustees and the 2013
executive director of the tobacco use prevention and control 2014
foundation; members of the board of trustees and the executive 2015
director of the southern Ohio agricultural and community 2016
development foundation; and every other public official or 2017

employee who is designated by the appropriate ethics commission 2018
pursuant to division (B) of this section. 2019

The disclosure statement shall include all of the following: 2020

(1) The name of the person filing the statement and each 2021
member of the person's immediate family and all names under which 2022
the person or members of the person's immediate family do 2023
business; 2024

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section 2025
and except as otherwise provided in section 102.022 of the Revised 2026
Code, identification of every source of income, other than income 2027
from a legislative agent identified in division (A)(2)(b) of this 2028
section, received during the preceding calendar year, in the 2029
person's own name or by any other person for the person's use or 2030
benefit, by the person filing the statement, and a brief 2031
description of the nature of the services for which the income was 2032
received. If the person filing the statement is a member of the 2033
general assembly, the statement shall identify the amount of every 2034
source of income received in accordance with the following ranges 2035
of amounts: zero or more, but less than one thousand dollars; one 2036
thousand dollars or more, but less than ten thousand dollars; ten 2037
thousand dollars or more, but less than twenty-five thousand 2038
dollars; twenty-five thousand dollars or more, but less than fifty 2039
thousand dollars; fifty thousand dollars or more, but less than 2040
one hundred thousand dollars; and one hundred thousand dollars or 2041
more. Division (A)(2)(a) of this section shall not be construed to 2042
require a person filing the statement who derives income from a 2043
business or profession to disclose the individual items of income 2044
that constitute the gross income of that business or profession, 2045
except for those individual items of income that are attributable 2046
to the person's or, if the income is shared with the person, the 2047
partner's, solicitation of services or goods or performance, 2048
arrangement, or facilitation of services or provision of goods on 2049

behalf of the business or profession of clients, including 2050
corporate clients, who are legislative agents. A person who files 2051
the statement under this section shall disclose the identity of 2052
and the amount of income received from a person who the public 2053
official or employee knows or has reason to know is doing or 2054
seeking to do business of any kind with the public official's or 2055
employee's agency. 2056

(b) If the person filing the statement is a member of the 2057
general assembly, the statement shall identify every source of 2058
income and the amount of that income that was received from a 2059
legislative agent during the preceding calendar year, in the 2060
person's own name or by any other person for the person's use or 2061
benefit, by the person filing the statement, and a brief 2062
description of the nature of the services for which the income was 2063
received. Division (A)(2)(b) of this section requires the 2064
disclosure of clients of attorneys or persons licensed under 2065
section 4732.12 of the Revised Code, or patients of persons 2066
certified under section 4731.14 of the Revised Code, if those 2067
clients or patients are legislative agents. Division (A)(2)(b) of 2068
this section requires a person filing the statement who derives 2069
income from a business or profession to disclose those individual 2070
items of income that constitute the gross income of that business 2071
or profession that are received from legislative agents. 2072

(c) Except as otherwise provided in division (A)(2)(c) of 2073
this section, division (A)(2)(a) of this section applies to 2074
attorneys, physicians, and other persons who engage in the 2075
practice of a profession and who, pursuant to a section of the 2076
Revised Code, the common law of this state, a code of ethics 2077
applicable to the profession, or otherwise, generally are required 2078
not to reveal, disclose, or use confidences of clients, patients, 2079
or other recipients of professional services except under 2080
specified circumstances or generally are required to maintain 2081

those types of confidences as privileged communications except 2082
under specified circumstances. Division (A)(2)(a) of this section 2083
does not require an attorney, physician, or other professional 2084
subject to a confidentiality requirement as described in division 2085
(A)(2)(c) of this section to disclose the name, other identity, or 2086
address of a client, patient, or other recipient of professional 2087
services if the disclosure would threaten the client, patient, or 2088
other recipient of professional services, would reveal details of 2089
the subject matter for which legal, medical, or professional 2090
advice or other services were sought, or would reveal an otherwise 2091
privileged communication involving the client, patient, or other 2092
recipient of professional services. Division (A)(2)(a) of this 2093
section does not require an attorney, physician, or other 2094
professional subject to a confidentiality requirement as described 2095
in division (A)(2)(c) of this section to disclose in the brief 2096
description of the nature of services required by division 2097
(A)(2)(a) of this section any information pertaining to specific 2098
professional services rendered for a client, patient, or other 2099
recipient of professional services that would reveal details of 2100
the subject matter for which legal, medical, or professional 2101
advice was sought or would reveal an otherwise privileged 2102
communication involving the client, patient, or other recipient of 2103
professional services. 2104

(3) The name of every corporation on file with the secretary 2105
of state that is incorporated in this state or holds a certificate 2106
of compliance authorizing it to do business in this state, trust, 2107
business trust, partnership, or association that transacts 2108
business in this state in which the person filing the statement or 2109
any other person for the person's use and benefit had during the 2110
preceding calendar year an investment of over one thousand dollars 2111
at fair market value as of the thirty-first day of December of the 2112
preceding calendar year, or the date of disposition, whichever is 2113
earlier, or in which the person holds any office or has a 2114

fiduciary relationship, and a description of the nature of the 2115
investment, office, or relationship. Division (A)(3) of this 2116
section does not require disclosure of the name of any bank, 2117
savings and loan association, credit union, or building and loan 2118
association with which the person filing the statement has a 2119
deposit or a withdrawable share account. 2120

(4) All fee simple and leasehold interests to which the 2121
person filing the statement holds legal title to or a beneficial 2122
interest in real property located within the state, excluding the 2123
person's residence and property used primarily for personal 2124
recreation; 2125

(5) The names of all persons residing or transacting business 2126
in the state to whom the person filing the statement owes, in the 2127
person's own name or in the name of any other person, more than 2128
one thousand dollars. Division (A)(5) of this section shall not be 2129
construed to require the disclosure of debts owed by the person 2130
resulting from the ordinary conduct of a business or profession or 2131
debts on the person's residence or real property used primarily 2132
for personal recreation, except that the superintendent of 2133
financial institutions shall disclose the names of all 2134
state-chartered savings and loan associations and of all service 2135
corporations subject to regulation under division (E)(2) of 2136
section 1151.34 of the Revised Code to whom the superintendent in 2137
the superintendent's own name or in the name of any other person 2138
owes any money, and that the superintendent and any deputy 2139
superintendent of banks shall disclose the names of all 2140
state-chartered banks and all bank subsidiary corporations subject 2141
to regulation under section 1109.44 of the Revised Code to whom 2142
the superintendent or deputy superintendent owes any money. 2143

(6) The names of all persons residing or transacting business 2144
in the state, other than a depository excluded under division 2145
(A)(3) of this section, who owe more than one thousand dollars to 2146

the person filing the statement, either in the person's own name 2147
or to any person for the person's use or benefit. Division (A)(6) 2148
of this section shall not be construed to require the disclosure 2149
of clients of attorneys or persons licensed under section 4732.12 2150
or 4732.15 of the Revised Code, or patients of persons certified 2151
under section 4731.14 of the Revised Code, nor the disclosure of 2152
debts owed to the person resulting from the ordinary conduct of a 2153
business or profession. 2154

(7) Except as otherwise provided in section 102.022 of the 2155
Revised Code, the source of each gift of over seventy-five 2156
dollars, or of each gift of over twenty-five dollars received by a 2157
member of the general assembly from a legislative agent, received 2158
by the person in the person's own name or by any other person for 2159
the person's use or benefit during the preceding calendar year, 2160
except gifts received by will or by virtue of section 2105.06 of 2161
the Revised Code, or received from spouses, parents, grandparents, 2162
children, grandchildren, siblings, nephews, nieces, uncles, aunts, 2163
brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, 2164
fathers-in-law, mothers-in-law, or any person to whom the person 2165
filing the statement stands in loco parentis, or received by way 2166
of distribution from any inter vivos or testamentary trust 2167
established by a spouse or by an ancestor; 2168

(8) Except as otherwise provided in section 102.022 of the 2169
Revised Code, identification of the source and amount of every 2170
payment of expenses incurred for travel to destinations inside or 2171
outside this state that is received by the person in the person's 2172
own name or by any other person for the person's use or benefit 2173
and that is incurred in connection with the person's official 2174
duties, except for expenses for travel to meetings or conventions 2175
of a national or state organization to which any state agency, 2176
including, but not limited to, any legislative agency or state 2177
institution of higher education as defined in section 3345.011 of 2178

the Revised Code, pays membership dues, or any political 2179
subdivision or any office or agency of a political subdivision 2180
pays membership dues; 2181

(9) Except as otherwise provided in section 102.022 of the 2182
Revised Code, identification of the source of payment of expenses 2183
for meals and other food and beverages, other than for meals and 2184
other food and beverages provided at a meeting at which the person 2185
participated in a panel, seminar, or speaking engagement or at a 2186
meeting or convention of a national or state organization to which 2187
any state agency, including, but not limited to, any legislative 2188
agency or state institution of higher education as defined in 2189
section 3345.011 of the Revised Code, pays membership dues, or any 2190
political subdivision or any office or agency of a political 2191
subdivision pays membership dues, that are incurred in connection 2192
with the person's official duties and that exceed one hundred 2193
dollars aggregated per calendar year; 2194

(10) If the disclosure statement is filed by a public 2195
official or employee described in division (B)(2) of section 2196
101.73 of the Revised Code or division (B)(2) of section 121.63 of 2197
the Revised Code who receives a statement from a legislative 2198
agent, executive agency lobbyist, or employer that contains the 2199
information described in division (F)(2) of section 101.73 of the 2200
Revised Code or division (G)(2) of section 121.63 of the Revised 2201
Code, all of the nondisputed information contained in the 2202
statement delivered to that public official or employee by the 2203
legislative agent, executive agency lobbyist, or employer under 2204
division (F)(2) of section 101.73 or (G)(2) of section 121.63 of 2205
the Revised Code. 2206

A person may file a statement required by this section in 2207
person or by mail. A person who is a candidate for elective office 2208
shall file the statement no later than the thirtieth day before 2209
the primary, special, or general election at which the candidacy 2210

is to be voted on, whichever election occurs soonest, except that 2211
a person who is a write-in candidate shall file the statement no 2212
later than the twentieth day before the earliest election at which 2213
the person's candidacy is to be voted on. A person who holds 2214
elective office shall file the statement on or before the 2215
fifteenth day of April of each year unless the person is a 2216
candidate for office. A person who is appointed to fill a vacancy 2217
for an unexpired term in an elective office shall file the 2218
statement within fifteen days after the person qualifies for 2219
office. Other persons shall file an annual statement on or before 2220
the fifteenth day of April or, if appointed or employed after that 2221
date, within ninety days after appointment or employment. No 2222
person shall be required to file with the appropriate ethics 2223
commission more than one statement or pay more than one filing fee 2224
for any one calendar year. 2225

The appropriate ethics commission, for good cause, may extend 2226
for a reasonable time the deadline for filing a statement under 2227
this section. 2228

A statement filed under this section is subject to public 2229
inspection at locations designated by the appropriate ethics 2230
commission except as otherwise provided in this section. 2231

(B) The Ohio ethics commission, the joint legislative ethics 2232
committee, and the board of commissioners on grievances and 2233
discipline of the supreme court, using the rule-making procedures 2234
of Chapter 119. of the Revised Code, may require any class of 2235
public officials or employees under its jurisdiction and not 2236
specifically excluded by this section whose positions involve a 2237
substantial and material exercise of administrative discretion in 2238
the formulation of public policy, expenditure of public funds, 2239
enforcement of laws and rules of the state or a county or city, or 2240
the execution of other public trusts, to file an annual statement 2241
on or before the fifteenth day of April under division (A) of this 2242

section. The appropriate ethics commission shall send the public 2243
officials or employees written notice of the requirement by the 2244
fifteenth day of February of each year the filing is required 2245
unless the public official or employee is appointed after that 2246
date, in which case the notice shall be sent within thirty days 2247
after appointment, and the filing shall be made not later than 2248
ninety days after appointment. 2249

Except for disclosure statements filed by members of the 2250
board of trustees and the executive director of the tobacco use 2251
prevention and control foundation and members of the board of 2252
trustees and the executive director of the southern Ohio 2253
agricultural and community development foundation, disclosure 2254
statements filed under this division with the Ohio ethics 2255
commission by members of boards, commissions, or bureaus of the 2256
state for which no compensation is received other than reasonable 2257
and necessary expenses shall be kept confidential. Disclosure 2258
statements filed with the Ohio ethics commission under division 2259
(A) of this section by business managers, treasurers, and 2260
superintendents of city, local, exempted village, joint 2261
vocational, or cooperative education school districts or 2262
educational service centers shall be kept confidential, except 2263
that any person conducting an audit of any such school district or 2264
educational service center pursuant to section 115.56 or Chapter 2265
117. of the Revised Code may examine the disclosure statement of 2266
any business manager, treasurer, or superintendent of that school 2267
district or educational service center. The Ohio ethics commission 2268
shall examine each disclosure statement required to be kept 2269
confidential to determine whether a potential conflict of interest 2270
exists for the person who filed the disclosure statement. A 2271
potential conflict of interest exists if the private interests of 2272
the person, as indicated by the person's disclosure statement, 2273
might interfere with the public interests the person is required 2274
to serve in the exercise of the person's authority and duties in 2275

the person's office or position of employment. If the commission 2276
determines that a potential conflict of interest exists, it shall 2277
notify the person who filed the disclosure statement and shall 2278
make the portions of the disclosure statement that indicate a 2279
potential conflict of interest subject to public inspection in the 2280
same manner as is provided for other disclosure statements. Any 2281
portion of the disclosure statement that the commission determines 2282
does not indicate a potential conflict of interest shall be kept 2283
confidential by the commission and shall not be made subject to 2284
public inspection, except as is necessary for the enforcement of 2285
Chapters 102. and 2921. of the Revised Code and except as 2286
otherwise provided in this division. 2287

(C) No person shall knowingly fail to file, on or before the 2288
applicable filing deadline established under this section, a 2289
statement that is required by this section. 2290

(D) No person shall knowingly file a false statement that is 2291
required to be filed under this section. 2292

(E)(1) Except as provided in divisions (E)(2) and (3) of this 2293
section, the statement required by division (A) or (B) of this 2294
section shall be accompanied by a filing fee of forty dollars. 2295

(2) The statement required by division (A) of this section 2296
shall be accompanied by the following filing fee to be paid by the 2297
person who is elected or appointed to, or is a candidate for, any 2298
of the following offices: 2299

| | | |
|--|------|------|
| For state office, except member of the | | 2300 |
| state board of education | \$65 | 2301 |
| For office of member of general assembly | \$40 | 2302 |
| For county office | \$40 | 2303 |
| For city office | \$25 | 2304 |
| For office of member of the state board | | 2305 |
| of education | \$25 | 2306 |

| | |
|--|-----------|
| For office of member of a city, local, | 2307 |
| exempted village, or cooperative | 2308 |
| education board of | 2309 |
| education or educational service | 2310 |
| center governing board | \$20 2311 |
| For position of business manager, | 2312 |
| treasurer, or superintendent of a | 2313 |
| city, local, exempted village, joint | 2314 |
| vocational, or cooperative education | 2315 |
| school district or | 2316 |
| educational service center | \$20 2317 |
| (3) No judge of a court of record or candidate for judge of a | 2318 |
| court of record, and no referee or magistrate serving a court of | 2319 |
| record, shall be required to pay the fee required under division | 2320 |
| (E)(1) or (2) or (F) of this section. | 2321 |
| (4) For any public official who is appointed to a nonelective | 2322 |
| office of the state and for any employee who holds a nonelective | 2323 |
| position in a public agency of the state, the state agency that is | 2324 |
| the primary employer of the state official or employee shall pay | 2325 |
| the fee required under division (E)(1) or (F) of this section. | 2326 |
| (F) If a statement required to be filed under this section is | 2327 |
| not filed by the date on which it is required to be filed, the | 2328 |
| appropriate ethics commission shall assess the person required to | 2329 |
| file the statement a late filing fee of ten dollars for each day | 2330 |
| the statement is not filed, except that the total amount of the | 2331 |
| late filing fee shall not exceed two hundred fifty dollars. | 2332 |
| (G)(1) The appropriate ethics commission other than the Ohio | 2333 |
| ethics commission shall deposit all fees it receives under | 2334 |
| divisions (E) and (F) of this section into the general revenue | 2335 |
| fund of the state. | 2336 |
| (2) The Ohio ethics commission shall deposit all receipts, | 2337 |
| including, but not limited to, fees it receives under divisions | 2338 |

(E) and (F) of this section and all moneys it receives from 2339
settlements under division (G) of section 102.06 of the Revised 2340
Code, into the Ohio ethics commission fund, which is hereby 2341
created in the state treasury. All moneys credited to the fund 2342
shall be used solely for expenses related to the operation and 2343
statutory functions of the commission. 2344

(H) Division (A) of this section does not apply to a person 2345
elected or appointed to the office of precinct, ward, or district 2346
committee member under Chapter 3517. of the Revised Code; a 2347
presidential elector; a delegate to a national convention; village 2348
or township officials and employees; any physician or psychiatrist 2349
who is paid a salary or wage in accordance with schedule C of 2350
section 124.15 or schedule E-2 of section 124.152 of the Revised 2351
Code and whose primary duties do not require the exercise of 2352
administrative discretion; or any member of a board, commission, 2353
or bureau of any county or city who receives less than one 2354
thousand dollars per year for serving in that position. 2355

Sec. 102.06. (A) The appropriate ethics commission shall 2356
receive and may initiate complaints against persons subject to 2357
this chapter concerning conduct alleged to be in violation of this 2358
chapter or section 2921.42 or 2921.43 of the Revised Code. All 2359
complaints except those by the commission shall be by affidavit 2360
made on personal knowledge, subject to the penalties of perjury. 2361
Complaints by the commission shall be by affidavit, based upon 2362
reasonable cause to believe that a violation has occurred. 2363

(B) The appropriate ethics commission shall investigate 2364
complaints, may investigate charges presented to it, and may 2365
request further information, including the specific amount of 2366
income from a source, from any person filing with the commission a 2367
statement required by section 102.02 or 102.021 of the Revised 2368
Code, if the information sought is directly relevant to a 2369

complaint or charges received by the commission pursuant to this 2370
section. This information is confidential, except that the 2371
commission, in its discretion, may share information gathered in 2372
the course of any investigation with, or disclose the information 2373
to, the inspector general, any appropriate prosecuting authority, 2374
any law enforcement agency, or any other appropriate ethics 2375
commission. If the accused person is a member of the public 2376
employees retirement board, state teachers retirement board, 2377
school employees retirement board, board of trustees of the Ohio 2378
police and fire pension fund, or state highway patrol retirement 2379
board, or is a voting member of the workers' compensation 2380
oversight commission the appropriate ethics commission, in its 2381
discretion, also may share information gathered in the course of 2382
an investigation with, or disclose the information to, the 2383
attorney general and the auditor of state. The person so requested 2384
shall furnish the information to the commission, unless within 2385
fifteen days from the date of the request the person files an 2386
action for declaratory judgment challenging the legitimacy of the 2387
request in the court of common pleas of the county of the person's 2388
residence, the person's place of employment, or Franklin county. 2389
The requested information need not be furnished to the commission 2390
during the pendency of the judicial proceedings. Proceedings of 2391
the commission in connection with the declaratory judgment action 2392
shall be kept confidential except as otherwise provided by this 2393
section. Before the commission proceeds to take any formal action 2394
against a person who is the subject of an investigation based on 2395
charges presented to the commission, a complaint shall be filed 2396
against the person. If the commission finds that a complaint is 2397
not frivolous, and there is reasonable cause to believe that the 2398
facts alleged in a complaint constitute a violation of section 2399
102.02, 102.021, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of 2400
the Revised Code, it shall hold a hearing. If the commission does 2401
not so find, it shall dismiss the complaint and notify the accused 2402

person in writing of the dismissal of the complaint. The 2403
commission shall not make a report of its finding unless the 2404
accused person requests a report. Upon the request of the accused 2405
person, the commission shall make a public report of its finding. 2406
The person against whom the complaint is directed shall be given 2407
reasonable notice by certified mail of the date, time, and place 2408
of the hearing and a statement of the charges and the law directly 2409
involved and shall be given the opportunity to be represented by 2410
counsel, to have counsel appointed for the person if the person is 2411
unable to afford counsel without undue hardship, to examine the 2412
evidence against the person, to produce evidence and to call and 2413
subpoena witnesses in the person's defense, to confront the 2414
person's accusers, and to cross-examine witnesses. The commission 2415
shall have a stenographic record made of the hearing. The hearing 2416
shall be closed to the public. 2417

(C)(1)(a) If, upon the basis of the hearing, the appropriate 2418
ethics commission finds by a preponderance of the evidence that 2419
the facts alleged in the complaint are true and constitute a 2420
violation of section 102.02, 102.021, 102.03, 102.04, 102.07, 2421
2921.42, or 2921.43 of the Revised Code, it shall report its 2422
findings to the appropriate prosecuting authority for proceedings 2423
in prosecution of the violation and to the appointing or employing 2424
authority of the accused. If the accused person is a member of the 2425
public employees retirement board, state teachers retirement 2426
board, school employees retirement board, board of trustees of the 2427
Ohio police and fire pension fund, or state highway patrol 2428
retirement board, the commission also shall report its findings to 2429
the Ohio retirement study council. 2430

(b) If the Ohio ethics commission reports its findings to the 2431
appropriate prosecuting authority under division (C)(1)(a) of this 2432
section and the prosecuting authority has not initiated any 2433
official action on those findings within ninety days after 2434

receiving the commission's report of them, the commission may 2435
publicly comment that no official action has been taken on its 2436
findings, except that the commission shall make no comment in 2437
violation of the Rules of Criminal Procedure or about any 2438
indictment that has been sealed pursuant to any law or those 2439
rules. The commission shall make no comment regarding the merits 2440
of its findings. As used in division (C)(1)(b) of this section, 2441
"official action" means prosecution, closure after investigation, 2442
or grand jury action resulting in a true bill of indictment or no 2443
true bill of indictment. 2444

(2) If the appropriate ethics commission does not find by a 2445
preponderance of the evidence that the facts alleged in the 2446
complaint are true and constitute a violation of section 102.02, 2447
102.021, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of the 2448
Revised Code or if the commission has not scheduled a hearing 2449
within ninety days after the complaint is filed or has not finally 2450
disposed of the complaint within six months after it has been 2451
heard, it shall dismiss the complaint and notify the accused 2452
person in writing of the dismissal of the complaint. The 2453
commission shall not make a report of its finding unless the 2454
accused person requests a report. Upon the request of the accused 2455
person, the commission shall make a public report of the finding, 2456
but in this case all evidence and the record of the hearing shall 2457
remain confidential unless the accused person also requests that 2458
the evidence and record be made public. Upon request by the 2459
accused person, the commission shall make the evidence and the 2460
record available for public inspection. 2461

(D) The appropriate ethics commission, or a member of the 2462
commission, may administer oaths, and the commission may issue 2463
subpoenas to any person in the state compelling the attendance of 2464
witnesses and the production of relevant papers, books, accounts, 2465
and records. The commission shall issue subpoenas to compel the 2466

attendance of witnesses and the production of documents upon the 2467
request of an accused person. Section 101.42 of the Revised Code 2468
shall govern the issuance of these subpoenas insofar as 2469
applicable. Upon the refusal of any person to obey a subpoena or 2470
to be sworn or to answer as a witness, the commission may apply to 2471
the court of common pleas of Franklin county under section 2705.03 2472
of the Revised Code. The court shall hold proceedings in 2473
accordance with Chapter 2705. of the Revised Code. The commission 2474
or the accused person may take the depositions of witnesses 2475
residing within or without the state in the same manner as 2476
prescribed by law for the taking of depositions in civil actions 2477
in the court of common pleas. 2478

(E) At least once each year, the Ohio ethics commission shall 2479
report on its activities of the immediately preceding year to the 2480
majority and minority leaders of the senate and house of 2481
representatives of the general assembly. The report shall indicate 2482
the total number of complaints received, initiated, and 2483
investigated by the commission, the total number of complaints for 2484
which formal hearings were held, and the total number of 2485
complaints for which formal prosecution was recommended or 2486
requested by the commission. The report also shall indicate the 2487
nature of the inappropriate conduct alleged in each complaint and 2488
the governmental entity with which any employee or official that 2489
is the subject of a complaint was employed at the time of the 2490
alleged inappropriate conduct. 2491

(F) All papers, records, affidavits, and documents upon any 2492
complaint, inquiry, or investigation relating to the proceedings 2493
of the appropriate ethics commission shall be sealed and are 2494
private and confidential, except as otherwise provided in this 2495
section and section 102.07 of the Revised Code. 2496

(G)(1) When a complaint or charge is before it, the Ohio 2497
ethics commission or the appropriate prosecuting authority, in 2498

consultation with the person filing the complaint or charge, the 2499
accused, and any other person the commission or prosecuting 2500
authority considers necessary, may compromise or settle the 2501
complaint or charge with the agreement of the accused. The 2502
compromise or settlement may include mediation, restitution, 2503
rescission of affected contracts, forfeiture of any benefits 2504
resulting from a violation or potential violation of law, 2505
resignation of a public official or employee, or any other relief 2506
that is agreed upon between the commission or prosecuting 2507
authority and the accused. 2508

(2) Any settlement agreement entered into under division 2509
(G)(1) of this section shall be in writing and be accompanied by a 2510
statement of the findings of the commission or prosecuting 2511
authority and the reasons for entering into the agreement. The 2512
commission or prosecuting authority shall retain the agreement and 2513
statement in the commission's or prosecuting authority's office 2514
and, in the commission's or prosecuting authority's discretion, 2515
may make the agreement, the statement, and any supporting 2516
information public, unless the agreement provides otherwise. 2517

(3) If a settlement agreement is breached by the accused, the 2518
commission or prosecuting authority, in the commission's or 2519
prosecuting authority's discretion, may rescind the agreement and 2520
reinstitute any investigation, hearing, or prosecution of the 2521
accused. No information obtained from the accused in reaching the 2522
settlement that is not otherwise discoverable from the accused 2523
shall be used in any proceeding before the commission or by the 2524
appropriate prosecuting authority in prosecuting the violation. 2525
Notwithstanding any other section of the Revised Code, if a 2526
settlement agreement is breached, any statute of limitations for a 2527
violation of this chapter or section 2921.42 or 2921.43 of the 2528
Revised Code is tolled from the date the complaint or charge is 2529
filed until the date the settlement agreement is breached. 2530

Sec. 103.132. The legislative service commission, in 2531
conjunction with the legislative information systems office, shall 2532
establish and maintain an electronic database containing current 2533
and historical revenue and expenditure data for each school 2534
district in the state that is easy to use and readily accessible 2535
through the internet. 2536

Sec. 108.05. (A) The lieutenant governor shall be a member of 2537
the governor's cabinet and shall preside at its meetings in the 2538
absence of the governor. 2539

(B) The governor may appoint the lieutenant governor as an 2540
administrative department head listed in section 121.03 of the 2541
Revised Code, ~~as director of the office of criminal justice~~ 2542
~~services pursuant to section 181.52 of the Revised Code,~~ as the 2543
governor's representative on any board, agency, committee, or 2544
commission of which the governor is a member and has the authority 2545
to appoint a representative, or in an advisory capacity to any 2546
nonelective board, agency, committee, or commission in the 2547
executive department or may give the lieutenant governor any 2548
special assignment as the governor considers in the interest of 2549
the state. 2550

(C) When carrying out any of the functions described in 2551
division (B) of this section, the lieutenant governor shall be 2552
reimbursed from funds of the particular authority for necessary 2553
expenses incurred in the conduct of authority business. 2554

Sec. 109.54. (A) The bureau of criminal identification and 2555
investigation may investigate any criminal activity in this state 2556
that is of statewide or intercounty concern when requested by 2557
local authorities and may aid federal authorities, when requested, 2558
in their investigation of any criminal activity in this state. The 2559
bureau may investigate any criminal activity in this state related 2560

to the conduct of elections when requested by the secretary of 2561
state. The bureau may investigate any criminal activity in this 2562
state involving drug abuse or illegal drug distribution prohibited 2563
under Chapter 3719. or 4729. of the Revised Code. The 2564
superintendent and any agent of the bureau may participate, as the 2565
director of an organized crime task force established under 2566
section 177.02 of the Revised Code or as a member of the 2567
investigatory staff of a task force established under that 2568
section, in an investigation of organized criminal activity 2569
anywhere within this state under sections 177.01 to 177.03 of the 2570
Revised Code. 2571

(B) The bureau may provide any trained investigative 2572
personnel and specialized equipment that are requested by any 2573
sheriff or chief of police, by the authorized designee of any 2574
sheriff or chief of police, or by any other authorized law 2575
enforcement officer to aid and assist the officer in the 2576
investigation and solution of any crime or the control of any 2577
criminal activity occurring within the officer's jurisdiction. 2578
This assistance shall be furnished by the bureau without 2579
disturbing or impairing any of the existing law enforcement 2580
authority or the prerogatives of local law enforcement authorities 2581
or officers. Investigators provided pursuant to this section, or 2582
engaged in an investigation pursuant to section 109.83 of the 2583
Revised Code, may go armed in the same manner as sheriffs and 2584
regularly appointed police officers under section 2923.12 of the 2585
Revised Code. 2586

(C)(1) The bureau shall obtain recording equipment that can 2587
be used to record depositions of the type described in division 2588
(A) of section 2152.81 and division (A) of section 2945.481 of the 2589
Revised Code, or testimony of the type described in division (D) 2590
of section 2152.81 and division (D) of section 2945.481 or in 2591
division (C) of section 2937.11 of the Revised Code, shall obtain 2592

closed circuit equipment that can be used to televise testimony of 2593
the type described in division (C) of section 2152.81 and division 2594
(C) of section 2945.481 or in division (B) of section 2937.11 of 2595
the Revised Code, and shall provide the equipment, upon request, 2596
to any court for use in recording any deposition or testimony of 2597
one of those types or in televising the testimony in accordance 2598
with the applicable division. 2599

(2) The bureau shall obtain the names, addresses, and 2600
telephone numbers of persons who are experienced in questioning 2601
children in relation to an investigation of a violation of section 2602
2905.03, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2603
2907.07, 2907.09, 2907.21, 2907.23, 2907.24, 2907.31, 2907.32, 2604
2907.321, 2907.322, 2907.323, or 2919.22 of the Revised Code or an 2605
offense of violence and shall maintain a list of those names, 2606
addresses, and telephone numbers. The list shall include a 2607
classification of the names, addresses, and telephone numbers by 2608
appellate district. Upon request, the bureau shall provide any 2609
county sheriff, chief of police, prosecuting attorney, village 2610
solicitor, city director of law, or similar chief legal officer 2611
with the name, address, and telephone number of any person 2612
contained in the list. 2613

Sec. 109.57. (A)(1) The superintendent of the bureau of 2614
criminal identification and investigation shall procure from 2615
wherever procurable and file for record photographs, pictures, 2616
descriptions, fingerprints, measurements, and other information 2617
that may be pertinent of all persons who have been convicted of 2618
committing within this state a felony, any crime constituting a 2619
misdemeanor on the first offense and a felony on subsequent 2620
offenses, or any misdemeanor described in division (A)(1)(a) of 2621
section 109.572 of the Revised Code, of all children under 2622
eighteen years of age who have been adjudicated delinquent 2623
children for committing within this state an act that would be a 2624

felony or an offense of violence if committed by an adult or who 2625
have been convicted of or pleaded guilty to committing within this 2626
state a felony or an offense of violence, and of all well-known 2627
and habitual criminals. The person in charge of any county, 2628
multicounty, municipal, municipal-county, or multicounty-municipal 2629
jail or workhouse, community-based correctional facility, halfway 2630
house, alternative residential facility, or state correctional 2631
institution and the person in charge of any state institution 2632
having custody of a person suspected of having committed a felony, 2633
any crime constituting a misdemeanor on the first offense and a 2634
felony on subsequent offenses, or any misdemeanor described in 2635
division (A)(1)(a) of section 109.572 of the Revised Code or 2636
having custody of a child under eighteen years of age with respect 2637
to whom there is probable cause to believe that the child may have 2638
committed an act that would be a felony or an offense of violence 2639
if committed by an adult shall furnish such material to the 2640
superintendent of the bureau. Fingerprints, photographs, or other 2641
descriptive information of a child who is under eighteen years of 2642
age, has not been arrested or otherwise taken into custody for 2643
committing an act that would be a felony or an offense of violence 2644
if committed by an adult, has not been adjudicated a delinquent 2645
child for committing an act that would be a felony or an offense 2646
of violence if committed by an adult, has not been convicted of or 2647
pleaded guilty to committing a felony or an offense of violence, 2648
and is not a child with respect to whom there is probable cause to 2649
believe that the child may have committed an act that would be a 2650
felony or an offense of violence if committed by an adult shall 2651
not be procured by the superintendent or furnished by any person 2652
in charge of any county, multicounty, municipal, municipal-county, 2653
or multicounty-municipal jail or workhouse, community-based 2654
correctional facility, halfway house, alternative residential 2655
facility, or state correctional institution, except as authorized 2656
in section 2151.313 of the Revised Code. 2657

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

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

(b) The style and number of the case;

(c) The date of arrest;

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

date of any other determination that constitutes final resolution 2690
of the case; 2691

(e) A statement of the original charge with the section of 2692
the Revised Code that was alleged to be violated; 2693

(f) If the person or child was convicted, pleaded guilty, or 2694
was adjudicated a delinquent child, the sentence or terms of 2695
probation imposed or any other disposition of the offender or the 2696
delinquent child. 2697

If the offense involved the disarming of a law enforcement 2698
officer or an attempt to disarm a law enforcement officer, the 2699
clerk shall clearly state that fact in the summary, and the 2700
superintendent shall ensure that a clear statement of that fact is 2701
placed in the bureau's records. 2702

(3) The superintendent shall cooperate with and assist 2703
sheriffs, chiefs of police, and other law enforcement officers in 2704
the establishment of a complete system of criminal identification 2705
and in obtaining fingerprints and other means of identification of 2706
all persons arrested on a charge of a felony, any crime 2707
constituting a misdemeanor on the first offense and a felony on 2708
subsequent offenses, or a misdemeanor described in division 2709
(A)(1)(a) of section 109.572 of the Revised Code and of all 2710
children under eighteen years of age arrested or otherwise taken 2711
into custody for committing an act that would be a felony or an 2712
offense of violence if committed by an adult. The superintendent 2713
also shall file for record the fingerprint impressions of all 2714
persons confined in a county, multicounty, municipal, 2715
municipal-county, or multicounty-municipal jail or workhouse, 2716
community-based correctional facility, halfway house, alternative 2717
residential facility, or state correctional institution for the 2718
violation of state laws and of all children under eighteen years 2719
of age who are confined in a county, multicounty, municipal, 2720
municipal-county, or multicounty-municipal jail or workhouse, 2721

community-based correctional facility, halfway house, alternative 2722
residential facility, or state correctional institution or in any 2723
facility for delinquent children for committing an act that would 2724
be a felony or an offense of violence if committed by an adult, 2725
and any other information that the superintendent may receive from 2726
law enforcement officials of the state and its political 2727
subdivisions. 2728

(4) The superintendent shall carry out Chapter 2950. of the 2729
Revised Code with respect to the registration of persons who are 2730
convicted of or plead guilty to either a sexually oriented offense 2731
that is not a registration-exempt sexually oriented offense or a 2732
child-victim oriented offense and with respect to all other duties 2733
imposed on the bureau under that chapter. 2734

(5) The bureau shall perform centralized recordkeeping 2735
functions for criminal history records and services in this state 2736
for purposes of the national crime prevention and privacy compact 2737
set forth in section 109.571 of the Revised Code and is the 2738
criminal history record repository as defined in that section for 2739
purposes of that compact. The superintendent or the 2740
superintendent's designee is the compact officer for purposes of 2741
that compact and shall carry out the responsibilities of the 2742
compact officer specified in that compact. 2743

(B) The superintendent shall prepare and furnish to every 2744
county, multicounty, municipal, municipal-county, or 2745
multicounty-municipal jail or workhouse, community-based 2746
correctional facility, halfway house, alternative residential 2747
facility, or state correctional institution and to every clerk of 2748
a court in this state specified in division (A)(2) of this section 2749
standard forms for reporting the information required under 2750
division (A) of this section. The standard forms that the 2751
superintendent prepares pursuant to this division may be in a 2752
tangible format, in an electronic format, or in both tangible 2753

formats and electronic formats. 2754

(C) The superintendent may operate a center for electronic, 2755
automated, or other data processing for the storage and retrieval 2756
of information, data, and statistics pertaining to criminals and 2757
to children under eighteen years of age who are adjudicated 2758
delinquent children for committing an act that would be a felony 2759
or an offense of violence if committed by an adult, criminal 2760
activity, crime prevention, law enforcement, and criminal justice, 2761
and may establish and operate a statewide communications network 2762
to gather and disseminate information, data, and statistics for 2763
the use of law enforcement agencies. The superintendent may 2764
gather, store, retrieve, and disseminate information, data, and 2765
statistics that pertain to children who are under eighteen years 2766
of age and that are gathered pursuant to sections 109.57 to 109.61 2767
of the Revised Code together with information, data, and 2768
statistics that pertain to adults and that are gathered pursuant 2769
to those sections. In addition to any other authorized use of 2770
information, data, and statistics of that nature, the 2771
superintendent or the superintendent's designee may provide and 2772
exchange the information, data, and statistics pursuant to the 2773
national crime prevention and privacy compact as described in 2774
division (A)(5) of this section. 2775

(D) The information and materials furnished to the 2776
superintendent pursuant to division (A) of this section and 2777
information and materials furnished to any board or person under 2778
division (F) or (G) of this section are not public records under 2779
section 149.43 of the Revised Code. 2780

(E) The attorney general shall adopt rules, in accordance 2781
with Chapter 119. of the Revised Code, setting forth the procedure 2782
by which a person may receive or release information gathered by 2783
the superintendent pursuant to division (A) of this section. A 2784
reasonable fee may be charged for this service. If a temporary 2785

employment service submits a request for a determination of 2786
whether a person the service plans to refer to an employment 2787
position has been convicted of or pleaded guilty to an offense 2788
listed in division (A)(1), (3), (4), (5), or (6) of section 2789
109.572 of the Revised Code, the request shall be treated as a 2790
single request and only one fee shall be charged. 2791

(F)(1) As used in division (F)(2) of this section, "head 2792
start agency" means an entity in this state that has been approved 2793
to be an agency for purposes of subchapter II of the "Community 2794
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 2795
as amended. 2796

(2)(a) In addition to or in conjunction with any request that 2797
is required to be made under section 109.572, 2151.86, 3301.32, 2798
3301.541, 3319.39, 3701.881, 5104.012, 5104.013, 5123.081, 2799
5126.28, 5126.281, or 5153.111 of the Revised Code, the board of 2800
education of any school district; the director of mental 2801
retardation and developmental disabilities; any county board of 2802
mental retardation and developmental disabilities; any entity 2803
under contract with a county board of mental retardation and 2804
developmental disabilities; the chief administrator of any 2805
chartered nonpublic school; the chief administrator of any home 2806
health agency; the chief administrator of or person operating any 2807
child day-care center, type A family day-care home, or type B 2808
family day-care home licensed or certified under Chapter 5104. of 2809
the Revised Code; the administrator of any type C family day-care 2810
home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st 2811
general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st 2812
general assembly; the chief administrator of any head start 2813
agency; or the executive director of a public children services 2814
agency may request that the superintendent of the bureau 2815
investigate and determine, with respect to any individual who has 2816
applied for employment in any position after October 2, 1989, or 2817

any individual wishing to apply for employment with a board of 2818
education may request, with regard to the individual, whether the 2819
bureau has any information gathered under division (A) of this 2820
section that pertains to that individual. On receipt of the 2821
request, the superintendent shall determine whether that 2822
information exists and, upon request of the person, board, or 2823
entity requesting information, also shall request from the federal 2824
bureau of investigation any criminal records it has pertaining to 2825
that individual. The superintendent or the superintendent's 2826
designee also may request criminal history records from other 2827
states or the federal government pursuant to the national crime 2828
prevention and privacy compact set forth in section 109.571 of the 2829
Revised Code. Within thirty days of the date that the 2830
superintendent receives a request, the superintendent shall send 2831
to the board, entity, or person a report of any information that 2832
the superintendent determines exists, including information 2833
contained in records that have been sealed under section 2953.32 2834
of the Revised Code, and, within thirty days of its receipt, shall 2835
send the board, entity, or person a report of any information 2836
received from the federal bureau of investigation, other than 2837
information the dissemination of which is prohibited by federal 2838
law. 2839

(b) When a board of education is required to receive 2840
information under this section as a prerequisite to employment of 2841
an individual pursuant to section 3319.39 of the Revised Code, it 2842
may accept a certified copy of records that were issued by the 2843
bureau of criminal identification and investigation and that are 2844
presented by an individual applying for employment with the 2845
district in lieu of requesting that information itself. In such a 2846
case, the board shall accept the certified copy issued by the 2847
bureau in order to make a photocopy of it for that individual's 2848
employment application documents and shall return the certified 2849
copy to the individual. In a case of that nature, a district only 2850

shall accept a certified copy of records of that nature within one 2851
year after the date of their issuance by the bureau. 2852

(3) The state board of education may request, with respect to 2853
any individual who has applied for employment after October 2, 2854
1989, in any position with the state board or the department of 2855
education, any information that a school district board of 2856
education is authorized to request under division (F)(2) of this 2857
section, and the superintendent of the bureau shall proceed as if 2858
the request has been received from a school district board of 2859
education under division (F)(2) of this section. 2860

(4) When the superintendent of the bureau receives a request 2861
for information under section 3319.291 of the Revised Code, the 2862
superintendent shall proceed as if the request has been received 2863
from a school district board of education under division (F)(2) of 2864
this section. 2865

(5) When a recipient of ~~an OhioReads~~ a classroom or community 2866
reading improvement grant paid under section 3301.86 ~~or 3301.87~~ of 2867
the Revised Code ~~or an entity approved by the OhioReads council~~ 2868
requests, with respect to any individual who applies to 2869
participate in providing any program or service ~~through an entity~~ 2870
~~approved by the OhioReads council~~ or funded in whole or in part by 2871
the grant, the information that a school district board of 2872
education is authorized to request under division (F)(2)(a) of 2873
this section, the superintendent of the bureau shall proceed as if 2874
the request has been received from a school district board of 2875
education under division (F)(2)(a) of this section. 2876

(G) In addition to or in conjunction with any request that is 2877
required to be made under section 173.41, 3701.881, 3712.09, 2878
3721.121, or 3722.151 of the Revised Code with respect to an 2879
individual who has applied for employment in a position that 2880
involves providing direct care to an older adult, the chief 2881
administrator of a PASSPORT agency that provides services through 2882

the PASSPORT program created under section 173.40 of the Revised Code, home health agency, hospice care program, home licensed under Chapter 3721. of the Revised Code, adult day-care program operated pursuant to rules adopted under section 3721.04 of the Revised Code, or adult care facility may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied after January 27, 1997, for employment in a position that does not involve providing direct care to an older adult, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, the superintendent shall determine whether that information exists and, on request of the administrator requesting information, shall also request from the federal bureau of investigation any criminal records it has pertaining to that individual. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date a request is received, the superintendent shall send to the administrator a report of any information determined to exist, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the administrator a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

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

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

(G) of this section. 2915

Sec. 109.579. (A) On receipt of a request pursuant to 2916
division (B) of section 4123.444 of the Revised Code, a completed 2917
form prescribed pursuant to division (C)(1) of this section, and a 2918
set of fingerprint impressions obtained in the manner described in 2919
division (C)(2) of this section, the superintendent of the bureau 2920
of criminal identification and investigation shall conduct a 2921
criminal records check in the manner described in division (B) of 2922
this section to determine whether any information exists that 2923
indicates that the person who is the subject of the request 2924
previously has been convicted of or pleaded guilty to any criminal 2925
offense involving theft, receiving stolen property, embezzlement, 2926
forgery, fraud, passing bad checks, money laundering, drug 2927
trafficking, or any criminal offense involving money or 2928
securities, as set forth in Chapters 2909., 2911., 2913., 2915., 2929
2921., 2923., and 2925. of the Revised Code or other law of this 2930
state, or the laws of any other state or of the United States that 2931
are substantially equivalent to those offenses. 2932

(B) The superintendent shall conduct a criminal records check 2933
pursuant to division (A) of this section as follows: 2934

(1) The superintendent shall review or cause to be reviewed 2935
any relevant information gathered and compiled by the bureau under 2936
division (A) of section 109.57 of the Revised Code that relates to 2937
the person who is the subject of the request, including any 2938
relevant information contained in records that have been sealed 2939
under section 2953.32 of the Revised Code. 2940

(2) If the request received by the superintendent asks for 2941
information from the federal bureau of investigation, the 2942
superintendent shall request from the federal bureau of 2943
investigation any information it has with respect to the person 2944
who is the subject of the request. The superintendent shall review 2945

or cause to be reviewed any information that the superintendent receives from the federal bureau of investigation. 2946
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(3) The superintendent shall forward the results of a criminal records check conducted pursuant to this division to the administrator of workers' compensation. 2948
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(C)(1) The superintendent shall prescribe a form to obtain the information necessary to conduct a criminal records check from any person for whom a criminal records check is requested pursuant to division (B) of section 4123.444 of the Revised Code. The form that the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats. 2951
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(2) The superintendent shall prescribe standard impression sheets to obtain the fingerprint impressions of any person for whom a criminal records check is requested pursuant to section 4123.444 of the Revised Code. Any person for whom the administrator requests the superintendent to conduct a criminal records check pursuant to that section shall have the person's fingerprint impressions made at a county sheriff's office, a municipal police department, or any other entity with the ability to make fingerprint impressions on the standard impression sheets prescribed by the superintendent. The office, department, or entity may charge the person a reasonable fee for making the impressions. The standard impression sheets the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats. 2958
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(3) The superintendent may prescribe methods of forwarding fingerprint impressions and information necessary to conduct a criminal records check. The methods shall include, but are not limited to, electronic methods. 2973
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(D) A determination whether any information exists that 2977
indicates that a person previously has been convicted of or 2978
pleaded guilty to any offense listed or described in division (A) 2979
of this section that the superintendent makes pursuant to 2980
information considered in a criminal records check under this 2981
section is valid for the person who is the subject of that 2982
criminal records check for a period of one year after the date the 2983
superintendent makes that determination. 2984

(E) The superintendent shall prescribe and charge a 2985
reasonable fee for providing a criminal records check requested 2986
under section 4123.444 of the Revised Code. If another request for 2987
a criminal records check is made under this section for a person 2988
for whom a valid determination under division (D) of this section 2989
is available, the superintendent shall provide the determination 2990
for a reduced fee. 2991

Sec. 109.79. (A) The Ohio peace officer training commission 2992
shall establish and conduct a training school for law enforcement 2993
officers of any political subdivision of the state or of the state 2994
public defender's office. The school shall be known as the Ohio 2995
peace officer training academy. No bailiff or deputy bailiff of a 2996
court of record of this state and no criminal investigator 2997
employed by the state public defender shall be permitted to attend 2998
the academy for training unless the employing court of the bailiff 2999
or deputy bailiff or the state public defender, whichever is 3000
applicable, has authorized the bailiff, deputy bailiff, or 3001
investigator to attend the academy. 3002

The Ohio peace officer training commission shall develop the 3003
training program, which shall include courses in both the civil 3004
and criminal functions of law enforcement officers, a course in 3005
crisis intervention with six or more hours of training, and 3006
training in the handling of missing children and child abuse and 3007

neglect cases, and shall establish rules governing qualifications 3008
for admission to the academy. The commission may require 3009
competitive examinations to determine fitness of prospective 3010
trainees, so long as the examinations or other criteria for 3011
admission to the academy are consistent with the provisions of 3012
Chapter 124. of the Revised Code. 3013

The Ohio peace officer training commission shall determine 3014
tuition costs which shall be sufficient in the aggregate to pay 3015
the costs of operating the academy. The costs of acquiring and 3016
equipping the academy shall be paid from appropriations made by 3017
the general assembly to the Ohio peace officer training commission 3018
for that purpose, ~~or~~ from gifts or grants received for that 3019
purpose, or from fees for goods related to the academy. 3020

The law enforcement officers, during the period of their 3021
training, shall receive compensation as determined by the 3022
political subdivision that sponsors them or, if the officer is a 3023
criminal investigator employed by the state public defender, as 3024
determined by the state public defender. The political subdivision 3025
may pay the tuition costs of the law enforcement officers they 3026
sponsor and the state public defender may pay the tuition costs of 3027
criminal investigators of that office who attend the academy. 3028

If trainee vacancies exist, the academy may train and issue 3029
certificates of satisfactory completion to peace officers who are 3030
employed by a campus police department pursuant to section 1713.50 3031
of the Revised Code, by a qualified nonprofit corporation police 3032
department pursuant to section 1702.80 of the Revised Code, or by 3033
a railroad company, who are amusement park police officers 3034
appointed and commissioned by a judge of the appropriate municipal 3035
court or county court pursuant to section 4973.17 of the Revised 3036
Code, or who are hospital police officers appointed and 3037
commissioned by the governor pursuant to sections 4973.17 to 3038
4973.22 of the Revised Code, provided that no such officer shall 3039

be trained at the academy unless the officer meets the 3040
qualifications established for admission to the academy and the 3041
qualified nonprofit corporation police department, railroad 3042
company, hospital, or amusement park or the private college or 3043
university that established the campus police department prepays 3044
the entire cost of the training. A qualified nonprofit corporation 3045
police department, railroad company, hospital, or amusement park 3046
or a private college or university that has established a campus 3047
police department is not entitled to reimbursement from the state 3048
for any amount paid for the cost of training the railroad 3049
company's peace officers or the peace officers of the qualified 3050
nonprofit corporation police department, campus police department, 3051
hospital, or amusement park. 3052

The academy shall permit investigators employed by the state 3053
medical board to take selected courses that the board determines 3054
are consistent with its responsibilities for initial and 3055
continuing training of investigators as required under sections 3056
4730.26 and 4731.05 of the Revised Code. The board shall pay the 3057
entire cost of training that investigators receive at the academy. 3058

(B) As used in this section: 3059

(1) "Law enforcement officers" include any undercover drug 3060
agent, any bailiff or deputy bailiff of a court of record, and any 3061
criminal investigator who is employed by the state public 3062
defender. 3063

(2) "Undercover drug agent" means any person who: 3064

(a) Is employed by a county, township, or municipal 3065
corporation for the purposes set forth in division (B)(2)(b) of 3066
this section but who is not an employee of a county sheriff's 3067
department, of a township constable, or of the police department 3068
of a municipal corporation or township; 3069

(b) In the course of the person's employment by a county, 3070

township, or municipal corporation, investigates and gathers 3071
information pertaining to persons who are suspected of violating 3072
Chapter 2925. or 3719. of the Revised Code, and generally does not 3073
wear a uniform in the performance of the person's duties. 3074

(3) "Crisis intervention training" has the same meaning as in 3075
section 109.71 of the Revised Code. 3076

(4) "Missing children" has the same meaning as in section 3077
2901.30 of the Revised Code. 3078

Sec. 109.91. (A) There is hereby established within the 3079
office of the attorney general the crime victims assistance 3080
office. 3081

(B) There is hereby established the state victims assistance 3082
advisory committee. The committee shall consist of a chairperson, 3083
to be appointed by the attorney general, ~~four~~ three ex officio 3084
members, and fifteen members to be appointed by the attorney 3085
general as follows: one member who represents the Ohio 3086
victim-witness association; three members who represent local 3087
victim assistance programs, including one from a municipally 3088
operated program and one from a county-operated program; one 3089
member who represents the interests of elderly victims; one member 3090
who is a board member of any statewide or local organization that 3091
exists primarily to aid victims of domestic violence, or who is an 3092
employee of, or counselor for, such an organization; one member 3093
who is an employee or officer of a county probation department or 3094
a probation department operated by the department of 3095
rehabilitation and correction; one member who is a county 3096
prosecuting attorney; one member who is a city law director; one 3097
member who is a county sheriff; one member who is a member or 3098
officer of a township or municipal police department; one member 3099
who is a court of common pleas judge; one member who is a 3100
municipal court judge or county court judge; and two members who 3101

are private citizens and are not government employees. 3102

The committee shall include the following ex officio, 3103
nonvoting members: ~~the chief justice of the supreme court,~~ the 3104
attorney general, one member of the senate to be designated by the 3105
president of the senate, and one member of the house of 3106
representatives to be designated by the speaker of the house. 3107

Members of the committee shall serve without compensation, 3108
but shall be reimbursed for travel and other necessary expenses 3109
that are incurred in the conduct of their official duties as 3110
members of the committee. The chairperson and members of the 3111
committee appointed by the attorney general shall serve at the 3112
pleasure of the attorney general. The ~~chief justice of the supreme~~ 3113
~~court and the~~ attorney general shall serve on the committee until 3114
the end of the term of office that qualified ~~them~~ the attorney 3115
general for membership on the committee. The member of the senate 3116
and the member of the house of representatives shall serve at the 3117
pleasure of the president of the senate and the speaker of the 3118
house of representatives, respectively. 3119

(C) The victims assistance advisory committee shall perform 3120
both of the following duties: 3121

(1) Advise the crime victims assistance office in determining 3122
crime and delinquency victim service needs, determining crime and 3123
delinquency victim policies for the state, and improving and 3124
exercising leadership in the quality of crime and delinquency 3125
victim programs in the state; 3126

(2) Review and recommend to the crime victims assistance 3127
office the victim assistance programs that should be considered 3128
for the receipt of state financial assistance pursuant to section 3129
109.92 of the Revised Code. The financial assistance allocation 3130
recommendations of the committee shall be based on the following 3131
priorities: 3132

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

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

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

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

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

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

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

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

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

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

2743. of the Revised Code. 3163

Sec. 109.98. As used in this section, "state retirement 3164
board" means the public employees retirement board, board of 3165
trustees of the Ohio police and fire pension fund, school 3166
employees retirement board, state teachers retirement board, and 3167
state highway patrol retirement board. 3168

If a member of a state retirement board breaches the member's 3169
fiduciary duty to the retirement system, the attorney general may 3170
maintain a civil action against the board member for harm 3171
resulting from that breach. The Notwithstanding sections 145.10, 3172
742.09, 3307.13, 3309.13, and 5505.23 of the Revised Code, after 3173
being informed of an allegation that the entire board has breached 3174
its fiduciary duty, the state retirement board may retain 3175
independent legal counsel, including legal counsel provided by the 3176
board's fiduciary insurance carrier, to advise the board and to 3177
represent the board. 3178

The attorney general may recover damages or be granted 3179
injunctive relief, which shall include the enjoinder of specified 3180
activities and the removal of the member from the board. Any 3181
damages awarded shall be paid to the retirement system. The 3182
authority to maintain a civil action created by this section is in 3183
addition to any authority the attorney general possesses under any 3184
other provision of the Revised Code. 3185

Sec. 109.981. If a voting member of workers' compensation 3186
oversight commission breaches the member's fiduciary duty to the 3187
bureau of workers' compensation, the attorney general may maintain 3188
a civil action against the board member for harm resulting from 3189
that breach. Notwithstanding section 4121.128 of the Revised Code, 3190
after being informed of an allegation that the entire oversight 3191
commission has breached its fiduciary duty, the oversight 3192

commission may retain independent legal counsel, including legal 3193
counsel provided by the oversight commission's fiduciary insurance 3194
carrier, to advise the board and to represent the board. The 3195
attorney general may recover damages or be granted injunctive 3196
relief, which shall include the enjoinder of specified activities 3197
and the removal of the member from the board. Any damages awarded 3198
shall be paid to the bureau. The authority to maintain a civil 3199
action created by this section is in addition to any authority the 3200
attorney general possesses under any other provision of the 3201
Revised Code. 3202

Sec. 117.10. The auditor of state shall audit all public 3203
offices as provided in this chapter. The auditor of state also may 3204
audit the accounts of private institutions, associations, boards, 3205
and corporations receiving public money for their use and may 3206
require of them annual reports in such form as the auditor of 3207
state prescribes. 3208

If the auditor of state performs or contracts for the 3209
performance of an audit, including a special audit, of the public 3210
employees retirement system, school employees retirement system, 3211
state teachers retirement system, state highway patrol retirement 3212
system, or Ohio police and fire pension fund, the auditor of state 3213
shall make a timely report of the results of the audit to the Ohio 3214
retirement study council. 3215

The auditor of state may audit the accounts of any provider 3216
as defined in section 5111.06 of the Revised Code, ~~if requested by~~ 3217
~~the department of job and family services.~~ 3218

If a public office has been audited by an agency of the 3219
United States government, the auditor of state may, if satisfied 3220
that the federal audit has been conducted according to principles 3221
and procedures not contrary to those of the auditor of state, use 3222

and adopt the federal audit and report in lieu of an audit by the auditor of state's own office.

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

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

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

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

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

(5) The state public defender, when designated by the court or requested by a county public defender, joint county public defender, or the director of rehabilitation and correction, shall

provide legal representation in parole and probation revocation 3253
matters or matters relating to the revocation of community control 3254
or post-release control under a community control sanction or 3255
post-release control sanction, unless the state public defender 3256
finds that the alleged parole or probation violator or alleged 3257
violator of a community control sanction or post-release control 3258
sanction has the financial capacity to retain the alleged 3259
violator's own counsel. 3260

(6) If the state public defender contracts with a county 3261
public defender commission, a joint county public defender 3262
commission, or a board of county commissioners for the provision 3263
of services, under authority of division (C)(7) of section 120.04 3264
of the Revised Code, the state public defender shall provide legal 3265
representation in accordance with the contract. 3266

(B) The state public defender shall not be required to 3267
prosecute any appeal, postconviction remedy, or other proceeding 3268
pursuant to division (A)(3), (4), or (5) of this section, unless 3269
the state public defender first is satisfied that there is 3270
arguable merit to the proceeding. 3271

(C) A court may appoint counsel or allow an indigent person 3272
to select the indigent's own personal counsel to assist the state 3273
public defender as co-counsel when the interests of justice so 3274
require. When co-counsel is appointed to assist the state public 3275
defender, the co-counsel shall receive any compensation that the 3276
court may approve, not to exceed the amounts provided for in 3277
section 2941.51 of the Revised Code. 3278

(D)(1) When the state public defender is designated by the 3279
court or requested by a county public defender or joint county 3280
public defender to provide legal representation for an indigent 3281
person in any case, other than pursuant to a contract entered into 3282
under authority of division (C)(7) of section 120.04 of the 3283
Revised Code, the state public defender shall send to the county 3284

in which the case is filed ~~an itemized a bill for fifty per cent~~ 3285
~~of detailing~~ the actual cost of the representation ~~that separately~~ 3286
~~itemizes legal fees and expenses.~~ The county, upon receipt of an 3287
itemized bill from the state public defender pursuant to this 3288
division, shall ~~pay fifty per cent of the actual cost of the legal~~ 3289
~~representation as set forth in the itemized bill.~~ pay the state 3290
public defender each of the following amounts: 3291

(a) For the amount identified as legal fees in the itemized 3292
bill, one hundred per cent of the amount identified as legal fees 3293
less the state reimbursement rate as calculated by the state 3294
public defender pursuant to section 120.34 of the Revised Code for 3295
the month the case terminated, as set forth in the itemized bill; 3296

(b) For the amount identified as expenses in the itemized 3297
bill, one hundred per cent. 3298

(2) Upon payment of the itemized bill under division (D)(1) 3299
of this section, the county may submit the cost of the expenses, 3300
excluding legal fees, to the state public defender for 3301
reimbursement pursuant to section 120.33 of the Revised Code. 3302

(3) When the state public defender provides investigation or 3303
mitigation services to private appointed counsel or to a county or 3304
joint county public defender as approved by the appointing court, 3305
other than pursuant to a contract entered into under authority of 3306
division (C)(7) of section 120.04 of the Revised Code, the state 3307
public defender shall send to the county in which the case is 3308
filed a bill itemizing the actual cost of the services provided. 3309
The county, upon receipt of an itemized bill from the state public 3310
defender pursuant to this division, shall pay one hundred per cent 3311
of the amount as set forth in the itemized bill. Upon payment of 3312
the itemized bill received pursuant to this division, the county 3313
may submit the cost of the investigation and mitigation services 3314
to the state public defender for reimbursement pursuant to section 3315
120.33 of the Revised Code. 3316

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

(E)(1) Notwithstanding any contrary provision of sections 109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised Code that pertains to representation by the attorney general, an assistant attorney general, or special counsel of an officer or employee, as defined in section 109.36 of the Revised Code, or of an entity of state government, the state public defender may elect to contract with, and to have the state pay pursuant to division (E)(2) of this section for the services of, private legal counsel to represent the Ohio public defender commission, the state public defender, assistant state public defenders, other employees of the commission or the state public defender, and attorneys described in division (C) of section 120.41 of the Revised Code in a malpractice or other civil action or proceeding that arises from alleged actions or omissions related to responsibilities derived pursuant to this chapter, or in a civil action that is based upon alleged violations of the constitution or statutes of the United States, including section 1983 of Title 42 of the United States Code, 93 Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that arises from alleged actions or omissions related to responsibilities derived pursuant to this chapter, if the state public defender determines, in good faith, that the defendant in the civil action or proceeding did not act manifestly outside the scope of the defendant's employment or official responsibilities,

with malicious purpose, in bad faith, or in a wanton or reckless 3350
manner. If the state public defender elects not to contract 3351
pursuant to this division for private legal counsel in a civil 3352
action or proceeding, then, in accordance with sections 109.02, 3353
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the 3354
attorney general shall represent or provide for the representation 3355
of the Ohio public defender commission, the state public defender, 3356
assistant state public defenders, other employees of the 3357
commission or the state public defender, or attorneys described in 3358
division (C) of section 120.41 of the Revised Code in the civil 3359
action or proceeding. 3360

(2)(a) Subject to division (E)(2)(b) of this section, payment 3361
from the state treasury for the services of private legal counsel 3362
with whom the state public defender has contracted pursuant to 3363
division (E)(1) of this section shall be accomplished only through 3364
the following procedure: 3365

(i) The private legal counsel shall file with the attorney 3366
general a copy of the contract; a request for an award of legal 3367
fees, court costs, and expenses earned or incurred in connection 3368
with the defense of the Ohio public defender commission, the state 3369
public defender, an assistant state public defender, an employee, 3370
or an attorney in a specified civil action or proceeding; a 3371
written itemization of those fees, costs, and expenses, including 3372
the signature of the state public defender and the state public 3373
defender's attestation that the fees, costs, and expenses were 3374
earned or incurred pursuant to division (E)(1) of this section to 3375
the best of the state public defender's knowledge and information; 3376
a written statement whether the fees, costs, and expenses are for 3377
all legal services to be rendered in connection with that defense, 3378
are only for legal services rendered to the date of the request 3379
and additional legal services likely will have to be provided in 3380
connection with that defense, or are for the final legal services 3381

rendered in connection with that defense; a written statement 3382
indicating whether the private legal counsel previously submitted 3383
a request for an award under division (E)(2) of this section in 3384
connection with that defense and, if so, the date and the amount 3385
of each award granted; and, if the fees, costs, and expenses are 3386
for all legal services to be rendered in connection with that 3387
defense or are for the final legal services rendered in connection 3388
with that defense, a certified copy of any judgment entry in the 3389
civil action or proceeding or a signed copy of any settlement 3390
agreement entered into between the parties to the civil action or 3391
proceeding. 3392

(ii) Upon receipt of a request for an award of legal fees, 3393
court costs, and expenses and the requisite supportive 3394
documentation described in division (E)(2)(a)(i) of this section, 3395
the attorney general shall review the request and documentation; 3396
determine whether any of the limitations specified in division 3397
(E)(2)(b) of this section apply to the request; and, if an award 3398
of legal fees, court costs, or expenses is permissible after 3399
applying the limitations, prepare a document awarding legal fees, 3400
court costs, or expenses to the private legal counsel. The 3401
document shall name the private legal counsel as the recipient of 3402
the award; specify the total amount of the award as determined by 3403
the attorney general; itemize the portions of the award that 3404
represent legal fees, court costs, and expenses; specify any 3405
limitation applied pursuant to division (E)(2)(b) of this section 3406
to reduce the amount of the award sought by the private legal 3407
counsel; state that the award is payable from the state treasury 3408
pursuant to division (E)(2)(a)(iii) of this section; and be 3409
approved by the inclusion of the signatures of the attorney 3410
general, the state public defender, and the private legal counsel. 3411

(iii) The attorney general shall forward a copy of the 3412
document prepared pursuant to division (E)(2)(a)(ii) of this 3413

section to the director of budget and management. The award of 3414
legal fees, court costs, or expenses shall be paid out of the 3415
state public defender's appropriations, to the extent there is a 3416
sufficient available balance in those appropriations. If the state 3417
public defender does not have a sufficient available balance in 3418
the state public defender's appropriations to pay the entire award 3419
of legal fees, court costs, or expenses, the director shall make 3420
application for a transfer of appropriations out of the emergency 3421
purposes account or any other appropriation for emergencies or 3422
contingencies in an amount equal to the portion of the award that 3423
exceeds the sufficient available balance in the state public 3424
defender's appropriations. A transfer of appropriations out of the 3425
emergency purposes account or any other appropriation for 3426
emergencies or contingencies shall be authorized if there are 3427
sufficient moneys greater than the sum total of then pending 3428
emergency purposes account requests, or requests for releases from 3429
the other appropriation. If a transfer of appropriations out of 3430
the emergency purposes account or other appropriation for 3431
emergencies or contingencies is made to pay an amount equal to the 3432
portion of the award that exceeds the sufficient available balance 3433
in the state public defender's appropriations, the director shall 3434
cause the payment to be made to the private legal counsel. If 3435
sufficient moneys do not exist in the emergency purposes account 3436
or other appropriation for emergencies or contingencies to pay an 3437
amount equal to the portion of the award that exceeds the 3438
sufficient available balance in the state public defender's 3439
appropriations, the private legal counsel shall request the 3440
general assembly to make an appropriation sufficient to pay an 3441
amount equal to the portion of the award that exceeds the 3442
sufficient available balance in the state public defender's 3443
appropriations, and no payment in that amount shall be made until 3444
the appropriation has been made. The private legal counsel shall 3445
make the request during the current biennium and during each 3446

succeeding biennium until a sufficient appropriation is made. 3447

(b) An award of legal fees, court costs, and expenses 3448
pursuant to division (E) of this section is subject to the 3449
following limitations: 3450

(i) The maximum award or maximum aggregate of a series of 3451
awards of legal fees, court costs, and expenses to the private 3452
legal counsel in connection with the defense of the Ohio public 3453
defender commission, the state public defender, an assistant state 3454
public defender, an employee, or an attorney in a specified civil 3455
action or proceeding shall not exceed fifty thousand dollars. 3456

(ii) The private legal counsel shall not be awarded legal 3457
fees, court costs, or expenses to the extent the fees, costs, or 3458
expenses are covered by a policy of malpractice or other 3459
insurance. 3460

(iii) The private legal counsel shall be awarded legal fees 3461
and expenses only to the extent that the fees and expenses are 3462
reasonable in light of the legal services rendered by the private 3463
legal counsel in connection with the defense of the Ohio public 3464
defender commission, the state public defender, an assistant state 3465
public defender, an employee, or an attorney in a specified civil 3466
action or proceeding. 3467

(c) If, pursuant to division (E)(2)(a) of this section, the 3468
attorney general denies a request for an award of legal fees, 3469
court costs, or expenses to private legal counsel because of the 3470
application of a limitation specified in division (E)(2)(b) of 3471
this section, the attorney general shall notify the private legal 3472
counsel in writing of the denial and of the limitation applied. 3473

(d) If, pursuant to division (E)(2)(c) of this section, a 3474
private legal counsel receives a denial of an award notification 3475
or if a private legal counsel refuses to approve a document under 3476
division (E)(2)(a)(ii) of this section because of the proposed 3477

application of a limitation specified in division (E)(2)(b) of 3478
this section, the private legal counsel may commence a civil 3479
action against the attorney general in the court of claims to 3480
prove the private legal counsel's entitlement to the award sought, 3481
to prove that division (E)(2)(b) of this section does not prohibit 3482
or otherwise limit the award sought, and to recover a judgment for 3483
the amount of the award sought. A civil action under division 3484
(E)(2)(d) of this section shall be commenced no later than two 3485
years after receipt of a denial of award notification or, if the 3486
private legal counsel refused to approve a document under division 3487
(E)(2)(a)(ii) of this section because of the proposed application 3488
of a limitation specified in division (E)(2)(b) of this section, 3489
no later than two years after the refusal. Any judgment of the 3490
court of claims in favor of the private legal counsel shall be 3491
paid from the state treasury in accordance with division (E)(2)(a) 3492
of this section. 3493

(F) If a court appoints the office of the state public 3494
defender to represent a petitioner in a postconviction relief 3495
proceeding under section 2953.21 of the Revised Code, the 3496
petitioner has received a sentence of death, and the proceeding 3497
relates to that sentence, all of the attorneys who represent the 3498
petitioner in the proceeding pursuant to the appointment, whether 3499
an assistant state public defender, the state public defender, or 3500
another attorney, shall be certified under Rule 20 of the Rules of 3501
Superintendence for the Courts of Ohio to represent indigent 3502
defendants charged with or convicted of an offense for which the 3503
death penalty can be or has been imposed. 3504

(G) As used in this section: 3505

(1) "Community control sanction" has the same meaning as in 3506
section 2929.01 of the Revised Code. 3507

(2) "Post-release control sanction" has the same meaning as 3508
in section 2967.01 of the Revised Code. 3509

Sec. 120.07. There is hereby created in the state treasury 3510
the civil case filing fee fund to receive all funds deposited in 3511
the fund pursuant to sections 1901.26, 1907.24, and 2303.201 of 3512
the Revised Code. All money credited to the fund shall be used by 3513
the state public defender for the purpose of appointing assistant 3514
state public defenders and for providing other personnel, 3515
equipment, and facilities necessary for the operation of the state 3516
public defender office. 3517

Sec. 120.13. (A) The county commissioners in any county may 3518
establish a county public defender commission. The commission 3519
shall have five members, three of whom shall be appointed by the 3520
board of county commissioners, and two by the judge, or the 3521
presiding judge if there is one, of the court of common pleas of 3522
the county. At least one member appointed by each of these 3523
appointing bodies shall be an attorney admitted to the practice of 3524
law in this state. 3525

(B) The board of county commissioners shall select a specific 3526
day for the county public defender commission to be established 3527
and on which all members' appointments shall take effect, and 3528
shall notify the Ohio public defender commission of the date. 3529

(C) Of the initial appointments made to the county public 3530
defender commission, two appointments by the county commissioners 3531
and one appointment by the court shall be for a term of two years 3532
ending two years after the date the commission is established, and 3533
one appointment by each of the appointing bodies shall be for a 3534
term ending four years after the date the commission is 3535
established. Thereafter, terms of office shall be for four years, 3536
each term ending on the same day of the same month of the year as 3537
did the term which it succeeds. Each member shall hold office from 3538
the date of ~~his~~ appointment until the end of the term for which ~~he~~ 3539
the member was appointed. Any member appointed to fill a vacancy 3540

occurring prior to the expiration of the term for which ~~his~~ the 3541
member's predecessor was appointed shall hold office for the 3542
remainder of such term. Any member shall continue in office 3543
subsequent to the expiration date of ~~his~~ the member's term until 3544
~~his~~ a successor takes office, or until a period of sixty days has 3545
elapsed, whichever occurs first. 3546

(D) The members of the commission shall choose as ~~chairman~~ 3547
chairperson one of the commission members, who shall serve as 3548
~~chairman~~ chairperson for two years. Meetings shall be held at 3549
least quarterly and at such other times as called by the ~~chairman~~ 3550
chairperson or by request of the county public defender. Members 3551
of the commission may receive an amount fixed by the county 3552
commissioners, but not in excess of the amounts set for the 3553
members of the Ohio public defender commission pursuant to section 3554
124.14 of the Revised Code per diem for every meeting of the board 3555
they attend, and necessary expenses including mileage for each 3556
mile necessarily traveled. 3557

(E) The county commissioners may terminate the county public 3558
defender commission at any time if at least ninety days prior to 3559
termination, the commissioners notify the Ohio public defender 3560
commission in writing of the termination date. Upon the 3561
termination date all pending county public defender matters shall 3562
be transferred to the state public defender, a joint county public 3563
defender, or appointed counsel. 3564

(F) ~~Fifty per cent of the~~ The cost of representation in all 3565
matters assumed by the state public defender shall be charged to 3566
the counties in accordance with division (D) of section 120.06 of 3567
the Revised Code. 3568

Sec. 120.23. (A) The boards of county commissioners in two or 3569
more adjoining or neighboring counties may form themselves into a 3570
joint board and proceed to organize a district for the 3571

establishment of a joint county public defender commission. The 3572
commission shall have three members from each county, who shall be 3573
appointed by the board of county commissioners of the county. 3574

(B) The boards shall agree on a specific date for the joint 3575
county public defender commission to be established, on which date 3576
the appointments of all members shall take effect. The joint board 3577
shall notify the Ohio public defender commission of the date. 3578

(C) Of the initial appointments made by each county to the 3579
joint county public defender commission, one appointment shall be 3580
for a term of one year ending one year after the date the 3581
commission is established, one appointment shall be for a term of 3582
two years ending two years after the date the commission is 3583
established, and one appointment shall be for a period of three 3584
years, ending three years after the date the commission is 3585
established. Thereafter, terms of office shall be for three years, 3586
each term ending on the same day of the same month of the year as 3587
did the term which it succeeds. Each member shall hold office from 3588
the date of ~~his~~ appointment until the end of the term for which ~~he~~ 3589
the member was appointed. Any member appointed to fill a vacancy 3590
occurring prior to the expiration of the term for which ~~his~~ the 3591
member's predecessor was appointed shall hold office for the 3592
remainder of the term. Any member shall continue in office 3593
subsequent to the expiration date of ~~his~~ the member's term until 3594
~~his~~ a successor takes office, or until a period of sixty days has 3595
elapsed, whichever occurs first. 3596

(D) The members of the commission shall choose as ~~chairman~~ 3597
chairperson one of the commission members, who shall serve as 3598
~~chairman~~ chairperson for two years. Meetings shall be held at 3599
least quarterly and at such other times as called by the ~~chairman~~ 3600
chairperson or by request of the joint county public defender. 3601
Members of the commission may receive an amount fixed by the 3602
agreement of the boards of commissioners of the counties in the 3603

district, but not in excess of the amount set for the members of 3604
the Ohio public defender commission pursuant to section 124.14 of 3605
the Revised Code per diem for every meeting of the commission they 3606
attend, and necessary expenses including mileage for each mile 3607
necessarily traveled. 3608

(E) The agreement of the boards of county commissioners 3609
establishing the joint county public defender commission shall 3610
provide for the allocation of the proportion of expenses to be 3611
paid by each county, which may be based upon population, number of 3612
cases, or such other factors as the commissioners determine to be 3613
appropriate. The county commissioners may amend their agreement 3614
from time to time to provide for a different allocation of the 3615
proportion of expenses to be paid by each county. 3616

(F) The county auditor of the county^r with the greatest 3617
population is hereby designated as the fiscal officer of a joint 3618
county public defender district organized under this section. The 3619
county auditors of the several counties composing the joint county 3620
public defender commission district shall meet at the commission 3621
office not less than once in each six months, to adjust accounts 3622
and to transact such other duties in connection with the 3623
commission as pertain to the business of their office. 3624

(G) Each member of the board of county commissioners who 3625
meets by appointment to consider the organization of a joint 3626
county public defender commission shall, upon presentation of 3627
properly certified accounts, be paid ~~his~~ the member's necessary 3628
expenses upon a warrant drawn by the county auditor of ~~his~~ the 3629
member's county. 3630

(H) The board of county commissioners of any county within a 3631
joint county public defender commission district may withdraw from 3632
the district. Such withdrawal shall not be effective until at 3633
least ninety days after the board has notified the Ohio public 3634
defender commission, the joint county public defender commission 3635

of the district, and each board of county commissioners in the 3636
district, in writing of the termination date. The failure of a 3637
board of county commissioners to approve an annual operating 3638
budget for the office of the joint county public defender as 3639
provided in division (C)(1) of section 120.24 of the Revised Code 3640
constitutes a notice of withdrawal by the county from the 3641
district, effective on the ninetieth day after commencement of the 3642
next fiscal year. Upon the termination date, all joint county 3643
public defender matters relating to the withdrawing county shall 3644
be transferred to the state public defender, a county public 3645
defender, or appointed counsel. 3646

(I) ~~Fifty per cent of the~~ The cost of representation in all 3647
matters assumed by the state public defender shall be charged to 3648
the counties in accordance with division (D) of section 120.06 of 3649
the Revised Code. 3650

Members of the joint county public defender commission who 3651
are residents of a county withdrawing from such district are 3652
deemed to have resigned their positions upon the completion of the 3653
withdrawal procedure provided by this section. Vacancies thus 3654
created shall not be filled. 3655

If two or more counties remain within the district after the 3656
withdrawal, the boards of county commissioners of the remaining 3657
adjoining or neighboring counties may agree to continue the 3658
operation of the joint county public defender commission and to 3659
reallocate the proportionate share of expenses to be paid by each 3660
participating county. 3661

Sec. 120.36. (A) If a person who is a defendant in a criminal 3662
case or a party in a case in juvenile court requests or is 3663
provided a state public defender, a county or joint county public 3664
defender, or any other counsel appointed by the court, the court 3665
in which the criminal case is initially filed or the juvenile 3666

court, whichever is applicable, shall assess, unless the 3667
application fee is waived or reduced, a non-refundable application 3668
fee of twenty-five dollars. 3669

The court shall direct the person to pay the application fee 3670
to the clerk of court. The person shall pay the application fee at 3671
the time the person files an affidavit of indigency or a financial 3672
disclosure form with the court or within seven days of that date. 3673
If the person does not pay the application fee within that 3674
seven-day period, the court shall assess the application fee at 3675
sentencing or at the final disposition of the case. 3676

If a case involving a felony that was initially filed in a 3677
municipal court or a county court is bound over to the court of 3678
common pleas and the defendant in the case failed to pay the 3679
application fee in the municipal court or county court, the court 3680
of common pleas shall assess the application fee at the initial 3681
appearance of the defendant in the court of common pleas. If a 3682
case involving an alleged delinquent child is transferred to the 3683
court of common pleas for prosecution of the involved child as an 3684
adult and if the involved child failed to pay the fee in the 3685
juvenile court, the court of common pleas shall assess the 3686
application fee at the initial appearance of the child in the 3687
court of common pleas. 3688

The court shall assess an application fee pursuant to this 3689
section one time per case. An appeal shall not be considered a 3690
separate case for the purpose of assessing the application fee. 3691
The court may waive or reduce the fee upon a finding that the 3692
person lacks financial resources that are sufficient to pay the 3693
fee or that payment of the fee would result in an undue hardship. 3694

(B) No court, state public defender, county or joint county 3695
public defender, or other counsel appointed by the court shall 3696
deny a person the assistance of counsel solely due to the person's 3697

failure to pay the application fee assessed pursuant to division 3698
(A) of this section. A person's present inability, failure, or 3699
refusal to pay the application fee shall not disqualify that 3700
person from legal representation. 3701

(C) The application fee assessed pursuant to division (A) of 3702
this section is separate from and in addition to any other amount 3703
assessed against a person who is found to be able to contribute 3704
toward the cost of the person's legal representation pursuant to 3705
division (D) of section 2941.51 of the Revised Code. 3706

(D) The clerk of the court that assessed the fees shall 3707
forward all application fees collected pursuant to this section to 3708
the county treasurer for deposit in the county treasury. The 3709
county shall retain eighty per cent of the application fees so 3710
collected to offset the costs of providing legal representation to 3711
indigent persons. Each month, the county auditor shall remit 3712
twenty per cent of the application fees so collected to the state 3713
public defender. The state public defender shall deposit the 3714
remitted fees into the state treasury to the credit of the client 3715
payment fund created pursuant to division (B)(5) of section 120.04 3716
of the Revised Code. The state public defender may use that money 3717
in accordance with that section. 3718

(E) On or before the first day of March of each year 3719
beginning in the year 2007, each clerk of court shall provide to 3720
the state public defender and the state auditor a report including 3721
all of the following: 3722

(1) The number of persons in the previous calendar year who 3723
requested or were provided a state public defender, county or 3724
joint county public defender, or other counsel appointed by the 3725
court; 3726

(2) The number of persons in the previous calendar year for 3727
whom the court waived the application fee pursuant to division (A) 3728

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|--|------|
| <u>of this section;</u> | 3729 |
| <u>(3) The dollar value of the assessed application fees</u> | 3730 |
| <u>pursuant to division (A) of this section in the previous calendar</u> | 3731 |
| <u>year;</u> | 3732 |
| <u>(4) The amount of assessed application fees collected in the</u> | 3733 |
| <u>previous calendar year;</u> | 3734 |
| <u>(5) The balance of unpaid assessed application fees at the</u> | 3735 |
| <u>open and close of the previous calendar year.</u> | 3736 |
| <u>(F) As used in this section:</u> | 3737 |
| <u>(1) "Clerk of court" means the clerk of the court of common</u> | 3738 |
| <u>pleas of the county, the clerk of the juvenile court of the</u> | 3739 |
| <u>county, the clerk of a municipal court in the county, the clerk of</u> | 3740 |
| <u>a county-operated municipal court, or the clerk of a county court</u> | 3741 |
| <u>in the county, whichever is applicable.</u> | 3742 |
| <u>(2) "County-operated municipal court" has the same meaning as</u> | 3743 |
| <u>in section 1901.03 of the Revised Code.</u> | 3744 |
| Sec. 120.52. There is hereby established in the state | 3745 |
| treasury the legal aid fund, which shall be for the charitable | 3746 |
| public purpose of providing financial assistance to legal aid | 3747 |
| societies that provide civil legal services to indigents. The fund | 3748 |
| shall contain all funds credited to it by the treasurer of state | 3749 |
| pursuant to sections 1901.26, 1907.24, 2303.201, <u>3953.231</u> , 4705.09 | 3750 |
| and 4705.10 of the Revised Code and income from investment | 3751 |
| credited to it by the treasurer of state in accordance with this | 3752 |
| section. | 3753 |
| The treasurer of state may invest moneys contained in the | 3754 |
| legal aid fund in any manner authorized by the Revised Code for | 3755 |
| the investment of state moneys. However, no such investment shall | 3756 |
| interfere with any apportionment, allocation, or payment of moneys | 3757 |
| in January and July of each calendar year, as required by section | 3758 |

120.53 of the Revised Code. All income earned as a result of any 3759
such investment shall be credited to the fund. 3760

The state public defender, through the Ohio legal assistance 3761
foundation, shall administer the payment of moneys out of the 3762
fund. Four and one-half per cent of the moneys in the fund shall 3763
be reserved for the actual, reasonable costs of administering 3764
sections 120.51 to 120.55 and sections 1901.26, 1907.24, 2303.201, 3765
3953.231, 4705.09, and 4705.10 of the Revised Code. Moneys that 3766
are reserved for administrative costs but that are not used for 3767
actual, reasonable administrative costs shall be set aside for use 3768
in the manner described in division (A) of section 120.521 of the 3769
Revised Code. The remainder of the moneys in the legal aid fund 3770
shall be distributed in accordance with section 120.53 of the 3771
Revised Code. The Ohio legal assistance foundation shall 3772
establish, in accordance with Chapter 119. of the Revised Code, 3773
rules governing the administration of the legal aid fund, 3774
including the ~~program~~ programs established under sections 1901.26, 3775
1907.24, 2303.201, 4705.09, and 4705.10 of the Revised Code 3776
regarding interest on interest-bearing trust accounts of an 3777
attorney, law firm, or legal professional association. 3778

Sec. 120.53. (A) A legal aid society that operates within the 3779
state may apply to the Ohio legal assistance foundation for 3780
financial assistance from the legal aid fund established by 3781
section 120.52 of the Revised Code to be used for the funding of 3782
the society during the calendar year following the calendar year 3783
in which application is made. 3784

(B) An application for financial assistance made under 3785
division (A) of this section shall be submitted by the first day 3786
of November of the calendar year preceding the calendar year for 3787
which financial assistance is desired and shall include all of the 3788
following: 3789

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| (1) Evidence that the applicant is incorporated in this state as a nonprofit corporation; | 3790 3791 |
| (2) A list of the trustees of the applicant; | 3792 |
| (3) The proposed budget of the applicant for these funds for the following calendar year; | 3793 3794 |
| (4) A summary of the services to be offered by the applicant in the following calendar year; | 3795 3796 |
| (5) A specific description of the territory or constituency served by the applicant; | 3797 3798 |
| (6) An estimate of the number of persons to be served by the applicant during the following calendar year; | 3799 3800 |
| (7) A general description of the additional sources of the applicant's funding; | 3801 3802 |
| (8) The amount of the applicant's total budget for the calendar year in which the application is filed that it will expend in that calendar year for legal services in each of the counties it serves; | 3803 3804 3805 3806 |
| (9) A specific description of any services, programs, training, and legal technical assistance to be delivered by the applicant or by another person pursuant to a contract with the applicant, including, but not limited to, by private attorneys or through reduced fee plans, judicare panels, organized pro bono programs, and mediation programs. | 3807 3808 3809 3810 3811 3812 |
| (C) The Ohio legal assistance foundation shall determine whether each applicant that filed an application for financial assistance under division (A) of this section in a calendar year is eligible for financial assistance under this section. To be eligible for such financial assistance, an applicant shall satisfy the criteria for being a legal aid society and shall be in compliance with the provisions of sections 120.51 to 120.55 of the | 3813 3814 3815 3816 3817 3818 3819 |

Revised Code and with the rules and requirements the foundation 3820
establishes pursuant to section 120.52 of the Revised Code. The 3821
Ohio legal assistance foundation then, on or before the fifteenth 3822
day of December of the calendar year in which the application is 3823
filed, shall notify each such applicant, in writing, whether it is 3824
eligible for financial assistance under this section, and if it is 3825
eligible, estimate the amount that will be available for that 3826
applicant for each six-month distribution period, as determined 3827
under division (D) of this section. 3828

(D) The Ohio legal assistance foundation shall allocate 3829
moneys contained in the legal aid fund twice each year for 3830
distribution to applicants that filed their applications in the 3831
previous calendar year and were determined to be eligible 3832
applicants. 3833

All moneys contained in the fund on the first day of January 3834
of a calendar year shall be allocated, after deduction of the 3835
costs of administering sections 120.51 to 120.55 and sections 3836
1901.26, 1907.24, 2303.201, 3953.231, 4705.09₁ and 4705.10 of the 3837
Revised Code that are authorized by section 120.52 of the Revised 3838
Code, according to this section and shall be distributed 3839
accordingly on the thirty-first day of January of that calendar 3840
year, and all moneys contained in the fund on the first day of 3841
July of that calendar year shall be allocated, after deduction of 3842
the costs of administering those sections that are authorized by 3843
section 120.52 of the Revised Code, according to this section and 3844
shall be distributed accordingly on the thirty-first day of July 3845
of that calendar year. In making the allocations under this 3846
section, the moneys in the fund that were generated pursuant to 3847
sections 1901.26, 1907.24, 2303.201, 3953.231, 4705.09₁ and 3848
4705.10 of the Revised Code and all income generated from the 3849
investment of such moneys shall be apportioned as follows: 3850

(1) After deduction of the amount authorized and used for 3851

actual, reasonable administrative costs under section 120.52 of 3852
the Revised Code: 3853

(a) Five per cent of the moneys remaining in the fund, ~~plus~~ 3854
~~any moneys reserved for administrative costs under that section~~ 3855
~~that are not used for actual, reasonable administrative costs,~~ 3856
shall be reserved for use in the manner described in division (A) 3857
of section 120.521 of the Revised Code or for distribution to 3858
legal aid societies that provide assistance to special population 3859
groups of their eligible clients, engage in special projects that 3860
have a substantial impact on their local service area or on 3861
significant segments of the state's poverty population, or provide 3862
legal training or support to other legal aid societies in the 3863
state; 3864

(b) After deduction of the amount described in division 3865
(D)(1)(a) of this section, one and three-quarters per cent of the 3866
moneys remaining in the fund shall be apportioned among entities 3867
that received financial assistance from the legal aid fund prior 3868
to the effective date of this amendment but that, on and after the 3869
effective date of this amendment, no longer qualify as a legal aid 3870
society that is eligible for financial assistance under this 3871
section. 3872

(c) After deduction of the amounts described in divisions 3873
(D)(1)(a) and (b) of this section, fifteen per cent of the moneys 3874
remaining in the fund shall be placed in the legal assistance 3875
foundation fund for use in the manner described in division (A) of 3876
section 120.521 of the Revised Code. 3877

(2) After deduction of the actual, reasonable administrative 3878
costs under section 120.52 of the Revised Code and after deduction 3879
of the amounts identified in ~~division~~ divisions (D)(1)(a) ~~and,~~ 3880
(b), and (c) of this section, the remaining moneys shall be 3881
apportioned among the counties that are served by eligible legal 3882
aid societies that have applied for financial assistance under 3883

this section so that each such county is apportioned a portion of 3884
those moneys, based upon the ratio of the number of indigents who 3885
reside in that county to the total number of indigents who reside 3886
in all counties of this state that are served by eligible legal 3887
aid societies that have applied for financial assistance under 3888
this section. Subject to division (E) of this section, the moneys 3889
apportioned to a county under this division then shall be 3890
allocated to the eligible legal aid society that serves the county 3891
and that has applied for financial assistance under this section. 3892
For purposes of this division, the source of data identifying the 3893
number of indigent persons who reside in a county shall be the 3894
most recent decennial census figures from the United States 3895
department of commerce, division of census. 3896

(E) If the Ohio legal assistance foundation, in attempting to 3897
make an allocation of moneys under division (D)(2) of this 3898
section, determines that a county that has been apportioned money 3899
under that division is served by more than one eligible legal aid 3900
society that has applied for financial assistance under this 3901
section, the Ohio legal assistance foundation shall allocate the 3902
moneys that have been apportioned to that county under division 3903
(D)(2) of this section among all eligible legal aid societies that 3904
serve that county and that have applied for financial assistance 3905
under this section on a pro rata basis, so that each such eligible 3906
society is allocated a portion based upon the amount of its total 3907
budget expended in the prior calendar year for legal services in 3908
that county as compared to the total amount expended in the prior 3909
calendar year for legal services in that county by all eligible 3910
legal aid societies that serve that county and that have applied 3911
for financial assistance under this section. 3912

(F) Moneys allocated to eligible applicants under this 3913
section shall be paid twice annually, on the thirty-first day of 3914
January and on the thirty-first day of July of the calendar year 3915

following the calendar year in which the application is filed. 3916

(G)(1) A legal aid society that receives financial assistance 3917
in any calendar year under this section shall file an annual 3918
report with the Ohio legal assistance foundation detailing the 3919
number and types of cases handled, and the amount and types of 3920
legal training, legal technical assistance, and other service 3921
provided, by means of that financial assistance. No information 3922
contained in the report shall identify or enable the 3923
identification of any person served by the legal aid society or in 3924
any way breach client confidentiality. 3925

(2) The Ohio legal assistance foundation shall make an annual 3926
report to the governor, the general assembly, and the supreme 3927
court on the distribution and use of the legal aid fund. The 3928
foundation also shall include in the annual report an audited 3929
financial statement of all gifts, bequests, donations, 3930
contributions, and other moneys the foundation receives. No 3931
information contained in the report shall identify or enable the 3932
identification of any person served by a legal aid society, or in 3933
any way breach confidentiality. 3934

(H) A legal aid society may enter into agreements for the 3935
provision of services, programs, training, or legal technical 3936
assistance for the legal aid society or to indigent persons. 3937

Sec. 121.37. (A)(1) There is hereby created the Ohio family 3938
and children first cabinet council. The council shall be composed 3939
of the superintendent of public instruction and the directors of 3940
youth services, job and family services, mental health, health, 3941
alcohol and drug addiction services, mental retardation and 3942
developmental disabilities, and budget and management. The 3943
chairperson of the council shall be the governor or the governor's 3944
designee and shall establish procedures for the council's internal 3945
control and management. 3946

(2) The purpose of the cabinet council is to help families 3947
seeking government services. This section shall not be interpreted 3948
or applied to usurp the role of parents, but solely to streamline 3949
and coordinate existing government services for families seeking 3950
assistance for their children. 3951

In seeking to fulfill its purpose, the council may do any of 3952
the following: 3953

(a) Advise and make recommendations to the governor and 3954
general assembly regarding the provision of services to children; 3955

(b) Advise and assess local governments on the coordination 3956
of service delivery to children; 3957

(c) Hold meetings at such times and places as may be 3958
prescribed by the council's procedures and maintain records of the 3959
meetings, except that records identifying individual children are 3960
confidential and shall be disclosed only as provided by law; 3961

(d) Develop programs and projects, including pilot projects, 3962
to encourage coordinated efforts at the state and local level to 3963
improve the state's social service delivery system; 3964

(e) Enter into contracts with and administer grants to county 3965
family and children first councils, as well as other county or 3966
multicounty organizations to plan and coordinate service delivery 3967
between state agencies and local service providers for families 3968
and children; 3969

(f) Enter into contracts with and apply for grants from 3970
federal agencies or private organizations; 3971

(g) Enter into interagency agreements to encourage 3972
coordinated efforts at the state and local level to improve the 3973
state's social service delivery system. The agreements may include 3974
provisions regarding the receipt, transfer, and expenditure of 3975
funds; 3976

| | |
|---|--|
| (h) Identify public and private funding sources for services provided to alleged or adjudicated unruly children and children who are at risk of being alleged or adjudicated unruly children, including regulations governing access to and use of the services; | 3977 3978 3979 3980 |
| (i) Collect information provided by local communities regarding successful programs for prevention, intervention, and treatment of unruly behavior, including evaluations of the programs; | 3981 3982 3983 3984 |
| (j) Identify and disseminate publications regarding alleged or adjudicated unruly children and children who are at risk of being alleged or adjudicated unruly children and regarding programs serving those types of children; | 3985 3986 3987 3988 |
| (k) Maintain an inventory of strategic planning facilitators for use by government or nonprofit entities that serve alleged or adjudicated unruly children or children who are at risk of being alleged or adjudicated unruly children. | 3989 3990 3991 3992 |
| (3) The cabinet council shall provide for the following: | 3993 |
| (a) Reviews of service and treatment plans for children for which such reviews are requested; | 3994 3995 |
| (b) Assistance as the council determines to be necessary to meet the needs of children referred by county family and children first councils; | 3996 3997 3998 |
| (c) Monitoring and supervision of a statewide, comprehensive, coordinated, multi-disciplinary, interagency system for infants and toddlers with developmental disabilities or delays and their families, as established pursuant to federal grants received and administered by the department of health for early intervention services under the " Education of the Handicapped Act Amendments of 1986, " 100 Stat. 1145 (1986), 20 U.S.C.A. 1471 <u>Individuals with Disabilities Education Act of 2004,</u> 20 U.S.C.A. 1400, as amended. | 3999 4000 4001 4002 4003 4004 4005 4006 |

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

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

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

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

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

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

(f) The superintendent of the county board of mental

retardation and developmental disabilities; 4038

(g) The county's juvenile court judge senior in service or 4039
another judge of the juvenile court designated by the 4040
administrative judge or, where there is no administrative judge, 4041
by the judge senior in service; 4042

(h) The superintendent of the city, exempted village, or 4043
local school district with the largest number of pupils residing 4044
in the county, as determined by the department of education, which 4045
shall notify each board of county commissioners of its 4046
determination at least biennially; 4047

(i) A school superintendent representing all other school 4048
districts with territory in the county, as designated at a 4049
biennial meeting of the superintendents of those districts; 4050

(j) A representative of the municipal corporation with the 4051
largest population in the county; 4052

(k) The president of the board of county commissioners, or an 4053
individual designated by the board; 4054

(l) A representative of the regional office of the department 4055
of youth services; 4056

(m) A representative of the county's head start agencies, as 4057
defined in section ~~3301.31~~ 3301.32 of the Revised Code; 4058

(n) A representative of the county's early intervention 4059
collaborative established pursuant to the federal early 4060
intervention program operated under the "Education of the 4061
Handicapped Act Amendments of 1986"; 4062

(o) A representative of a local nonprofit entity that funds, 4063
advocates, or provides services to children and families. 4064

Notwithstanding any other provision of law, the public 4065
members of a county council are not prohibited from serving on the 4066
council and making decisions regarding the duties of the council, 4067

including those involving the funding of joint projects and those 4068
outlined in the county's service coordination mechanism 4069
implemented pursuant to division (C) of this section. 4070

The cabinet council shall establish a state appeals process 4071
to resolve disputes among the members of a county council 4072
concerning whether reasonable responsibilities as members are 4073
being shared. The appeals process may be accessed only by a 4074
majority vote of the council members who are required to serve on 4075
the council. Upon appeal, the cabinet council may order that state 4076
funds for services to children and families be redirected to a 4077
county's board of county commissioners. 4078

(2) A The purpose of the county council is to streamline and 4079
coordinate existing government services for families seeking 4080
services for their children. In seeking to fulfill its purpose, a 4081
county council shall provide for the following: 4082

(a) Referrals to the cabinet council of those children for 4083
whom the county council cannot provide adequate services; 4084

(b) Development and implementation of a process that annually 4085
evaluates and prioritizes services, fills service gaps where 4086
possible, and invents new approaches to achieve better results for 4087
families and children; 4088

(c) Participation in the development of a countywide, 4089
comprehensive, coordinated, multi-disciplinary, interagency system 4090
for infants and toddlers with developmental disabilities or delays 4091
and their families, as established pursuant to federal grants 4092
received and administered by the department of health for early 4093
intervention services under the "Education of the Handicapped Act 4094
Amendments of 1986"; 4095

(d) Maintenance of an accountability system to monitor the 4096
county council's progress in achieving results for families and 4097
children; 4098

(e) Establishment of a mechanism to ensure ongoing input from 4099
a broad representation of families who are receiving services 4100
within the county system. 4101

(3)(a) Except as provided in division (B)(3)(b) of this 4102
section, a county council shall comply with the policies, 4103
procedures, and activities prescribed by the rules or interagency 4104
agreements of a state department participating on the cabinet 4105
council whenever the county council performs a function subject to 4106
those rules or agreements. 4107

(b) On application of a county council, the cabinet council 4108
may grant an exemption from any rules or interagency agreements of 4109
a state department participating on the council if an exemption is 4110
necessary for the council to implement an alternative program or 4111
approach for service delivery to families and children. The 4112
application shall describe the proposed program or approach and 4113
specify the rules or interagency agreements from which an 4114
exemption is necessary. The cabinet council shall approve or 4115
disapprove the application in accordance with standards and 4116
procedures it shall adopt. If an application is approved, the 4117
exemption is effective only while the program or approach is being 4118
implemented, including a reasonable period during which the 4119
program or approach is being evaluated for effectiveness. 4120

(4)(a) Each county council shall designate an administrative 4121
agent for the council from among the following public entities: 4122
the board of alcohol, drug addiction, and mental health services, 4123
including a board of alcohol and drug addiction or a community 4124
mental health board if the county is served by separate boards; 4125
the board of county commissioners; any board of health of the 4126
county's city and general health districts; the county department 4127
of job and family services; the county agency responsible for the 4128
administration of children services pursuant to section 5153.15 of 4129
the Revised Code; the county board of mental retardation and 4130

developmental disabilities; any of the county's boards of 4131
education or governing boards of educational service centers; or 4132
the county's juvenile court. Any of the foregoing public entities, 4133
other than the board of county commissioners, may decline to serve 4134
as the council's administrative agent. 4135

A county council's administrative agent shall serve as the 4136
council's appointing authority for any employees of the council. 4137
The council shall file an annual budget with its administrative 4138
agent, with copies filed with the county auditor and with the 4139
board of county commissioners, unless the board is serving as the 4140
council's administrative agent. The council's administrative agent 4141
shall ensure that all expenditures are handled in accordance with 4142
policies, procedures, and activities prescribed by state 4143
departments in rules or interagency agreements that are applicable 4144
to the council's functions. 4145

The administrative agent for a county council may do any of 4146
the following on behalf of the council: 4147

(i) Enter into agreements or administer contracts with public 4148
or private entities to fulfill specific council business. Such 4149
agreements and contracts are exempt from the competitive bidding 4150
requirements of section 307.86 of the Revised Code if they have 4151
been approved by the county council and they are for the purchase 4152
of family and child welfare or child protection services or other 4153
social or job and family services for families and children. The 4154
approval of the county council is not required to exempt 4155
agreements or contracts entered into under section 5139.34, 4156
5139.41, or 5139.43 of the Revised Code from the competitive 4157
bidding requirements of section 307.86 of the Revised Code. 4158

(ii) As determined by the council, provide financial 4159
stipends, reimbursements, or both, to family representatives for 4160
expenses related to council activity; 4161

(iii) Receive by gift, grant, devise, or bequest any moneys, 4162
lands, or other property for the purposes for which the council is 4163
established. The agent shall hold, apply, and dispose of the 4164
moneys, lands, or other property according to the terms of the 4165
gift, grant, devise, or bequest. Any interest or earnings shall be 4166
treated in the same manner and are subject to the same terms as 4167
the gift, grant, devise, or bequest from which it accrues. 4168

(b)(i) If the county council designates the board of county 4169
commissioners as its administrative agent, the board may, by 4170
resolution, delegate any of its powers and duties as 4171
administrative agent to an executive committee the board 4172
establishes from the membership of the county council. The board 4173
shall name to the executive committee at least the individuals 4174
described in divisions (B)(1)~~(b) through (h)~~(a) to (i) of this 4175
section and may appoint the president of the board or another 4176
individual as the chair of the executive committee. The executive 4177
committee must include at least one family county council 4178
representative who does not have a family member employed by an 4179
agency represented on the council. 4180

(ii) The executive committee may, with the approval of the 4181
board, hire an executive director to assist the county council in 4182
administering its powers and duties. The executive director shall 4183
serve in the unclassified civil service at the pleasure of the 4184
executive committee. The executive director may, with the approval 4185
of the executive committee, hire other employees as necessary to 4186
properly conduct the county council's business. 4187

(iii) The board may require the executive committee to submit 4188
an annual budget to the board for approval and may amend or repeal 4189
the resolution that delegated to the executive committee its 4190
authority as the county council's administrative agent. 4191

(5) Two or more county councils may enter into an agreement 4192
to administer their county councils jointly by creating a regional 4193

family and children first council. A regional council possesses 4194
the same duties and authority possessed by a county council, 4195
except that the duties and authority apply regionally rather than 4196
to individual counties. Prior to entering into an agreement to 4197
create a regional council, the members of each county council to 4198
be part of the regional council shall meet to determine whether 4199
all or part of the members of each county council will serve as 4200
members of the regional council. 4201

(6) A board of county commissioners may approve a resolution 4202
by a majority vote of the board's members that requires the county 4203
council to submit a statement to the board each time the council 4204
proposes to enter into an agreement, adopt a plan, or make a 4205
decision, other than a decision pursuant to section 121.38 of the 4206
Revised Code, that requires the expenditure of funds for two or 4207
more families. The statement shall describe the proposed 4208
agreement, plan, or decision. 4209

Not later than fifteen days after the board receives the 4210
statement, it shall, by resolution approved by a majority of its 4211
members, approve or disapprove the agreement, plan, or decision. 4212
Failure of the board to pass a resolution during that time period 4213
shall be considered approval of the agreement, plan, or decision. 4214

An agreement, plan, or decision for which a statement is 4215
required to be submitted to the board shall be implemented only if 4216
it is approved by the board. 4217

(C) Each county shall develop a county service coordination 4218
mechanism. The county service coordination mechanism shall serve 4219
as the guiding document for coordination of services in the 4220
county. For children who also receive services under the help me 4221
grow program, the service coordination mechanism shall be 4222
consistent with rules adopted by the department of health under 4223
section 3701.61 of the Revised Code. All family service 4224
coordination plans shall be developed in accordance with the 4225

county service coordination mechanism. The mechanism shall be 4226
developed and approved with the participation of the county 4227
entities representing child welfare; mental retardation and 4228
developmental disabilities; alcohol, drug addiction, and mental 4229
health services; health; juvenile judges; education; the county 4230
family and children first council; and the county early 4231
intervention collaborative established pursuant to the federal 4232
early intervention program operated under the "Education of the 4233
Handicapped Act Amendments of 1986." The county shall establish an 4234
implementation schedule for the mechanism. The cabinet council may 4235
monitor the implementation and administration of each county's 4236
service coordination mechanism. 4237

Each mechanism shall include all of the following: 4238

(1) A procedure for ~~assessing the needs of any child,~~ 4239
~~including a child who is an abused, neglected, dependent, unruly,~~ 4240
~~or delinquent child and under the jurisdiction of the juvenile~~ 4241
~~court or a child whose parent or custodian is voluntarily seeking~~ 4242
~~services an agency, including a juvenile court, or a family~~ 4243
voluntarily seeking service coordination, to refer the child and 4244
family to the county council for service coordination in 4245
accordance with the county service coordination mechanism; 4246

(2) A procedure ensuring that a family and all appropriate 4247
staff from involved agencies, including a representative from the 4248
appropriate school district, are notified of and invited to 4249
participate in all family service coordination plan meetings; 4250

(3) A procedure that permits a family to initiate a meeting 4251
to develop or review the family's service coordination plan and 4252
allows the family to invite a family advocate, mentor, or support 4253
person of the family's choice to participate in any such meeting; 4254

(4) A procedure for ensuring that a family service 4255
coordination plan meeting is conducted before a non-emergency 4256

out-of-home placement for all multi-need children, or within ten 4257
days of a placement for emergency placements of multi-need 4258
children. The family service coordination plan shall outline how 4259
the county council members will jointly pay for services, where 4260
applicable, and provide services in the least restrictive 4261
environment. 4262

(5) A procedure for monitoring the progress and tracking the 4263
outcomes of each service coordination plan requested in the county 4264
including monitoring and tracking children in out-of-home 4265
placements to assure continued progress, appropriateness of 4266
placement, and continuity of care after discharge from placement 4267
with appropriate arrangements for housing, treatment, and 4268
education. 4269

(6) A procedure for protecting the confidentiality of all 4270
personal family information disclosed during service coordination 4271
meetings or contained in the comprehensive family service 4272
coordination plan. 4273

(7) A procedure for assessing the ~~service~~ needs and strengths 4274
of the family of any child or family that has been referred to the 4275
council for service coordination, including a child ~~who is an~~ 4276
~~abused, neglected, dependent, unruly, or delinquent child and~~ 4277
~~under the jurisdiction of the juvenile court or a child whose~~ 4278
parent or custodian is voluntarily seeking services, and for 4279
ensuring that parents and custodians are afforded the opportunity 4280
to participate; 4281

~~(3)~~(8) A procedure for development of a ~~comprehensive joint~~ 4282
family service coordination plan described in division (D) of this 4283
section; 4284

~~(4)~~(9) A local dispute resolution process to serve as the 4285
process that must be used first to resolve disputes among the 4286
agencies represented on the county council concerning the 4287

provision of services to children, including children who are 4288
abused, neglected, dependent, unruly, alleged unruly, or 4289
delinquent children and under the jurisdiction of the juvenile 4290
court and children whose parents or custodians are voluntarily 4291
seeking services. The local dispute resolution process shall 4292
comply with section 121.38 of the Revised Code. ~~The~~ The local 4293
dispute resolution process shall be used to resolve disputes 4294
between a child's parents or custodians and the county council 4295
regarding service coordination. The county council shall inform 4296
the parents or custodians of their right to use the dispute 4297
resolution process. Parents or custodians shall use existing local 4298
agency grievance procedures to address disputes not involving 4299
service coordination. The dispute resolution process is in 4300
addition to and does not replace other rights or procedures that 4301
parents or custodians may have under other sections of the Revised 4302
Code. 4303

The cabinet council shall adopt rules in accordance with 4304
Chapter 119. of the Revised Code establishing an administrative 4305
review process to address problems that arise concerning the 4306
operation of a local dispute resolution process. 4307

Nothing in division (C)(4) of this section shall be 4308
interpreted as overriding or affecting decisions of a juvenile 4309
court regarding an out-of-home placement, long-term placement, or 4310
emergency out-of-home placement. 4311

(D) Each county shall develop a comprehensive ~~joint~~ family 4312
service coordination plan that does ~~both~~ all of the following: 4313

(1) Designates service responsibilities among the various 4314
state and local agencies that provide services to children and 4315
their families, including children who are abused, neglected, 4316
dependent, unruly, or delinquent children and under the 4317
jurisdiction of the juvenile court and children whose parents or 4318
custodians are voluntarily seeking services; 4319

(2) Designates an individual, approved by the family, to track the progress of the family service coordination plan, schedule reviews as necessary, and facilitate the family service coordination plan meeting process; 4320
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(3) Ensures that assistance and services to be provided are responsive to the strengths and needs of the family, as well as the family's culture, race, and ethnic group, by allowing the family to offer information and suggestions and participate in decisions. Identified assistance and services shall be provided in the least restrictive environment possible. 4324
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(4) Includes a ~~service coordination~~ process for dealing with a child who is alleged to be an unruly child. The ~~service coordination~~ process shall include methods to divert the child from the juvenile court system; 4330
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4332
4333

(5) Includes timelines for completion of goals specified in the plan with regular reviews scheduled to monitor progress toward those goals; 4334
4335
4336

(6) Includes a plan for dealing with short-term crisis situations and safety concerns. 4337
4338

(E)(1) The ~~service coordination~~ process provided for under division (D)~~(2)~~(4) of this section may include, but is not limited to, the following: 4339
4340
4341

(a) ~~An assessment of the needs and strengths of the child and the child's family and the services the child and the child's family need;~~ 4342
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~~(b)~~ Designation of the person or agency to conduct the assessment of the child and the child's family as described in division ~~(E)(1)(a)~~(C)(7) of this section and designation of the instrument or instruments to be used to conduct the assessment; 4345
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~~(c)~~ Designation of the agency to provide case management 4349

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|--|--|
| services to the child and to the child's family; | 4350 |
| (d) (b) An emphasis on the personal responsibilities of the child and the parental responsibilities of the parents, guardian, or custodian of the child; | 4351 4352 4353 |
| (e) (c) Involvement of local law enforcement agencies and officials. | 4354 4355 |
| (2) The method to divert a child from the juvenile court system that must be included in the service coordination process may include, but is not limited to, the following: | 4356 4357 4358 |
| (a) The preparation of a complaint under section 2151.27 of the Revised Code alleging that the child is an unruly child and notifying the child and the parents, guardian, or custodian that the complaint has been prepared to encourage the child and the parents, guardian, or custodian to comply with other methods to divert the child from the juvenile court system; | 4359 4360 4361 4362 4363 4364 |
| (b) Conducting a meeting with the child, the parents, guardian, or custodian, and other interested parties to determine the appropriate methods to divert the child from the juvenile court system; | 4365 4366 4367 4368 |
| (c) A method for dealing with short term crisis situations involving a confrontation between the child and the parents, guardian, or custodian; | 4369 4370 4371 |
| (d) A method to provide to the child and the child's family a short-term respite from a short-term crisis situation involving a confrontation between the child and the parents, guardian, or custodian; | 4372 4373 4374 4375 |
| (e) (d) A program to provide a mentor to the child or the parents, guardian, or custodian; | 4376 4377 |
| (f) (e) A program to provide parenting education to the parents, guardian, or custodian; | 4378 4379 |

~~(g)~~(f) An alternative school program for children who are 4380
truant from school, repeatedly disruptive in school, or suspended 4381
or expelled from school; 4382

~~(h)~~(g) Other appropriate measures, including, but not limited 4383
to, any alternative methods to divert a child from the juvenile 4384
court system that are identified by the Ohio family and children 4385
first cabinet council. 4386

(F) Each county may review and revise the service 4387
coordination process described in division (D)~~(2)~~ of this section 4388
based on the availability of funds under Title IV-A of the "Social 4389
Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended, 4390
or to the extent resources are available from any other federal, 4391
state, or local funds. 4392

Sec. 121.373. There is hereby created in the state treasury 4393
the family and children first administration fund. The fund shall 4394
consist of money that the director of budget and management 4395
transfers from one or more funds of one or more agencies 4396
represented on the Ohio family and children first cabinet council. 4397
The director may transfer only money that state or federal law 4398
permits to be used for the cabinet council's administrative costs. 4399
Money in the fund shall be used to pay the cabinet council's 4400
administrative costs. 4401

Sec. 121.38. (A) An agency represented on a county family and 4402
children first council that disagrees with the council's decision 4403
concerning the services or funding for services a child is to 4404
receive from agencies represented on the council may initiate the 4405
local dispute resolution process established in the county service 4406
coordination mechanism applicable to the council. On completion of 4407
the process, the decision maker designated in the mechanism shall 4408
issue a written determination that directs one or more agencies 4409

represented on the council to provide services or funding for 4410
services to the child. The determination shall include a plan of 4411
care governing the manner in which the services or funding are to 4412
be provided. The decision maker shall base the plan of care on the 4413
~~comprehensive joint~~ family service coordination plan developed as 4414
part of the county's service coordination mechanism and on 4415
evidence presented during the local dispute resolution process. 4416
The decision maker may require an agency to provide services or 4417
funding only if the child's condition or needs qualify the child 4418
for services under the laws governing the agency. 4419

(B) An agency subject to a determination issued pursuant to a 4421
local dispute resolution process shall immediately comply with the 4422
determination, unless the agency objects to the determination by 4423
doing one of the following not later than seven days after the 4424
date the written determination is issued: 4425

(1) If the child has been alleged or adjudicated to be an 4426
abused, neglected, dependent, unruly, or delinquent child or a 4427
juvenile traffic offender, filing in the juvenile court of the 4428
county having jurisdiction over the child's case a motion 4429
requesting that the court hold a hearing to determine which 4430
agencies are to provide services or funding for services to the 4431
child. 4432

(2) If the child is not a child described in division (B)(1) 4433
of this section, filing in the juvenile court of the county served 4434
by the county council a complaint objecting to the determination. 4435

The court shall hold a hearing as soon as possible, but not 4436
later than ninety days after the motion or complaint is filed. At 4437
least five days before the date on which the court hearing is to 4438
be held, the court shall send each agency subject to the 4439
determination written notice by first class mail of the date, 4440
time, place, and purpose of the court hearing. In the case of a 4441

motion filed under division (B)(1) of this section, the court may 4442
conduct the hearing as part of the adjudicatory or dispositional 4443
hearing concerning the child, if appropriate, and shall provide 4444
notice as required for those hearings. 4445

Except in cases in which the hearing is conducted as part of 4446
the adjudicatory or dispositional hearing, a hearing held pursuant 4447
to this division shall be limited to a determination of which 4448
agencies are to provide services or funding for services to the 4449
child. At the conclusion of the hearing, the court shall issue an 4450
order directing one or more agencies represented on the county 4451
council to provide services or funding for services to the child. 4452
The order shall include a plan of care governing the manner in 4453
which the services or funding are to be provided. The court shall 4454
base the plan of care on the ~~comprehensive joint~~ family service 4455
coordination plan developed as part of the county's service 4456
coordination plan and on evidence presented during the hearing. An 4457
agency required by the order to provide services or funding shall 4458
be a party to any juvenile court proceeding concerning the child. 4459
The court may require an agency to provide services or funding for 4460
a child only if the child's condition or needs qualify the child 4461
for services under the laws governing the agency. 4462

(C) While the local dispute resolution process or court 4463
proceedings pursuant to this section are pending, each agency 4464
shall provide services and funding as required by the decision 4465
made by the county council before dispute resolution was 4466
initiated. If an agency that provides services or funds during the 4467
local dispute resolution process or court proceedings is 4468
determined through the process or proceedings not to be 4469
responsible for providing them, it shall be reimbursed for the 4470
costs of providing the services or funding by the agencies 4471
determined to be responsible for providing them. 4472

Sec. 121.381. A parent or custodian who disagrees with a 4473
decision rendered by a county family and children first council 4474
regarding services for a child may initiate the dispute resolution 4475
process established in the county service coordination mechanism 4476
pursuant to division (C)(10) of section 121.37 of the Revised 4477
Code. 4478

Not later than sixty days after the parent or custodian 4479
initiates the dispute resolution process, the council shall make 4480
findings regarding the dispute and issue a written determination 4481
of its findings. 4482

Sec. 121.382. Each agency represented on a county family and 4483
children first council that is providing services or funding for 4484
services that are the subject of the dispute resolution process 4485
initiated by a parent or custodian under section 121.381 of the 4486
Revised Code shall continue to provide those services and the 4487
funding for those services during the dispute resolution process. 4488

Sec. 121.403. (A) The Ohio community service council may do 4489
any of the following: 4490

(1) Accept monetary gifts or donations; 4491

(2) Sponsor conferences, meetings, or events in furtherance 4492
of the council's purpose described in section 121.40 of the 4493
Revised Code and charge fees for participation or involvement in 4494
the conferences, meetings, or events; 4495

(3) Sell promotional items in furtherance of the council's 4496
purpose described in section 121.40 of the Revised Code. 4497

(B) All monetary gifts and donations, funds from the sale of 4498
promotional items, and any fees paid to the council for 4499
conferences, meetings, or events sponsored by the council shall be 4500
deposited into the Ohio community service council gifts and 4501

donations fund, which is hereby created in the state treasury. 4502

Moneys in the fund may be used only as follows: 4503

(1) To pay operating expenses of the council, including 4504
payroll, personal services, maintenance, equipment, and subsidy 4505
payments; 4506

(2) To support council programs promoting volunteerism and 4507
community service in the state; 4508

(3) As matching funds for federal grants. 4509

Sec. 122.011. (A) The department of development shall develop 4510
and promote plans and programs designed to assure that state 4511
resources are efficiently used, economic growth is properly 4512
balanced, community growth is developed in an orderly manner, and 4513
local governments are coordinated with each other and the state, 4514
and for such purposes may do all of the following: 4515

(1) Serve as a clearinghouse for information, data, and other 4516
materials that may be helpful or necessary to persons or local 4517
governments, as provided in section 122.07 of the Revised Code; 4518

(2) Prepare and activate plans for the retention, 4519
development, expansion, and use of the resources and commerce of 4520
the state, as provided in section 122.04 of the Revised Code; 4521

(3) Assist and cooperate with federal, state, and local 4522
governments and agencies of federal, state, and local governments 4523
in the coordination of programs to carry out the functions and 4524
duties of the department; 4525

(4) Encourage and foster research and development activities, 4526
conduct studies related to the solution of community problems, and 4527
develop recommendations for administrative or legislative actions, 4528
as provided in section 122.03 of the Revised Code; 4529

(5) Serve as the economic and community development planning 4530
agency, which shall prepare and recommend plans and programs for 4531

the orderly growth and development of this state and which shall 4532
provide planning assistance, as provided in section 122.06 of the 4533
Revised Code; 4534

(6) Cooperate with and provide technical assistance to state 4535
departments, political subdivisions, regional and local planning 4536
commissions, tourist associations, councils of government, 4537
community development groups, community action agencies, and other 4538
appropriate organizations for carrying out the functions and 4539
duties of the department or for the solution of community 4540
problems; 4541

(7) Coordinate the activities of state agencies that have an 4542
impact on carrying out the functions and duties of the department; 4543

(8) Encourage and assist the efforts of and cooperate with 4544
local governments to develop mutual and cooperative solutions to 4545
their common problems that relate to carrying out the purposes of 4546
this section; 4547

(9) Study existing structure, operations, and financing of 4548
regional or local government and those state activities that 4549
involve significant relations with regional or local governmental 4550
units, recommend to the governor and to the general assembly such 4551
changes in these provisions and activities as will improve the 4552
operations of regional or local government, and conduct other 4553
studies of legal provisions that affect problems related to 4554
carrying out the purposes of this section; 4555

(10) Create and operate a division of community development 4556
to develop and administer programs and activities that are 4557
authorized by federal statute or the Revised Code; 4558

(11) Until October 15, ~~2005~~ 2007, establish fees and charges, 4559
in consultation with the director of agriculture, for purchasing 4560
loans from financial institutions and providing loan guarantees 4561
under the family farm loan program created under sections 901.80 4562

to 901.83 of the Revised Code; 4563

(12) Provide loan servicing for the loans purchased and loan 4564
guarantees provided under section 901.80 of the Revised Code as 4565
that section existed prior to October 15, ~~2005~~ 2007; 4566

(13) Until October 15, ~~2005~~ 2007, and upon approval by the 4567
controlling board under division (A)(3) of section 901.82 of the 4568
Revised Code of the release of money to be used for purchasing a 4569
loan or providing a loan guarantee, request the release of that 4570
money in accordance with division (B) of section 166.03 of the 4571
Revised Code for use for the purposes of the fund created by 4572
section 166.031 of the Revised Code. 4573

(B) The director of development may request the attorney 4574
general to, and the attorney general, in accordance with section 4575
109.02 of the Revised Code, shall bring a civil action in any 4576
court of competent jurisdiction. The director may be sued in the 4577
director's official capacity, in connection with this chapter, in 4578
accordance with Chapter 2743. of the Revised Code. 4579

Sec. 122.075. (A) As used in this section: 4580

(1) "Alternative fuel" means blended biodiesel or blended 4581
gasoline. 4582

(2) "Biodiesel" means a mono-alkyl ester combustible liquid 4583
fuel that is derived from vegetable oils or animal fats, or any 4584
combination of those reagents, and that meets American society for 4585
testing and materials specification D6751-03a for biodiesel fuel 4586
(B100) blend stock distillate fuels. 4587

(3) "Diesel fuel" and "gasoline" have the same meanings as in 4588
section 5735.01 of the Revised Code. 4589

(4) "Ethanol" has the same meaning as in section 5733.46 of 4590
the Revised Code. 4591

(5) "Blended biodiesel" means diesel fuel containing at least 4592

| | |
|---|------|
| <u>twenty per cent biodiesel by volume.</u> | 4593 |
| <u>(6) "Blended gasoline" means gasoline containing at least</u> | 4594 |
| <u>eighty-five per cent ethanol by volume.</u> | 4595 |
| <u>(7) "Incremental cost" means either of the following:</u> | 4596 |
| <u>(a) The difference in cost between blended gasoline and</u> | 4597 |
| <u>gasoline containing ten per cent or less ethanol at the time that</u> | 4598 |
| <u>the blended gasoline is purchased;</u> | 4599 |
| <u>(b) The difference in cost between blended biodiesel and</u> | 4600 |
| <u>diesel fuel containing two per cent or less biodiesel at the time</u> | 4601 |
| <u>that the blended biodiesel is purchased.</u> | 4602 |
| <u>(B) For the purpose of improving the air quality in this</u> | 4603 |
| <u>state, the director of development shall establish an alternative</u> | 4604 |
| <u>fuel transportation grant program under which the director may</u> | 4605 |
| <u>make grants to businesses, nonprofit organizations, public school</u> | 4606 |
| <u>systems, or local governments for the purchase and installation of</u> | 4607 |
| <u>alternative fuel refueling facilities and for the purchase and use</u> | 4608 |
| <u>of alternative fuel.</u> | 4609 |
| <u>(C) The director shall adopt rules in accordance with Chapter</u> | 4610 |
| <u>119. of the Revised Code that are necessary for the administration</u> | 4611 |
| <u>of the alternative fuel transportation grant program. The rules</u> | 4612 |
| <u>shall establish at least all of the following:</u> | 4613 |
| <u>(1) An application form and procedures governing the</u> | 4614 |
| <u>application process for a grant under the program;</u> | 4615 |
| <u>(2) A procedure for prioritizing the award of grants under</u> | 4616 |
| <u>the program;</u> | 4617 |
| <u>(3) A requirement that the maximum grant for the purchase and</u> | 4618 |
| <u>installation of an alternative fuel refueling facility be no more</u> | 4619 |
| <u>than fifty per cent of the cost of the facility;</u> | 4620 |
| <u>(4) A requirement that the maximum grant for the purchase of</u> | 4621 |
| <u>alternative fuel be no more than fifty per cent of the incremental</u> | 4622 |

cost of the fuel; 4623

(5) Any other criteria, procedures, or guidelines that the 4624
director determines are necessary to administer the program. 4625

(D) There is hereby created in the state treasury the 4626
alternative fuel transportation grant fund. The fund shall consist 4627
of money as may be specified by the general assembly from the 4628
energy efficiency revolving loan fund created by section 4928.61 4629
of the Revised Code. Money in the fund shall be used to make 4630
grants under the alternative fuel transportation grant program and 4631
by the director in the administration of that program. 4632

Sec. 122.083. (A) The director of development shall 4633
administer a shovel ready sites program to provide grants for 4634
projects to port authorities and development entities approved by 4635
the director. Grants may be used to pay the costs of any or all of 4636
the following: 4637

(1) Acquisition of property, including options; 4638

(2) Preparation of sites, including brownfield clean-up 4639
activities; 4640

(3) Construction of road, water, telecommunication, and 4641
utility infrastructure; 4642

(4) Payment of professional fees the amount of which shall 4643
not exceed twenty per cent of the grant amount for a project. 4644

(B) The director shall adopt rules in accordance with Chapter 4645
119. of the Revised Code that establish procedures and 4646
requirements necessary for the administration of the program, 4647
including a requirement that a recipient of a grant enter into an 4648
agreement with the director governing the use of the grant. 4649

(C) There is hereby created in the state treasury the shovel 4650
ready sites fund consisting of money appropriated to it. Money in 4651
the fund shall be used solely for the purposes of this section. 4652

Sec. 122.17. (A) As used in this section: 4653

(1) "Full-time employee" means an individual who is employed 4654
for consideration for at least thirty-five hours a week, or who 4655
renders any other standard of service generally accepted by custom 4656
or specified by contract as full-time employment. 4657

(2) "New employee" means one of the following: 4658

(a) A full-time employee first employed by a taxpayer in the 4659
project that is the subject of the agreement after the taxpayer 4660
enters into a tax credit agreement with the tax credit authority 4661
under this section; 4662

(b) A full-time employee first employed by a taxpayer in the 4663
project that is the subject of the tax credit after the tax credit 4664
authority approves a project for a tax credit under this section 4665
in a public meeting, as long as the taxpayer enters into the tax 4666
credit agreement prepared by the department of development after 4667
such meeting within sixty days after receiving the agreement from 4668
the department. If the taxpayer fails to enter into the agreement 4669
within sixty days, "new employee" has the same meaning as under 4670
division (A)(2)(a) of this section. 4671

Under division (A)(2)(a) or (b) of this section, if the tax 4672
credit authority determines it appropriate, "new employee" also 4673
may include an employee re-hired or called back from lay-off to 4674
work in a new facility or on a new product or service established 4675
or produced by the taxpayer after entering into the agreement 4676
under this section or after the tax credit authority approves the 4677
tax credit in a public meeting. Except as otherwise provided in 4678
this paragraph, "new employee" does not include any employee of 4679
the taxpayer who was previously employed in this state by a 4680
related member of the taxpayer and whose employment was shifted to 4681
the taxpayer after the taxpayer entered into the tax credit 4682
agreement or after the tax credit authority approved the credit in 4683

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

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

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

(B) The tax credit authority may make grants under this

section to foster job creation in this state. Such a grant shall 4716
take the form of a refundable credit allowed against the tax 4717
imposed by section 5725.18, 5729.03, 5733.06, or 5747.02 or levied 4718
under Chapter 5751. of the Revised Code. The credit shall be 4719
claimed for the taxable years or tax periods specified in the 4720
taxpayer's agreement with the tax credit authority under division 4721
(D) of this section. The With respect to taxes imposed under 4722
section 5733.06 or 5747.02 or Chapter 5751. of the Revised Code, 4723
the credit shall be claimed after the allowance of all other 4724
credits provided by Chapter 5733. or 5747. in the order required 4725
under section 5733.98, 5747.98, or 5751.98 of the Revised Code. 4726
The amount of the credit available for a taxable year or for a 4727
calendar year that includes a tax period equals the new income tax 4728
revenue for ~~the taxable~~ that year multiplied by the percentage 4729
specified in the agreement with the tax credit authority. Any 4730
credit granted under this section against the tax imposed by 4731
section 5733.06 or 5747.02 of the Revised Code, to the extent not 4732
fully utilized against such tax for taxable years ending prior to 4733
2008, shall automatically be converted without any action taken by 4734
the tax credit authority to a credit against the tax levied under 4735
Chapter 5751. of the Revised Code for tax periods beginning on or 4736
after July 1, 2008, provided that the person to whom the credit 4737
was granted is subject to such tax. The converted credit shall 4738
apply to those calendar years in which the remaining taxable years 4739
specified in the agreement end. 4740

(C) A taxpayer or potential taxpayer who proposes a project 4741
to create new jobs in this state may apply to the tax credit 4742
authority to enter into an agreement for a tax credit under this 4743
section. The director of development shall prescribe the form of 4744
the application. After receipt of an application, the authority 4745
may enter into an agreement with the taxpayer for a credit under 4746
this section if it determines all of the following: 4747

- (1) The taxpayer's project will create new jobs in this state; 4748
4749
- (2) The taxpayer's project is economically sound and will benefit the people of this state by increasing opportunities for employment and strengthening the economy of this state; 4750
4751
4752
- (3) Receiving the tax credit is a major factor in the taxpayer's decision to go forward with the project. 4753
4754
- (D) An agreement under this section shall include all of the following: 4755
4756
- (1) A detailed description of the project that is the subject of the agreement; 4757
4758
- (2) The term of the tax credit, which shall not exceed fifteen years, and the first taxable year, or first calendar year that includes a tax period, for which the credit may be claimed; 4759
4760
4761
- (3) A requirement that the taxpayer shall maintain operations at the project location for at least twice the number of years as the term of the tax credit; 4762
4763
4764
- (4) The percentage, as determined by the tax credit authority, of new income tax revenue that will be allowed as the amount of the credit for each taxable year or for each calendar year that includes a tax period; 4765
4766
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4768
- (5) A specific method for determining how many new employees are employed during a taxable year or during a calendar year that includes a tax period; 4769
4770
4771
- (6) A requirement that the taxpayer annually shall report to the director of development the number of new employees, the new income tax revenue withheld in connection with the new employees, and any other information the director needs to perform the director's duties under this section; 4772
4773
4774
4775
4776
- (7) A requirement that the director of development annually 4777

shall verify the amounts reported under division (D)(6) of this 4778
section, and after doing so shall issue a certificate to the 4779
taxpayer stating that the amounts have been verified; 4780

(8)(a) A provision requiring that the taxpayer, except as 4781
otherwise provided in division (D)(8)(b) of this section, shall 4782
not relocate employment positions from elsewhere in this state to 4783
the project site that is the subject of the agreement for the 4784
lesser of five years from the date the agreement is entered into 4785
or the number of years the taxpayer is entitled to claim the tax 4786
credit. 4787

(b) The taxpayer may relocate employment positions from 4788
elsewhere in this state to the project site that is the subject of 4789
the agreement if the director of development determines both of 4790
the following: 4791

(i) That the site from which the employment positions would 4792
be relocated is inadequate to meet market and industry conditions, 4793
expansion plans, consolidation plans, or other business 4794
considerations affecting the taxpayer; 4795

(ii) That the legislative authority of the county, township, 4796
or municipal corporation from which the employment positions would 4797
be relocated has been notified of the relocation. 4798

For purposes of this section, the movement of an employment 4799
position from one political subdivision to another political 4800
subdivision shall be considered a relocation of an employment 4801
position, but the transfer of an individual employee from one 4802
political subdivision to another political subdivision shall not 4803
be considered a relocation of an employment position as long as 4804
the individual's employment position in the first political 4805
subdivision is refilled. 4806

(E) If a taxpayer fails to meet or comply with any condition 4807
or requirement set forth in a tax credit agreement, the tax credit 4808

authority may amend the agreement to reduce the percentage or term 4809
of the tax credit. The reduction of the percentage or term shall 4810
take effect in the taxable year immediately following the taxable 4811
year in which the authority amends the agreement or in the first 4812
tax period beginning in the calendar year immediately following 4813
the calendar year in which the authority amends the agreement. If 4814
the taxpayer relocates employment positions in violation of the 4815
provision required under division (D)(8)(a) of this section, the 4816
taxpayer shall not claim the tax credit under section 5733.0610 of 4817
the Revised Code for any tax years following the calendar year in 4818
which the relocation occurs, or shall not claim the tax credit 4819
under section 5725.32, 5729.032, or 5747.058 of the Revised Code 4820
for the taxable year in which the relocation occurs and any 4821
subsequent taxable years, and shall not claim the tax credit under 4822
division (A) of section 5751.50 of the Revised Code for any tax 4823
period in the calendar year in which the relocation occurs and any 4824
subsequent tax periods. 4825

(F) Projects that consist solely of point-of-final-purchase 4826
retail facilities are not eligible for a tax credit under this 4827
section. If a project consists of both point-of-final-purchase 4828
retail facilities and nonretail facilities, only the portion of 4829
the project consisting of the nonretail facilities is eligible for 4830
a tax credit and only the new income tax revenue from new 4831
employees of the nonretail facilities shall be considered when 4832
computing the amount of the tax credit. If a warehouse facility is 4833
part of a point-of-final-purchase retail facility and supplies 4834
only that facility, the warehouse facility is not eligible for a 4835
tax credit. Catalog distribution centers are not considered 4836
point-of-final-purchase retail facilities for the purposes of this 4837
division, and are eligible for tax credits under this section. 4838

(G) Financial statements and other information submitted to 4839
the department of development or the tax credit authority by an 4840

applicant or recipient of a tax credit under this section, and any 4841
information taken for any purpose from such statements or 4842
information, are not public records subject to section 149.43 of 4843
the Revised Code. However, the chairperson of the authority may 4844
make use of the statements and other information for purposes of 4845
issuing public reports or in connection with court proceedings 4846
concerning tax credit agreements under this section. Upon the 4847
request of the tax commissioner or, if the applicant or recipient 4848
is an insurance company, upon the request of the superintendent of 4849
insurance, the chairperson of the authority shall provide to the 4850
commissioner or superintendent any statement or information 4851
submitted by an applicant or recipient of a tax credit in 4852
connection with the credit. The commissioner or superintendent 4853
shall preserve the confidentiality of the statement or 4854
information. 4855

(H) A taxpayer claiming a credit under this section shall 4856
submit to the tax commissioner or, if the taxpayer is an insurance 4857
company, to the superintendent of insurance, a copy of the 4858
director of development's certificate of verification under 4859
division (D)(7) of this section for the taxable year or for the 4860
calendar year that includes the tax period. However, failure to 4861
submit a copy of the certificate does not invalidate a claim for a 4862
credit. 4863

(I) The director of development, after consultation with the 4864
tax commissioner and the superintendent of insurance and in 4865
accordance with Chapter 119. of the Revised Code, shall adopt 4866
rules necessary to implement this section. The rules may provide 4867
for recipients of tax credits under this section to be charged 4868
fees to cover administrative costs of the tax credit program. At 4869
the time the director gives public notice under division (A) of 4870
section 119.03 of the Revised Code of the adoption of the rules, 4871
the director shall submit copies of the proposed rules to the 4872

chairpersons of the standing committees on economic development in 4873
the senate and the house of representatives. 4874

(J) For the purposes of this section, a taxpayer may include 4875
a partnership, a corporation that has made an election under 4876
subchapter S of chapter one of subtitle A of the Internal Revenue 4877
Code, or any other business entity through which income flows as a 4878
distributive share to its owners. A credit received under this 4879
section by a partnership, S-corporation, or other such business 4880
entity shall be apportioned among the persons to whom the income 4881
or profit of the partnership, S-corporation, or other entity is 4882
distributed, in the same proportions as those in which the income 4883
or profit is distributed. 4884

(K) If the director of development determines that a taxpayer 4885
who has received a credit under this section is not complying with 4886
the requirement under division (D)(3) of this section, the 4887
director shall notify the tax credit authority of the 4888
noncompliance. After receiving such a notice, and after giving the 4889
taxpayer an opportunity to explain the noncompliance, the tax 4890
credit authority may require the taxpayer to refund to this state 4891
a portion of the credit in accordance with the following: 4892

(1) If the taxpayer maintained operations at the project 4893
location for at least one and one-half times the number of years 4894
of the term of the tax credit, an amount not exceeding twenty-five 4895
per cent of the sum of any previously allowed credits under this 4896
section; 4897

(2) If the taxpayer maintained operations at the project 4898
location for at least the number of years of the term of the tax 4899
credit, an amount not exceeding fifty per cent of the sum of any 4900
previously allowed credits under this section; 4901

(3) If the taxpayer maintained operations at the project 4902
location for less than the number of years of the term of the tax 4903

credit, an amount not exceeding one hundred per cent of the sum of 4904
any previously allowed credits under this section. 4905

In determining the portion of the tax credit to be refunded 4906
to this state, the tax credit authority shall consider the effect 4907
of market conditions on the taxpayer's project and whether the 4908
taxpayer continues to maintain other operations in this state. 4909
After making the determination, the authority shall certify the 4910
amount to be refunded to the tax commissioner or superintendent of 4911
insurance, as appropriate. ~~The~~ If the amount is certified to the 4912
commissioner, the commissioner shall make an assessment for that 4913
amount against the taxpayer under Chapter 5733. ~~or, 5747., or~~ 4914
5751. of the Revised Code. If the amount is certified to the 4915
superintendent, the superintendent shall make an assessment for 4916
that amount against the taxpayer under Chapter 5725. or 5729. of 4917
the Revised Code. The time limitations on assessments under 4918
~~Chapter 5733. or 5747. of the Revised Code~~ those chapters do not 4919
apply to an assessment under this division, but the commissioner 4920
or superintendent, as appropriate, shall make the assessment 4921
within one year after the date the authority certifies to the 4922
commissioner or superintendent the amount to be refunded. 4923

(L) On or before the thirty-first day of March each year, the 4924
director of development shall submit a report to the governor, the 4925
president of the senate, and the speaker of the house of 4926
representatives on the tax credit program under this section. The 4927
report shall include information on the number of agreements that 4928
were entered into under this section during the preceding calendar 4929
year, a description of the project that is the subject of each 4930
such agreement, and an update on the status of projects under 4931
agreements entered into before the preceding calendar year. 4932

~~During the fifth year of the tax credit program, the director~~ 4933
~~of development in conjunction with the director of budget and~~ 4934
~~management shall conduct an evaluation of it. The evaluation shall~~ 4935

~~include assessments of the effectiveness of the program in 4936
creating new jobs in this state and of the revenue impact of the 4937
program, and may include a review of the practices and experiences 4938
of other states with similar programs. The director of development 4939
shall submit a report on the evaluation to the governor, the 4940
president of the senate, and the speaker of the house of 4941
representatives on or before January 1, 1998. 4942~~

(M) There is hereby created the tax credit authority, which 4943
consists of the director of development and four other members 4944
appointed as follows: the governor, the president of the senate, 4945
and the speaker of the house of representatives each shall appoint 4946
one member who shall be a specialist in economic development; the 4947
governor also shall appoint a member who is a specialist in 4948
taxation. Of the initial appointees, the members appointed by the 4949
governor shall serve a term of two years; the members appointed by 4950
the president of the senate and the speaker of the house of 4951
representatives shall serve a term of four years. Thereafter, 4952
terms of office shall be for four years. Initial appointments to 4953
the authority shall be made within thirty days after January 13, 4954
1993. Each member shall serve on the authority until the end of 4955
the term for which the member was appointed. Vacancies shall be 4956
filled in the same manner provided for original appointments. Any 4957
member appointed to fill a vacancy occurring prior to the 4958
expiration of the term for which the member's predecessor was 4959
appointed shall hold office for the remainder of that term. 4960
Members may be reappointed to the authority. Members of the 4961
authority shall receive their necessary and actual expenses while 4962
engaged in the business of the authority. The director of 4963
development shall serve as chairperson of the authority, and the 4964
members annually shall elect a vice-chairperson from among 4965
themselves. Three members of the authority constitute a quorum to 4966
transact and vote on the business of the authority. The majority 4967
vote of the membership of the authority is necessary to approve 4968

any such business, including the election of the vice-chairperson. 4969

The director of development may appoint a professional 4970
employee of the department of development to serve as the 4971
director's substitute at a meeting of the authority. The director 4972
shall make the appointment in writing. In the absence of the 4973
director from a meeting of the authority, the appointed substitute 4974
shall serve as chairperson. In the absence of both the director 4975
and the director's substitute from a meeting, the vice-chairperson 4976
shall serve as chairperson. 4977

(N) For purposes of the credits granted by this section 4978
against the taxes imposed under sections 5725.18 and 5729.03 of 4979
the Revised Code, "taxable year" means the period covered by the 4980
taxpayer's annual statement to the superintendent of insurance. 4981

Sec. 122.171. (A) As used in this section: 4982

(1) "Capital investment project" means a plan of investment 4983
at a project site for the acquisition, construction, renovation, 4984
or repair of buildings, machinery, or equipment, or for 4985
capitalized costs of basic research and new product development 4986
determined in accordance with generally accepted accounting 4987
principles, but does not include any of the following: 4988

(a) Payments made for the acquisition of personal property 4989
through operating leases; 4990

(b) Project costs paid before January 1, 2002, ~~or after~~ 4991
~~December 31, 2006;~~ 4992

(c) Payments made to a related member as defined in section 4993
5733.042 of the Revised Code or to an elected consolidated 4994
taxpayer or a combined taxpayer as defined in section 5751.01 of 4995
the Revised Code. 4996

(2) "Eligible business" means a business with Ohio operations 4997
satisfying all of the following: 4998

(a) Employed an average of at least one thousand employees in 4999
full-time employment positions at a project site during each of 5000
the twelve months preceding the application for a tax credit under 5001
this section; and 5002

(b) On or after January 1, 2002, has made payments for the 5003
capital investment project of either of the following: 5004

(i) At least two hundred million dollars in the aggregate at 5005
the project site during a period of three consecutive calendar 5006
years including the calendar year that includes a day of the 5007
taxpayer's taxable year or tax period with respect to which the 5008
credit is granted; 5009

(ii) If the average wage of all full-time employment 5010
positions at the project site is greater than four hundred per 5011
cent of the federal minimum wage, at least one hundred million 5012
dollars in the aggregate at the project site during a period of 5013
three consecutive calendar years including the calendar year that 5014
includes a day of the taxpayer's taxable year or tax period with 5015
respect to which the credit is granted. 5016

(c) Is engaged at the project site primarily as a 5017
manufacturer or is providing significant corporate administrative 5018
functions; 5019

(d) Has had a capital investment project reviewed and 5020
approved by the tax credit authority as provided in divisions (C), 5021
(D), and (E) of this section. 5022

(3) "Full-time employment position" means a position of 5023
employment for consideration for at least thirty-five hours a week 5024
that has been filled for at least one hundred eighty days 5025
immediately preceding the filing of an application under this 5026
section and for at least one hundred eighty days during each 5027
taxable year or each calendar year that includes a tax period with 5028
respect to which the credit is granted. 5029

(4) "Manufacturer" has the same meaning as in section 5030
5739.011 of the Revised Code. 5031

(5) "Project site" means an integrated complex of facilities 5032
in this state, as specified by the tax credit authority under this 5033
section, within a fifteen-mile radius where a taxpayer is 5034
primarily operating as an eligible business. 5035

(6) "Applicable corporation" means a corporation satisfying 5036
all of the following: 5037

(a)(i) For the entire taxable year immediately preceding the 5038
tax year, the corporation develops software applications primarily 5039
to provide telecommunication billing and information services 5040
through outsourcing or licensing to domestic or international 5041
customers. 5042

(ii) Sales and licensing of software generated at least six 5043
hundred million dollars in revenue during the taxable year 5044
immediately preceding the tax year the corporation is first 5045
entitled to claim the credit provided under division (B) of this 5046
section. 5047

(b) For the entire taxable year immediately preceding the tax 5048
year, the corporation or one or more of its related members 5049
provides customer or employee care and technical support for 5050
clients through one or more contact centers within this state, and 5051
the corporation and its related members together have a daily 5052
average, based on a ~~three hundred sixty five day~~ 5053
three-hundred-sixty-five-day year, of at least five hundred 5054
thousand successful customer contacts through one or more of their 5055
contact centers, wherever located. 5056

(c) The corporation is eligible for the credit under division 5057
(B) of this section for the tax year. 5058

(7) "Related member" has the same meaning as in section 5059
5733.042 of the Revised Code as that section existed on the 5060

effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 5061
general assembly, September 29, 1997. 5062

(8) "Successful customer contact" means a contact with an end 5063
user via telephone, including interactive voice recognition or 5064
similar means, where the contact culminates in a conversation or 5065
connection other than a busy signal or equipment busy. 5066

(9) "Telecommunications" means all forms of 5067
telecommunications service as defined in section 5739.01 of the 5068
Revised Code, and includes services in wireless, wireline, cable, 5069
broadband, internet protocol, and satellite. 5070

(10)(a) "Applicable difference" means the difference between 5071
the tax for the tax year under Chapter 5733. of the Revised Code 5072
applying the law in effect for that tax year, and the tax for that 5073
tax year if section 5733.042 of the Revised Code applied as that 5074
section existed on the effective date of its amendment by Am. Sub. 5075
H.B. 215 of the 122nd general assembly, September 29, 1997, 5076
subject to division (A)(10)(b) of this section. 5077

(b) If the tax rate set forth in division (B) of section 5078
5733.06 of the Revised Code for the tax year is less than eight 5079
and one-half per cent, the tax calculated under division 5080
(A)(10)(a) of this section shall be computed by substituting a tax 5081
rate of eight and one-half per cent for the rate set forth in 5082
division (B) of section 5733.06 of the Revised Code for the tax 5083
year. 5084

(c) If the resulting difference is negative, the applicable 5085
tax difference for the tax year shall be zero. 5086

(B) The tax credit authority created under section 122.17 of 5087
the Revised Code may grant tax credits under this section for the 5088
purpose of fostering job retention in this state. Upon application 5089
by an eligible business and upon consideration of the 5090
recommendation of the director of budget and management, tax 5091

commissioner, and director of development under division (C) of 5092
this section, the tax credit authority may grant to an eligible 5093
business a nonrefundable credit against the tax imposed by section 5094
5733.06 or 5747.02 or levied under Chapter 5751. of the Revised 5095
Code for a period up to fifteen taxable years and against the tax 5096
levied by Chapter 5751. of the Revised Code for a period of up to 5097
fifteen calendar years. The credit shall be in an amount not 5098
exceeding seventy-five per cent of the Ohio income tax withheld 5099
from the employees of the eligible business occupying full-time 5100
employment positions at the project site during the calendar year 5101
that includes the last day of such business' taxable year or tax 5102
period with respect to which the credit is granted. The amount of 5103
the credit shall not be based on the Ohio income tax withheld from 5104
full-time employees for a calendar year prior to the calendar year 5105
in which the minimum investment requirement referred to in 5106
division (A)(2)(b) of this section is completed. The credit shall 5107
be claimed only for the taxable years or tax periods specified in 5108
the eligible business' agreement with the tax credit authority 5109
under division (E) of this section, but in no event shall the 5110
credit be claimed for a taxable year or tax period terminating 5111
before the date specified in the agreement. Any credit granted 5112
under this section against the tax imposed by section 5733.06 or 5113
5747.02 of the Revised Code, to the extent not fully utilized 5114
against such tax for taxable years ending prior to 2008, shall 5115
automatically be converted without any action taken by the tax 5116
credit authority to a credit against the tax levied under Chapter 5117
5751. of the Revised Code for tax periods beginning on or after 5118
July 1, 2008, provided that the person to whom the credit was 5119
granted is subject to such tax. The converted credit shall apply 5120
to those calendar years in which the remaining taxable years 5121
specified in the agreement end. 5122

The credit computed under this division is in addition to any 5123
credit allowed under division (M) of this section which the tax 5124

credit authority may also include in the agreement. 5125

Any unused portion of a tax credit may be carried forward for 5126
not more than three additional years after the year for which the 5127
credit is granted. 5128

(C) A taxpayer that proposes a capital investment project to 5129
retain jobs in this state may apply to the tax credit authority to 5130
enter into an agreement for a tax credit under this section. The 5131
director of development shall prescribe the form of the 5132
application. After receipt of an application, the authority shall 5133
forward copies of the application to the director of budget and 5134
management, the tax commissioner, and the director of development, 5135
each of whom shall review the application to determine the 5136
economic impact the proposed project would have on the state and 5137
the affected political subdivisions and shall submit a summary of 5138
their determinations and recommendations to the authority. ~~The 5139
authority shall make no agreements under this section after June 5140
30, 2007.~~ 5141

(D) Upon review of the determinations and recommendations 5142
described in division (C) of this section, the tax credit 5143
authority may enter into an agreement with the taxpayer for a 5144
credit under this section if the authority determines all of the 5145
following: 5146

(1) The taxpayer's capital investment project will result in 5147
the retention of full-time employment positions in this state. 5148

(2) The taxpayer is economically sound and has the ability to 5149
complete the proposed capital investment project. 5150

(3) The taxpayer intends to and has the ability to maintain 5151
operations at the project site for at least twice the term of the 5152
credit. 5153

(4) Receiving the credit is a major factor in the taxpayer's 5154
decision to begin, continue with, or complete the project. 5155

(5) The political subdivisions in which the project is 5156
located have agreed to provide substantial financial support to 5157
the project. 5158

(E) An agreement under this section shall include all of the 5159
following: 5160

(1) A detailed description of the project that is the subject 5161
of the agreement, including the amount of the investment, the 5162
period over which the investment has been or is being made, and 5163
the number of full-time employment positions at the project site. 5164

(2) The method of calculating the number of full-time 5165
employment positions as specified in division (A)(3) of this 5166
section. 5167

(3) The term and percentage of the tax credit, and the first 5168
year for which the credit may be claimed. 5169

(4) A requirement that the taxpayer maintain operations at 5170
the project site for at least twice the number of years as the 5171
term of the credit. 5172

(5) A requirement that the taxpayer retain a specified number 5173
of full-time employment positions at the project site and within 5174
this state for the term of the credit, including a requirement 5175
that the taxpayer continue to employ at least one thousand 5176
employees in full-time employment positions at the project site 5177
during the entire term of any agreement, subject to division 5178
(E)(7) of this section. 5179

(6) A requirement that the taxpayer annually report to the 5180
director of development the number of full-time employment 5181
positions subject to the credit, the amount of tax withheld from 5182
employees in those positions, the amount of the payments made for 5183
the capital investment project, and any other information the 5184
director needs to perform the director's duties under this 5185
section. 5186

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

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

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

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

(ii) That the legislative authority of the county, township, 5219
or municipal corporation from which the employment positions would 5220
be relocated has been notified of the relocation. 5221

For purposes of this section, the movement of an employment 5222
position from one political subdivision to another political 5223
subdivision shall be considered a relocation of an employment 5224
position unless the movement is confined to the project site. The 5225
transfer of an individual employee from one political subdivision 5226
to another political subdivision shall not be considered a 5227
relocation of an employment position as long as the individual's 5228
employment position in the first political subdivision is 5229
refilled. 5230

(9) A waiver by the taxpayer of any limitations periods 5231
relating to assessments or adjustments resulting from the 5232
taxpayer's failure to comply with the agreement. 5233

(F) If a taxpayer fails to meet or comply with any condition 5234
or requirement set forth in a tax credit agreement, the tax credit 5235
authority may amend the agreement to reduce the percentage or term 5236
of the credit. The reduction of the percentage or term shall take 5237
effect in the taxable year immediately following the taxable year 5238
in which the authority amends the agreement or in the first tax 5239
period beginning in the calendar year immediately following the 5240
calendar year in which the authority amends the agreement. If the 5241
taxpayer relocates employment positions in violation of the 5242
provision required under division (D)(8)(a) of this section, the 5243
taxpayer shall not claim the tax credit under section 5733.0610 of 5244
the Revised Code for any tax years following the calendar year in 5245
which the relocation occurs, ~~or~~ shall not claim the tax credit 5246
under section 5747.058 of the Revised Code for the taxable year in 5247
which the relocation occurs and any subsequent taxable years, and 5248
shall not claim the tax credit under division (A) of section 5249
5751.50 of the Revised Code for the tax period in which the 5250

relocation occurs and any subsequent tax periods. 5251

(G) Financial statements and other information submitted to 5252
the department of development or the tax credit authority by an 5253
applicant for or recipient of a tax credit under this section, and 5254
any information taken for any purpose from such statements or 5255
information, are not public records subject to section 149.43 of 5256
the Revised Code. However, the chairperson of the authority may 5257
make use of the statements and other information for purposes of 5258
issuing public reports or in connection with court proceedings 5259
concerning tax credit agreements under this section. Upon the 5260
request of the tax commissioner, the chairperson of the authority 5261
shall provide to the commissioner any statement or other 5262
information submitted by an applicant for or recipient of a tax 5263
credit in connection with the credit. The commissioner shall 5264
preserve the confidentiality of the statement or other 5265
information. 5266

(H) A taxpayer claiming a tax credit under this section shall 5267
submit to the tax commissioner a copy of the director of 5268
development's certificate of verification under division (E)(7) of 5269
this section for the taxable year or for the calendar year that 5270
includes the tax period. However, failure to submit a copy of the 5271
certificate does not invalidate a claim for a credit. 5272

(I) For the purposes of this section, a taxpayer may include 5273
a partnership, a corporation that has made an election under 5274
subchapter S of chapter one of subtitle A of the Internal Revenue 5275
Code, or any other business entity through which income flows as a 5276
distributive share to its owners. A tax credit received under this 5277
section by a partnership, S-corporation, or other such business 5278
entity shall be apportioned among the persons to whom the income 5279
or profit of the partnership, S-corporation, or other entity is 5280
distributed, in the same proportions as those in which the income 5281
or profit is distributed. 5282

(J) If the director of development determines that a taxpayer 5283
that received a tax credit under this section is not complying 5284
with the requirement under division (E)(4) of this section, the 5285
director shall notify the tax credit authority of the 5286
noncompliance. After receiving such a notice, and after giving the 5287
taxpayer an opportunity to explain the noncompliance, the 5288
authority may terminate the agreement and require the taxpayer to 5289
refund to the state all or a portion of the credit claimed in 5290
previous years, as follows: 5291

(1) If the taxpayer maintained operations at the project site 5292
for less than the term of the credit, the amount required to be 5293
refunded shall not exceed the amount of any tax credits previously 5294
allowed and received under this section. 5295

(2) If the taxpayer maintained operations at the project site 5296
longer than the term of the credit but less than one and one-half 5297
times the term of the credit, the amount required to be refunded 5298
shall not exceed fifty per cent of the sum of any tax credits 5299
previously allowed and received under this section. 5300

(3) If the taxpayer maintained operations at the project site 5301
for at least one and one-half times the term of the credit but 5302
less than twice the term of the credit, the amount required to be 5303
refunded shall not exceed twenty-five per cent of the sum of any 5304
tax credits previously allowed and received under this section. 5305

In determining the portion of the credit to be refunded to 5306
this state, the authority shall consider the effect of market 5307
conditions on the taxpayer's project and whether the taxpayer 5308
continues to maintain other operations in this state. After making 5309
the determination, the authority shall certify the amount to be 5310
refunded to the tax commissioner. The commissioner shall make an 5311
assessment for that amount against the taxpayer under Chapter 5312
5733. ~~or, 5747., or 5751.~~ of the Revised Code. The time 5313
limitations on assessments under ~~Chapter 5733. or 5747. of the~~ 5314

~~Revised Code~~ those chapters do not apply to an assessment under 5315
this division, but the commissioner shall make the assessment 5316
within one year after the date the authority certifies to the 5317
commissioner the amount to be refunded. 5318

If the director of development determines that a taxpayer 5319
that received a tax credit under this section has reduced the 5320
number of employees agreed to under division (E)(5) of this 5321
section by more than ten per cent, the director shall notify the 5322
tax credit authority of the noncompliance. After receiving such 5323
notice, and after providing the taxpayer an opportunity to explain 5324
the noncompliance, the authority may amend the agreement to reduce 5325
the percentage or term of the tax credit. The reduction in the 5326
percentage or term shall take effect in the taxable year, or in 5327
the calendar year that includes the tax period, in which the 5328
authority amends the agreement. 5329

(K) The director of development, after consultation with the 5330
tax commissioner and in accordance with Chapter 119. of the 5331
Revised Code, shall adopt rules necessary to implement this 5332
section. The rules may provide for recipients of tax credits under 5333
this section to be charged fees to cover administrative costs of 5334
the tax credit program. At the time the director gives public 5335
notice under division (A) of section 119.03 of the Revised Code of 5336
the adoption of the rules, the director shall submit copies of the 5337
proposed rules to the chairpersons of the standing committees on 5338
economic development in the senate and the house of 5339
representatives. 5340

(L) On or before the thirty-first day of March of each year, 5341
the director of development shall submit a report to the governor, 5342
the president of the senate, and the speaker of the house of 5343
representatives on the tax credit program under this section. The 5344
report shall include information on the number of agreements that 5345
were entered into under this section during the preceding calendar 5346

year, a description of the project that is the subject of each 5347
such agreement, and an update on the status of projects under 5348
agreements entered into before the preceding calendar year. 5349

(M)(1) A nonrefundable credit shall be allowed to an 5350
applicable corporation and its related members in an amount equal 5351
to the applicable difference. The credit is in addition to the 5352
credit granted to the corporation or related members under 5353
division (B) of this section. The credit is subject to divisions 5354
(B) to (E) and division (J) of this section. 5355

(2) A person qualifying as an applicable corporation under 5356
this section for a tax year does not necessarily qualify as an 5357
applicable corporation for any other tax year. No person is 5358
entitled to the credit allowed under division (M) of this section 5359
for the tax year immediately following the taxable year during 5360
which the person fails to meet the requirements in divisions 5361
(A)(6)(a)(i) and (A)(6)(b) of this section. No person is entitled 5362
to the credit allowed under division (M) of this section for any 5363
tax year for which the person is not eligible for the credit 5364
provided under division (B) of this section. 5365

Sec. 122.172. (A) As used in this section, "tax liability" 5366
means the tax owed under section 5733.06 or 5747.02 of the Revised 5367
Code after allowance of all nonrefundable credits and prior to the 5368
allowance of all refundable credits. The tax owed under section 5369
5733.06 of the Revised Code shall take into account any 5370
adjustments to such tax required by division (G) of section 5371
5733.01 of the Revised Code that apply prior to allowance of 5372
refundable credits. 5373

(B)(1) The director of development shall administer the 5374
manufacturing equipment grant program to provide grants for new 5375
manufacturing machinery and equipment qualifying for the grant 5376
under section 122.173 of the Revised Code. Except as provided in 5377

division (C) of this section, the grants apply to the taxes 5378
imposed by sections 5733.06 and 5747.02 of the Revised Code for 5379
taxable years ending on or after July 1, 2005. 5380

(2) To claim a grant, a taxpayer satisfying the requirements 5381
of section 122.173 of the Revised Code shall complete a grant 5382
request form, as prescribed by the director in consultation with 5383
the tax commissioner, and shall file the form with the tax return 5384
for the taxable year for which the grant is claimed. In no event 5385
shall the grant reduce a taxpayer's tax liability below the 5386
minimum tax owed for the taxable year. The grant request form 5387
shall provide the information required to allow the grant for the 5388
taxable year and is subject to audit by the director and the 5389
commissioner. Any portion of the grant in excess of the taxpayer's 5390
tax liability shall not be refundable but may be carried forward 5391
as provided in section 122.173 of the Revised Code. Upon the 5392
director's request, the commissioner shall provide completed grant 5393
request forms filed under this section to the director in a 5394
mutually agreed upon format. 5395

(C) If a taxpayer is required to repay any credit allowed 5396
under section 5733.33 or 5747.31 of the Revised Code for a taxable 5397
year ending prior to July 1, 2005, for a reason not specified in 5398
Chapter 5733. or 5747. of the Revised Code, a grant shall be 5399
available for that taxable year under section 122.173 of the 5400
Revised Code to the extent provided in that section. 5401

(D) Any tax liability under section 5733.06 or 5747.02 of the 5402
Revised Code that is underpaid as the result of an improper claim 5403
for a grant under this section may be assessed by the tax 5404
commissioner in the manner provided by section 5733.11 or 5747.11 5405
of the Revised Code. 5406

Sec. 122.173. (A) As used in this section: 5407

(1) "Manufacturing machinery and equipment" means engines and 5408

machinery, and tools and implements, of every kind used, or 5409
designed to be used, in refining and manufacturing. "Manufacturing 5410
machinery and equipment" does not include property acquired after 5411
December 31, 1999, that is used: 5412

(a) For the transmission and distribution of electricity; 5413

(b) For the generation of electricity, if fifty per cent or 5414
more of the electricity that the property generates is consumed, 5415
during the one-hundred-twenty-month period commencing with the 5416
date the property is placed in service, by persons that are not 5417
related members to the person who generates the electricity. 5418

(2) "New manufacturing machinery and equipment" means 5419
manufacturing machinery and equipment, the original use in this 5420
state of which commences with the taxpayer or with a partnership 5421
of which the taxpayer is a partner. "New manufacturing machinery 5422
and equipment" does not include property acquired after December 5423
31, 1999, that is used: 5424

(a) For the transmission and distribution of electricity; 5425

(b) For the generation of electricity, if fifty per cent or 5426
more of the electricity that the property generates is consumed, 5427
during the one-hundred-twenty-month period commencing with the 5428
date the property is placed in service, by persons that are not 5429
related members to the person who generates the electricity. 5430

(3)(a) "Purchase" has the same meaning as in section 5431
179(d)(2) of the Internal Revenue Code. 5432

(b) For purposes of this section, any property that is not 5433
manufactured or assembled primarily by the taxpayer is considered 5434
purchased at the time the agreement to acquire the property 5435
becomes binding. Any property that is manufactured or assembled 5436
primarily by the taxpayer is considered purchased at the time the 5437
taxpayer places the property in service in the county for which 5438
the taxpayer will calculate the county excess amount. 5439

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

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

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

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

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

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

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

(8) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county that meets two of the following criteria of economic distress, or a

municipal corporation the majority of the population of which is 5471
situated in such a county: 5472

(a) Its average rate of unemployment, during the most recent 5473
five-year period for which data are available, is equal to at 5474
least one hundred twenty-five per cent of the average rate of 5475
unemployment for the United States for the same period; 5476

(b) It has a per capita income equal to or below eighty per 5477
cent of the median county per capita income of the United States 5478
as determined by the most recently available figures from the 5479
United States census bureau; 5480

(c)(i) In the case of a municipal corporation, at least 5481
twenty per cent of the residents have a total income for the most 5482
recent census year that is below the official poverty line; 5483

(ii) In the case of a county, in intercensal years, the 5484
county has a ratio of transfer payment income to total county 5485
income equal to or greater than twenty-five per cent. 5486

(9) "Eligible area" means a distressed area, a labor surplus 5487
area, an inner city area, or a situational distress area. 5488

(10) "Inner city area" means, in a municipal corporation that 5489
has a population of at least one hundred thousand and does not 5490
meet the criteria of a labor surplus area or a distressed area, 5491
targeted investment areas established by the municipal corporation 5492
within its boundaries that are comprised of the most recent census 5493
block tracts that individually have at least twenty per cent of 5494
their population at or below the state poverty level or other 5495
census block tracts contiguous to such census block tracts. 5496

(11) "Labor surplus area" means an area designated as a labor 5497
surplus area by the United States department of labor. 5498

(12) "Official poverty line" has the same meaning as in 5499
division (A) of section 3923.51 of the Revised Code. 5500

(13) "Situational distress area" means a county or a 5501
municipal corporation that has experienced or is experiencing a 5502
closing or downsizing of a major employer that will adversely 5503
affect the county's or municipal corporation's economy. In order 5504
to be designated as a situational distress area, for a period not 5505
to exceed thirty-six months, the county or municipal corporation 5506
may petition the director of development. The petition shall 5507
include written documentation that demonstrates all of the 5508
following adverse effects on the local economy: 5509

(a) The number of jobs lost by the closing or downsizing; 5510

(b) The impact that the job loss has on the county's or 5511
municipal corporation's unemployment rate as measured by the state 5512
director of job and family services; 5513

(c) The annual payroll associated with the job loss; 5514

(d) The amount of state and local taxes associated with the 5515
job loss; 5516

(e) The impact that the closing or downsizing has on 5517
suppliers located in the county or municipal corporation. 5518

(14) "Cost" has the same meaning and limitation as in section 5519
179(d)(3) of the Internal Revenue Code. 5520

(15) "Baseline years" means: 5521

(a) Calendar years 1992, 1993, and 1994, with regard to a 5522
grant claimed for the purchase during calendar year 1995, 1996, 5523
1997, or 1998 of new manufacturing machinery and equipment; 5524

(b) Calendar years 1993, 1994, and 1995, with regard to a 5525
grant claimed for the purchase during calendar year 1999 of new 5526
manufacturing machinery and equipment; 5527

(c) Calendar years 1994, 1995, and 1996, with regard to a 5528
grant claimed for the purchase during calendar year 2000 of new 5529
manufacturing machinery and equipment; 5530

(d) Calendar years 1995, 1996, and 1997, with regard to a grant claimed for the purchase during calendar year 2001 of new manufacturing machinery and equipment; 5531
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5533

(e) Calendar years 1996, 1997, and 1998, with regard to a grant claimed for the purchase during calendar year 2002 of new manufacturing machinery and equipment; 5534
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5536

(f) Calendar years 1997, 1998, and 1999, with regard to a grant claimed for the purchase during calendar year 2003 of new manufacturing machinery and equipment; 5537
5538
5539

(g) Calendar years 1998, 1999, and 2000, with regard to a grant claimed for the purchase during calendar year 2004 of new manufacturing machinery and equipment; 5540
5541
5542

(h) Calendar years 1999, 2000, and 2001, with regard to a grant claimed for the purchase on or after January 1, 2005, and on or before June 30, 2005, of new manufacturing machinery and equipment. 5543
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(16) "Related member" has the same meaning as in section 5733.042 of the Revised Code. 5547
5548

(17) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code. 5549
5550

(18) "Tax liability" has the same meaning as in section 122.172 of the Revised Code. 5551
5552

(B)(1) Subject to divisions (I) and (J) of this section, a grant is allowed against the tax imposed by section 5733.06 or 5747.02 of the Revised Code for a taxpayer that purchases new manufacturing machinery and equipment during the qualifying period, provided that the new manufacturing machinery and equipment are installed in this state not later than June 30, 2006. The taxpayer need not be a manufacturer. 5553
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(2)(a) Except as otherwise provided in division (B)(2)(b) of 5560

this section, a grant may be claimed under this section in excess 5561
of one million dollars only if the cost of all manufacturing 5562
machinery and equipment owned in this state by the taxpayer 5563
claiming the grant on the last day of the calendar year exceeds 5564
the cost of all manufacturing machinery and equipment owned in 5565
this state by the taxpayer on the first day of that calendar year. 5566

As used in division (B)(2)(a) of this section, "calendar 5567
year" means the calendar year in which the machinery and equipment 5568
for which the grant is claimed was purchased. 5569

(b) Division (B)(2)(a) of this section does not apply if the 5570
taxpayer claiming the grant applies for and is issued a waiver of 5571
the requirement of that division. A taxpayer may apply to the 5572
director of development for such a waiver in the manner prescribed 5573
by the director, and the director may issue such a waiver if the 5574
director determines that granting the grant is necessary to 5575
increase or retain employees in this state, and that the grant has 5576
not caused relocation of manufacturing machinery and equipment 5577
among counties within this state for the primary purpose of 5578
qualifying for the grant. 5579

(C)(1) Except as otherwise provided in division (C)(2) and 5580
division (I) of this section, the grant amount is equal to seven 5581
and one-half per cent of the excess of the cost of the new 5582
manufacturing machinery and equipment purchased during the 5583
calendar year for use in a county over the county average new 5584
manufacturing machinery and equipment investment for that county. 5585

(2) Subject to division (I) of this section, as used in 5586
division (C)(2) of this section, "county excess" means the 5587
taxpayer's excess cost for a county as computed under division 5588
(C)(1) of this section. 5589

Subject to division (I) of this section, a taxpayer with a 5590
county excess, whose purchases included purchases for use in any 5591

eligible area in the county, the grant amount is equal to thirteen 5592
and one-half per cent of the cost of the new manufacturing 5593
machinery and equipment purchased during the calendar year for use 5594
in the eligible areas in the county, provided that the cost 5595
subject to the thirteen and one-half per cent rate shall not 5596
exceed the county excess. If the county excess is greater than the 5597
cost of the new manufacturing machinery and equipment purchased 5598
during the calendar year for use in eligible areas in the county, 5599
the grant amount also shall include an amount equal to seven and 5600
one-half per cent of the amount of the difference. 5601

(3) If a taxpayer is allowed a grant for purchases of new 5602
manufacturing machinery and equipment in more than one county or 5603
eligible area, it shall aggregate the amount of those grants each 5604
year. 5605

(4) Except as provided in division (J) of this section, the 5606
taxpayer shall claim one-seventh of the grant amount for the 5607
taxable year ending in the calendar year in which the new 5608
manufacturing machinery and equipment is purchased for use in the 5609
county by the taxpayer or partnership. One-seventh of the taxpayer 5610
grant amount is allowed for each of the six ensuing taxable years. 5611
Except for carried-forward amounts, the taxpayer is not allowed 5612
any grant amount remaining if the new manufacturing machinery and 5613
equipment is sold by the taxpayer or partnership or is transferred 5614
by the taxpayer or partnership out of the county before the end of 5615
the seven-year period unless, at the time of the sale or transfer, 5616
the new manufacturing machinery and equipment has been fully 5617
depreciated for federal income tax purposes. 5618

(5)(a) A taxpayer that acquires manufacturing machinery and 5619
equipment as a result of a merger with the taxpayer with whom 5620
commenced the original use in this state of the manufacturing 5621
machinery and equipment, or with a taxpayer that was a partner in 5622
a partnership with whom commenced the original use in this state 5623

of the manufacturing machinery and equipment, is entitled to any 5624
remaining or carried-forward grant amounts to which the taxpayer 5625
was entitled. 5626

(b) A taxpayer that enters into an agreement under division 5627
(C)(3) of section 5709.62 of the Revised Code and that acquires 5628
manufacturing machinery or equipment as a result of purchasing a 5629
large manufacturing facility, as defined in section 5709.61 of the 5630
Revised Code, from another taxpayer with whom commenced the 5631
original use in this state of the manufacturing machinery or 5632
equipment, and that operates the large manufacturing facility so 5633
purchased, is entitled to any remaining or carried-forward grant 5634
amounts to which the other taxpayer who sold the facility would 5635
have been entitled under this section had the other taxpayer not 5636
sold the manufacturing facility or equipment. 5637

(c) New manufacturing machinery and equipment is not 5638
considered sold if a pass-through entity transfers to another 5639
pass-through entity substantially all of its assets as part of a 5640
plan of reorganization under which substantially all gain and loss 5641
is not recognized by the pass-through entity that is transferring 5642
the new manufacturing machinery and equipment to the transferee 5643
and under which the transferee's basis in the new manufacturing 5644
machinery and equipment is determined, in whole or in part, by 5645
reference to the basis of the pass-through entity that transferred 5646
the new manufacturing machinery and equipment to the transferee. 5647

(d) Division (C)(5) of this section applies only if the 5648
acquiring taxpayer or transferee does not sell the new 5649
manufacturing machinery and equipment or transfer the new 5650
manufacturing machinery and equipment out of the county before the 5651
end of the seven-year period to which division (C)(4) of this 5652
section refers. 5653

(e) Division (C)(5)(b) of this section applies only to the 5654
extent that the taxpayer that sold the manufacturing machinery or 5655

equipment, upon request, timely provides to the tax commissioner 5656
any information that the tax commissioner considers to be 5657
necessary to ascertain any remaining or carried-forward amounts to 5658
which the taxpayer that sold the facility would have been entitled 5659
under this section had the taxpayer not sold the manufacturing 5660
machinery or equipment. Nothing in division (C)(5)(b) or (e) of 5661
this section shall be construed to allow a taxpayer to claim any 5662
grant amount with respect to the acquired manufacturing machinery 5663
or equipment that is greater than the amount that would have been 5664
available to the other taxpayer that sold the manufacturing 5665
machinery or equipment had the other taxpayer not sold the 5666
manufacturing machinery or equipment. 5667

(D) The taxpayer shall claim the grant allowed by this 5668
section in the manner provided by section 122.172 of the Revised 5669
Code. Any portion of the grant in excess of the taxpayer's tax 5670
liability for the taxable year shall not be refundable but may be 5671
carried forward for the next three consecutive taxable years. 5672

(E) A taxpayer purchasing new manufacturing machinery and 5673
equipment and intending to claim the grant shall file, with the 5674
director of development, a notice of intent to claim the grant on 5675
a form prescribed by the director of development. The director of 5676
development shall inform the tax commissioner of the notice of 5677
intent to claim the grant. No grant may be claimed under this 5678
section for any manufacturing machinery and equipment with respect 5679
to which a notice was not filed by the date of a timely filed 5680
return, including extensions, for the taxable year that includes 5681
September 30, 2005, but a notice filed on or before such date 5682
under division (E) of section 5733.33 of the Revised Code of the 5683
intent to claim the credit under that section or section 5747.31 5684
of the Revised Code also shall be considered a notice of the 5685
intent to claim a grant under this section. 5686

(F) The director of development shall annually certify, by 5687

the first day of January of each year during the qualifying 5688
period, the eligible areas for the tax grant for the calendar year 5689
that includes that first day of January. The director shall send a 5690
copy of the certification to the tax commissioner. 5691

(G) New manufacturing machinery and equipment for which a 5692
taxpayer claims the credit under section 5733.31, 5733.311, 5693
5747.26, or 5747.261 of the Revised Code shall not be considered 5694
new manufacturing machinery and equipment for purposes of the 5695
grant under this section. 5696

(H)(1) Notwithstanding sections 5733.11 and 5747.13 of the 5697
Revised Code, but subject to division (H)(2) of this section, the 5698
tax commissioner may issue an assessment against a person with 5699
respect to a grant claimed under this section for new 5700
manufacturing machinery and equipment described in division 5701
(A)(1)(b) or (2)(b) of this section, if the machinery or equipment 5702
subsequently does not qualify for the grant. 5703

(2) Division (H)(1) of this section shall not apply after the 5704
twenty-fourth month following the last day of the period described 5705
in divisions (A)(1)(b) and (2)(b) of this section. 5706

(I) Notwithstanding any other provision of this section to 5707
the contrary, in the case of a qualifying controlled group, the 5708
grant available under this section to a taxpayer or taxpayers in 5709
the qualifying controlled group shall be computed as if all 5710
corporations in the group were a single corporation. The grant 5711
shall be allocated to such a taxpayer or taxpayers in the group in 5712
any amount elected for the taxable year by the group. The election 5713
shall be revocable and amendable during the period described in 5714
division (B) of section 5733.12 of the Revised Code. 5715

This division applies to all purchases of new manufacturing 5716
machinery and equipment made on or after January 1, 2001, and to 5717
all baseline years used to compute any grant attributable to such 5718

purchases; provided, that this division may be applied solely at 5719
the election of the qualifying controlled group with respect to 5720
all purchases of new manufacturing machinery and equipment made 5721
before that date, and to all baseline years used to compute any 5722
grant attributable to such purchases. The qualifying controlled 5723
group at any time may elect to apply this division to purchases 5724
made prior to January 1, 2001, subject to the following: 5725

(1) The election is irrevocable; 5726

(2) The election need not accompany a timely filed report, 5727
but the election may accompany a subsequently filed but timely 5728
application for refund, a subsequently filed but timely amended 5729
report, or a subsequently filed but timely petition for 5730
reassessment. 5731

(J) Except as provided in division (B) of section 122.172 of 5732
the Revised Code, no grant under this section may be claimed for 5733
any taxable year for which a credit is allowed under section 5734
5733.33 or 5747.31 of the Revised Code. If the tax imposed by 5735
section 5733.06 of the Revised Code for which a grant is allowed 5736
under this section has been prorated under division (G)(2) of 5737
section 5733.01 of the Revised Code, the grant shall be prorated 5738
by the same percentage as the tax. 5739

Sec. 122.18. (A) As used in this section: 5740

(1) "Facility" means all real property and interests in real 5741
property owned by a either of the following: 5742

(a) A landlord and leased to a tenant pursuant to a project 5743
that is the subject of an agreement under this section; 5744

(b) The United States or any department, agency, or 5745
instrumentality of the United States. 5746

(2) "Full-time employee" has the same meaning as under 5747
section 122.17 of the Revised Code+. 5748

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

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

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

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

(7) "Tenant" means the United States, any department, agency, or instrumentality of the United States, or any person under contract with the United States or any department, agency, or instrumentality of the United States.

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

(C) A landlord that proposes a project to create new jobs in this state or retain jobs in this state at an existing facility

recommended for closure or realignment to the base realignment and 5780
closure commission in the United States department of defense may 5781
apply to the tax credit authority to enter into an agreement for 5782
annual payments under this section. The director of development 5783
shall prescribe the form of the application. After receipt of an 5784
application, the authority may enter into an agreement with the 5785
landlord for annual payments under this section if it determines 5786
all of the following: 5787

(1) The project will create new jobs in this state+ or retain 5788
jobs at a facility recommended for closure or realignment to the 5789
base realignment and closure commission in the United States 5790
department of defense. 5791

(2) The project is economically sound and will benefit the 5792
people of this state by increasing opportunities for employment 5793
and strengthening the economy of this state+. 5794

(3) Receiving the annual payments will be a major factor in 5795
the decision of the landlord and tenant to go forward with the 5796
project. 5797

(D) An agreement with a landlord for annual payments shall 5798
include all of the following: 5799

(1) A description of the project that is the subject of the 5800
agreement; 5801

(2) The term of the agreement, which shall not exceed twenty 5802
years; 5803

(3) Based on the estimated new income tax revenue or retained 5804
income tax revenue, as applicable, to be derived from the facility 5805
at the time the agreement is entered into, provision for a 5806
guaranteed payment to the landlord commencing with the issuance by 5807
the landlord of any bonds or other forms of financing for the 5808
construction of the facility and continuing for the term approved 5809
by the authority; 5810

(4) Provision for offsets to this state of the annual payment 5811
in years in which such annual payment is greater than the 5812
guaranteed payment of amounts previously paid by this state to the 5813
landlord in excess of the new income tax revenue or retained 5814
income tax revenue, as applicable, by reason of the guaranteed 5815
payment; 5816

(5) A specific method for determining how many new employees 5817
are employed during a year; 5818

(6) A requirement that the landlord annually shall obtain 5819
from the tenant and report to the director of development the 5820
number of new employees, and the new income tax revenue withheld 5821
in connection with the new employees, or the number of retained 5822
employees and the retained income tax revenue withheld in 5823
connection with the retained employees, as applicable, and any 5824
other information the director needs to perform the director's 5825
duties under this section; 5826

(7) A requirement that the director of development annually 5827
shall verify the amounts reported under division (D)(6) of this 5828
section, and after doing so shall issue a certificate to the 5829
landlord stating that the amounts have been verified. 5830

(E) The director of development, in accordance with Chapter 5831
119. of the Revised Code, shall adopt rules necessary to implement 5832
this section. 5833

Sec. 122.40. (A) There is hereby created the development 5834
financing advisory council to assist in carrying out the programs 5835
created pursuant to sections 122.39 to 122.62 and Chapter 166. of 5836
the Revised Code. 5837

(B) The council shall consist of seven members appointed by 5838
the governor, with the advice and consent of the senate, who are 5839
selected for their knowledge of and experience in economic 5840

development financing, one member of the senate appointed by the 5841
president of the senate, one member of the house of 5842
representatives appointed by the speaker of the house of 5843
representatives, and the director of development or the director's 5844
designee. With respect to the council: 5845

(1) No more than four members of the council appointed by the 5846
governor shall be members of the same political party. 5847

(2) Each member shall hold office from the date of the 5848
member's appointment until the end of the term for which the 5849
member was appointed. 5850

(3) The terms of office for the seven members appointed by 5851
the governor shall be for five years commencing on the first day 5852
of January and ending on the thirty-first day of December. The 5853
seven members appointed by the governor who are serving terms of 5854
office of seven years on ~~the effective date of this amendment~~ 5855
December 30, 2004, shall continue to serve those terms, but their 5856
successors in office, including the filling of a vacancy occurring 5857
prior to the expiration of those terms, shall be appointed for 5858
terms of five years in accordance with this division. 5859

(4) Any member of the council is eligible for reappointment. 5860

(5) As a term of a member of the council appointed by the 5861
governor expires, the governor shall appoint a successor with the 5862
advice and consent of the senate. 5863

(6) Except as otherwise provided in division (B)(3) of this 5864
section, any member appointed to fill a vacancy occurring prior to 5865
the expiration of the term for which the member's predecessor was 5866
appointed shall hold office for the remainder of the predecessor's 5867
term. 5868

(7) Any member shall continue in office subsequent to the 5869
expiration date of the member's term until the member's successor 5870
takes office, or until a period of sixty days has elapsed, 5871

whichever occurs first. 5872

(8) Before entering upon duties as a member of the council, 5873
each member shall take an oath provided by Section 7 of Article 5874
XV, Ohio Constitution. 5875

(9) The governor may, at any time, remove any nonlegislative 5876
member pursuant to section 3.04 of the Revised Code. 5877

(10) Members of the council, notwithstanding section 101.26 5878
of the Revised Code with respect to members who are members of the 5879
general assembly, shall receive their necessary and actual 5880
expenses while engaged in the business of the council and shall be 5881
paid at the per diem rate of step 1, pay range 31, of section 5882
124.15 of the Revised Code. 5883

(11) ~~Four~~ Six members of the council constitute a quorum and 5884
the affirmative vote of six members is necessary for any action 5885
taken by the council. 5886

(12) In the event of the absence of a member appointed by the 5887
president of the senate or by the speaker of the house of 5888
representatives, the following persons may serve in the member's 5889
absence: the president of the senate or the speaker of the house, 5890
as the case may be, or a member of the senate or of the house of 5891
representatives, of the same political party as the development 5892
financing advisory council member, designated by the president of 5893
the senate or the speaker of the house. 5894

Sec. 122.603. (A)(1) Upon approval by the director of 5895
development and after entering into a participation agreement with 5896
the department of development, a participating financial 5897
institution making a capital access loan shall establish a program 5898
reserve account. The account shall be an interest-bearing account 5899
and shall contain only moneys deposited into it under the program 5900
and the interest payable on the moneys in the account. 5901

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

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

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

(D) ~~On~~ Upon receipt of each of the first three certifications

from a participating financial institution made under division (C) 5934
of this section and subject to section 122.602 of the Revised 5935
Code, the director shall disburse to the participating financial 5936
institution from the capital access loan program fund an amount 5937
equal to fifty per cent of the principal amount of the particular 5938
capital access loan for deposit into the participating financial 5939
institution's program reserve account. Thereafter, upon receipt of 5940
a certification from that participating financial institution made 5941
under division (C) of this section and subject to section 122.602 5942
of the Revised Code, the director shall disburse to the 5943
participating financial institution from the capital access loan 5944
program fund an amount equal to ten per cent of the principal 5945
amount of the particular capital access loan for deposit into the 5946
participating financial institution's program reserve account. The 5947
disbursement of moneys from the fund to a participating financial 5948
institution does not require approval from the controlling board. 5949

(E) If the amount in a program reserve account exceeds an 5950
amount equal to thirty-three per cent of a participating financial 5951
institution's outstanding capital access loans, the department may 5952
cause the withdrawal of the excess amount and the deposit of the 5953
withdrawn amount into the capital access loan program fund. 5954

(F)(1) The department may cause the withdrawal of the total 5955
amount in a participating financial institution's program reserve 5956
account if any of the following applies: 5957

(a) The financial institution is no longer eligible to 5958
participate in the program. 5959

(b) The participation agreement expires without renewal by 5960
the department or the financial institution. 5961

(c) The financial institution has no outstanding capital 5962
access loans. 5963

(d) The financial institution has not made a capital access 5964

loan within the preceding twenty-four months. 5965

(2) If the department causes a withdrawal under division 5966
(F)(1) of this section, the department shall deposit the withdrawn 5967
amount into the capital access loan program fund. 5968

Sec. 122.71. As used in sections 122.71 to 122.83 of the 5969
Revised Code: 5970

(A) "Financial institution" means any banking corporation, 5971
trust company, insurance company, savings and loan association, 5972
building and loan association, or corporation, partnership, 5973
federal lending agency, foundation, or other institution engaged 5974
in lending or investing funds for industrial or business purposes. 5975

(B) "Project" means any real or personal property connected 5976
with or being a part of an industrial, distribution, commercial, 5977
or research facility to be acquired, constructed, reconstructed, 5978
enlarged, improved, furnished, or equipped, or any combination 5979
thereof, with the aid provided under sections 122.71 to 122.83 of 5980
the Revised Code, for industrial, commercial, distribution, and 5981
research development of the state. 5982

(C) "Mortgage" means the lien imposed on a project by a 5983
mortgage on real property, or by financing statements on personal 5984
property, or a combination of a mortgage and financing statements 5985
when a project consists of both real and personal property. 5986

(D) "Mortgagor" means the principal user of a project or the 5987
person, corporation, partnership, or association unconditionally 5988
guaranteeing performance by the principal user of its obligations 5989
under the mortgage. 5990

(E)(1) "Minority business enterprise" means an individual who 5991
is a United States citizen and owns and controls a business, or a 5992
partnership, corporation, or joint venture of any kind that is 5993
owned and controlled by United States citizens, which citizen or 5994

citizens are residents of this state and are members of one of the 5995
following economically disadvantaged groups: Blacks or African 5996
Americans, American Indians, Hispanics or Latinos, and ~~Oriental~~ 5997
Asians. 5998

(2) "Owned and controlled" means that at least fifty-one per 5999
cent of the business, including corporate stock if a corporation, 6000
is owned by persons who belong to one or more of the groups set 6001
forth in division (E)(1) of this section, and that those owners 6002
have control over the management and day-to-day operations of the 6003
business and an interest in the capital, assets, and profits and 6004
losses of the business proportionate to their percentage of 6005
ownership. In order to qualify as a minority business enterprise, 6006
a business shall have been owned and controlled by those persons 6007
at least one year prior to being awarded a contract pursuant to 6008
this section. 6009

(F) "Community improvement corporation" means a corporation 6010
organized under Chapter 1724. of the Revised Code. 6011

(G) "Ohio development corporation" means a corporation 6012
organized under Chapter 1726. of the Revised Code. 6013

(H) "Minority contractors business assistance organization" 6014
means an entity engaged in the provision of management and 6015
technical business assistance to minority business enterprise 6016
entrepreneurs. 6017

(I) "Minority business supplier development council" means a 6018
nonprofit organization established as an affiliate of the national 6019
minority supplier development council. 6020

(J) "Regional economic development entity" means an entity 6021
that is under contract with the director of development to 6022
administer a loan program under this chapter in a particular area 6023
of the state. 6024

Sec. 122.72. (A) There is hereby created the minority 6025
development financing advisory board to assist in carrying out the 6026
programs created pursuant to sections 122.71 to ~~122.89~~ 122.90 of 6027
the Revised Code. 6028

(B) The board shall consist of ~~seven~~ ten members. The 6029
director of development or the director's designee shall be a 6030
voting member on the board. Seven members shall be appointed by 6031
the governor with the advice and consent of the senate and 6032
selected because of their knowledge of and experience in 6033
industrial, business, and commercial financing, suretyship, 6034
construction, and their understanding of the problems of minority 6035
business enterprises; one member also shall be a member of the 6036
senate and appointed by the president of the senate, and one 6037
member also shall be a member of the house of representatives and 6038
appointed by the speaker of the house of representatives. With 6039
respect to the board, all of the following apply: 6040

(1) Not more than four of the members of the board appointed 6041
by the governor shall be of the same political party. 6042

(2) Each member shall hold office from the date of the 6043
member's appointment until the end of the term for which the 6044
member was appointed. 6045

(3) The terms of office for the seven members appointed by 6046
the governor shall be for seven years, commencing on the first day 6047
of October and ending on the thirtieth day of September of the 6048
seventh year, except that of the original seven members, three 6049
shall be appointed for three years and two shall be appointed for 6050
five years. 6051

(4) Any member of the board is eligible for reappointment. 6052

(5) Any member appointed to fill a vacancy occurring prior to 6053
the expiration of the term for which ~~his~~ the member's predecessor 6054

was appointed shall hold office for the remainder of ~~his~~ the 6055
predecessor's term. 6056

(6) Any member shall continue in office subsequent to the 6057
expiration date of ~~his~~ the member's term until ~~his~~ the member's 6058
successor takes office, or until a period of sixty days has 6059
elapsed, whichever occurs first. 6060

(7) Before entering upon ~~his~~ official duties as a member of 6061
the board, each member shall take an oath as provided by Section 7 6062
of Article XV, Ohio Constitution. 6063

(8) The governor may, at any time, remove any member 6064
appointed by ~~him~~ the governor pursuant to section 3.04 of the 6065
Revised Code. 6066

(9) Notwithstanding section 101.26 of the Revised Code, 6067
members shall receive their necessary and actual expenses while 6068
engaged in the business of the board and shall be paid at the per 6069
diem rate of step 1 of pay range 31 of section 124.15 of the 6070
Revised Code. 6071

(10) ~~Five~~ Six members of the board constitute a quorum and 6072
the affirmative vote of ~~five~~ six members is necessary for any 6073
action taken by the board. 6074

(11) In the event of the absence of a member appointed by the 6075
president of the senate or by the speaker of the house of 6076
representatives, either of the following persons may serve in the 6077
member's absence: 6078

(a) The president of the senate or the speaker of the house 6079
of representatives, whoever appointed the absent member; 6080

(b) A member of the senate or of the house of representatives 6081
of the same political party as the absent member, as designated by 6082
the president of the senate or the speaker of the house of 6083
representatives, whoever appointed the absent member. 6084

(12) The board shall annually elect one of its members as 6085
~~chairman~~ chairperson and another as ~~vice-chairman~~ 6086
vice-chairperson. 6087

Sec. 122.73. (A) The minority development financing advisory 6088
board and the director of development are invested with the powers 6089
and duties provided in sections 122.71 to ~~122.89~~ 122.90 of the 6090
Revised Code, in order to promote the welfare of the people of the 6091
state by encouraging the establishment and expansion of minority 6092
business enterprises~~;~~i to stabilize the economy~~;~~i to provide 6093
employment~~;~~i to assist in the development within the state of 6094
industrial, commercial, distribution, and research activities 6095
required for the people of the state, and for their gainful 6096
employment~~;~~i or otherwise to create or preserve jobs and 6097
employment opportunities, or improve the economic welfare of the 6098
people of the state. It is hereby determined that the 6099
accomplishment of those purposes is essential so that the people 6100
of the state may maintain their present high standards of living 6101
in comparison with the people of other states and so that 6102
opportunities for employment and for favorable markets for the 6103
products of the state's natural resources, agriculture, and 6104
manufacturing shall be improved ~~and~~. It further is determined that 6105
it is necessary for the state to establish the programs authorized 6106
under sections 122.71 to ~~122.89~~ 122.90 of the Revised Code to 6107
establish the minority development financing advisory board, and 6108
to invest it and the director of development with the powers and 6109
duties provided in sections 122.71 to ~~122.89~~ 122.90 of the Revised 6110
Code. 6111

(B) The minority development financing advisory board shall 6112
do all of the following: 6113

(1) Make recommendations to the director as to applications 6114
for assistance pursuant to sections 122.71 to ~~122.89~~ 122.90 of the 6115

Revised Code. The board may revise its recommendations to reflect 6116
any changes in the proposed assistance made by the director. 6117

(2) Advise the director in the administration of sections 6118
122.71 to ~~122.89~~ 122.90 of the Revised Code. 6119

(3) Adopt bylaws to govern the conduct of the business of the 6120
board. 6121

Sec. 122.74. (A)(1) The director of development shall do all 6122
of the following: 6123

~~(1)~~(a) Receive applications for assistance under sections 6124
122.71 to ~~122.89~~ 122.90 of the Revised Code, and, after processing 6125
but subject to division (A)(2) of this section, forward them to 6126
the minority development financing advisory board together with 6127
necessary supporting information; 6128

~~(2)~~(b) Receive the recommendations of the board and make a 6129
final determination whether to approve the application for 6130
assistance; 6131

~~(3)~~(c) Receive recommendations from a regional economic 6132
development entity for loans made under section 122.76 of the 6133
Revised Code and make a final determination, notwithstanding 6134
divisions (A)(1) and (2) of this section, whether to approve the 6135
proposed loan; 6136

(d) Transmit the director's determinations to approve 6137
assistance to the controlling board together with any information 6138
the controlling board requires for its review and decision as to 6139
whether to approve the assistance. 6140

(2) The director is not required to submit any determination, 6141
data, terms, or any other application materials or information to 6142
the minority development financing advisory board when provision 6143
of the assistance has been recommended to the director by a 6144
regional economic development entity. 6145

- (B) The director may do all of the following: 6146
- (1) Fix the rate of interest and charges to be made upon or 6147
with respect to moneys loaned or guaranteed by the director and 6148
the terms upon which mortgages and lease rentals may be guaranteed 6149
and the rates of charges to be made for them and make provisions 6150
for the operation of the funds established by the director in 6151
accordance with this section and sections 122.80 ~~and~~, 122.88, and 6152
122.90 of the Revised Code; 6153
- (2) Loan and guarantee moneys from the fund established in 6154
accordance with section 122.80 of the Revised Code pursuant to and 6155
in compliance with sections 122.71 to ~~122.89~~ 122.90 of the Revised 6156
Code. 6157
- (3) Acquire in the name of the director any property of any 6158
kind or character in accordance with sections 122.71 to ~~122.89~~ 6159
122.90 of the Revised Code, by purchase, purchase at foreclosure, 6160
or exchange on such terms and in such manner as the director 6161
considers proper; 6162
- (4) Make and enter into all contracts and agreements 6163
necessary or incidental to the performance of the director's 6164
duties and the exercise of the director's powers under sections 6165
122.71 to ~~122.89~~ 122.90 of the Revised Code; 6166
- (5) Maintain, protect, repair, improve, and insure any 6167
property that the director has acquired and dispose of it by sale, 6168
exchange, or lease for the consideration and on the terms and in 6169
the manner as the director considers proper, but the director 6170
shall not operate any such property as a business except as the 6171
lessor of it; 6172
- (6)(a) When the cost of any contract for the maintenance, 6173
protection, repair, or improvement of any property held by the 6174
director, other than compensation for personal services, involves 6175
an expenditure of more than fifty thousand dollars, the director 6176

shall make a written contract with the lowest responsive and 6177
responsible bidder in accordance with section 9.312 of the Revised 6178
Code after advertisement for not less than two consecutive weeks 6179
in a newspaper of general circulation in the county where such 6180
contract, or some substantial part of it, is to be performed, and 6181
in such other publications as the director determines, which 6182
notice shall state the general character of the work and the 6183
general character of the materials to be furnished, the place 6184
where plans and specifications therefor may be examined, and the 6185
time and place of receiving bids. 6186

(b) Each bid for a contract for the construction, demolition, 6187
alteration, repair, or reconstruction of an improvement shall 6188
contain the full name of every person interested in it and meet 6189
the requirements of section 153.54 of the Revised Code. 6190

(c) Each bid for a contract, except as provided in division 6191
(B)(6)(b) of this section, shall contain the full name of every 6192
person interested in it and shall be accompanied by bond or 6193
certified check on a solvent bank, in such amount as the director 6194
considers sufficient, that if the bid is accepted a contract will 6195
be entered into and the performance of the proposal secured. 6196

(d) The director may reject any and all bids. 6197

(e) A bond with good and sufficient surety, approved by the 6198
director, shall be required of every contractor awarded a contract 6199
except as provided in division (B)(6)(b) of this section, in an 6200
amount equal to at least fifty per cent of the contract price, 6201
conditioned upon faithful performance of the contract. 6202

(7) Employ or contract with financial consultants, 6203
appraisers, consulting engineers, superintendents, managers, 6204
construction and accounting experts, attorneys, and other 6205
employees and agents as are necessary in the director's judgment 6206
and fix their compensation; 6207

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

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

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

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

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

(2) Financial statements and other data submitted to the 6239
director by any corporation, partnership, or person in connection 6240
with financial assistance provided under sections 122.71 to ~~122.89~~ 6241
122.90 of the Revised Code, or any information taken from such 6242
statements or data for any purpose, shall not be open to public 6243
inspection. 6244

Sec. 122.75. The director of development shall, for the 6245
minority business development loan program ~~and~~, the minority 6246
business bonding program, and the minority business bond guarantee 6247
program under sections 122.87 to ~~122.89~~ 122.90 of the Revised 6248
Code, do all of the following: 6249

(A) Hire employees, consultants, and agents and fix their 6250
compensation; 6251

(B) Adopt bylaws and rules for the regulation of the business 6252
of the minority development financing advisory board; 6253

(C) Receive and accept grants, gifts, and contributions of 6254
money, property, labor, and other things of value, to be held, 6255
used, and applied only for the purpose for which the grants, 6256
gifts, and contributions are made, from individuals, private and 6257
public corporations, the United States or any agency of the United 6258
States, the state or any agency of the state, and any political 6259
subdivision of the state. The director may agree to repay any 6260
contribution of money or to return any property contributed or its 6261
value at such times, in ~~such~~ amounts, and on ~~such~~ terms and 6262
conditions, excluding the payment of interest, as the director 6263
determines at the time the contribution is made. The director may 6264
evidence the obligations by written contracts, subject to section 6265
122.76 of the Revised Code; provided, that the director shall not 6266
thereby incur indebtedness of or impose liability upon the state 6267
or any political subdivision. 6268

(D) Establish funds with the treasurer of state in addition 6269

to the minority business bonding fund created under section 122.88 6270
of the Revised Code; 6271

(E) Invest money in the funds the director establishes 6272
pursuant to division (D) of this section that is in excess of 6273
current needs, in notes, bonds, or other obligations that are 6274
direct obligations of or are guaranteed by the United States, or 6275
in certificates of deposit or withdrawable accounts of banks, 6276
trust companies, ~~and~~ or savings and loan associations organized 6277
under the laws of this state or the United States, and may credit 6278
the income or sell the investments at the director's discretion; 6279

(F) Acquire any property of any kind or character in 6280
accordance with sections 122.71 to 122.83 of the Revised Code, by 6281
purchase, purchase at foreclosure, or exchange on terms and in a 6282
manner the director considers proper; 6283

(G)(1) Maintain, protect, repair, improve, and insure any 6284
property the director has acquired and dispose of it by sale, 6285
exchange, or lease for the consideration and on terms and in a 6286
manner the director considers proper. The director may not operate 6287
any property as a business except as a lessor of the property. 6288
When the cost of any contract for the maintenance, protection, 6289
repair, or improvement of any property of the advisory board 6290
connected with the minority business development loan program, 6291
other than compensation for personal services, involves an 6292
expenditure of more than one thousand dollars, the director shall 6293
enter into a written contract with the lowest and best bidder 6294
after advertisement for not less than four consecutive weeks in a 6295
newspaper of general circulation in the county where the contract, 6296
or some substantial part of it, is to be performed, and in other 6297
publications as the director determines. The notice shall state 6298
the general character of the work and the general character of the 6299
materials to be furnished, the place where plans and 6300
specifications for the work and materials may be examined, and the 6301

time and place of receiving bids. 6302

(2) Each bid for a contract for the construction, demolition, 6303
alteration, repair, or reconstruction of an improvement shall 6304
contain the full name of every person interested in it and meet 6305
the requirements of section 153.54 of the Revised Code. 6306

(3) Each bid for a contract, except as provided in division 6307
(G)(2) of this section, shall contain the full name of every 6308
person interested in it and shall be accompanied by a bond or 6309
certified check on a solvent bank, in the amount of ten per cent 6310
of the bid, that if the bid is accepted a contract will be entered 6311
into and the performance of its proposal secured. The director may 6312
reject any or all bids. A bond with good and sufficient surety, 6313
approved by the director, shall be required of all contractors in 6314
an amount equal to at least one hundred per cent of the contract 6315
price, conditioned upon faithful performance of the contract. 6316

(H) Expend money appropriated to the department of 6317
development by the general assembly for the purposes of sections 6318
122.71 to 122.83 and 122.87 to ~~122.89~~ 122.90 of the Revised Code; 6319

(I) Do all acts and things necessary or proper to carry out 6320
the powers expressly granted and the duties imposed in sections 6321
122.71 to 122.83 and 122.87 to ~~122.89~~ 122.90 of the Revised Code. 6322

Sec. 122.751. The minority development financing advisory 6323
board or a regional economic development entity shall only 6324
consider an application for a loan from any applicant after a 6325
certification by the equal employment opportunity coordinator of 6326
the department of administrative services under division (B)(1) of 6327
section 123.151 of the Revised Code that the applicant is a 6328
minority business enterprise, or after a certification by the 6329
minority business supplier development council that the applicant 6330
is a minority business, and that the applicant satisfies all 6331
criteria regarding eligibility for assistance pursuant to section 6332

122.76 of the Revised Code. 6333

Sec. 122.76. (A) The director of development, with 6334
controlling board approval, may lend funds to minority business 6335
enterprises and to community improvement corporations, Ohio 6336
development corporations, minority contractors business assistance 6337
organizations, and minority business supplier development councils 6338
for the purpose of loaning funds to minority business enterprises 6339
and for the purpose of procuring or improving real or personal 6340
property, or both, for the establishment, location, or expansion 6341
of industrial, distribution, commercial, or research facilities in 6342
the state, if the director determines, in the director's sole 6343
discretion, that all of the following apply: 6344

(1) The project is economically sound and will benefit the 6345
people of the state by increasing opportunities for employment, by 6346
strengthening the economy of the state, or expanding minority 6347
business enterprises. 6348

(2) The proposed minority business enterprise borrower is 6349
unable to finance the proposed project through ordinary financial 6350
channels at comparable terms. 6351

(3) The value of the project is or, upon completion, will be 6352
at least equal to the total amount of the money expended in the 6353
procurement or improvement of the project, and one or more 6354
financial institutions or other governmental entities have loaned 6355
not less than thirty per cent of that amount. 6356

(4) The amount to be loaned by the director will not exceed 6357
sixty per cent of the total amount expended in the procurement or 6358
improvement of the project. 6359

(5) The amount to be loaned by the director will be 6360
adequately secured by a first or second mortgage upon the project 6361
or by mortgages, leases, liens, assignments, or pledges on or of 6362

other property or contracts as the director requires, and such 6363
mortgage will not be subordinate to any other liens or mortgages 6364
except the liens securing loans or investments made by financial 6365
institutions referred to in division (A)(3) of this section, and 6366
the liens securing loans previously made by any financial 6367
institution in connection with the procurement or expansion of all 6368
or part of a project. 6369

(B) Any proposed minority business enterprise borrower 6370
submitting an application for assistance under this section shall 6371
not have defaulted on a previous loan from the director, and no 6372
full or limited partner, major shareholder, or holder of an equity 6373
interest of the proposed minority business enterprise borrower 6374
shall have defaulted on a loan from the director. 6375

(C) The proposed minority business enterprise borrower shall 6376
demonstrate to the satisfaction of the director that it is able to 6377
successfully compete in the private sector if it obtains the 6378
necessary financial, technical, or managerial support and that 6379
support is available through the director, the minority business 6380
development office of the department of development, or other 6381
identified and acceptable sources. In determining whether a 6382
minority business enterprise borrower will be able to successfully 6383
compete, the director may give consideration to such factors as 6384
the successful completion of or participation in courses of study, 6385
recognized by the board of regents as providing financial, 6386
technical, or managerial skills related to the operation of the 6387
business, by the economically disadvantaged individual, owner, or 6388
partner, and the prior success of the individual, owner, or 6389
partner in personal, career, or business activities, as well as to 6390
other factors identified by the director. 6391

(D) The director shall not lend funds for the purpose of 6392
procuring or improving motor vehicles, ~~power driven vehieles,~~ 6393
~~office equipment, raw materials, small tools, supplies,~~ 6394

~~inventories,~~ or accounts receivable. 6395

Sec. 122.77. (A) The director of development with controlling 6396
board approval may make loan guarantees to small businesses and 6397
corporations for the purpose of guaranteeing loans made to small 6398
businesses by financial institutions for the purpose of procuring 6399
or improving real or personal property, or both, for the 6400
establishment, location, or expansion of industrial, distribution, 6401
commercial, or research facilities in the state, if the director 6402
determines, in ~~his~~ the director's sole discretion, that all of the 6403
following apply: 6404

(1) The project is economically sound and will benefit the 6405
people of the state by increasing opportunities for employment, by 6406
strengthening the economy of the state, or expanding minority 6407
business enterprises~~;~~. 6408

(2) The proposed small business borrower is unable to finance 6409
the proposed project through ordinary financial channels at 6410
comparable terms~~;~~. 6411

(3) The value of the project is, or upon completion of it 6412
will be, at least equal to the total amount of the money expended 6413
in the procurement or improvement of the project and of which 6414
amount one or more financial institutions or other governmental 6415
entities have loaned not less than thirty per cent~~;~~. 6416

(4) The amount to be guaranteed by the director will not 6417
exceed ~~fifty~~ eighty per cent of the total amount expended in the 6418
procurement or improvement of the project~~;~~. 6419

(5) The amount to be guaranteed by the director will be 6420
adequately secured by a first or second mortgage upon the project, 6421
or by mortgages, leases, liens, assignments, or pledges on or of 6422
other property or contracts as the director shall require and that 6423
such mortgage will not be subordinate to any other liens or 6424

mortgages except the liens securing loans or investments made by 6425
financial institutions referred to in division (A)(3) of this 6426
section, and the liens securing loans previously made by any 6427
financial institution in connection with the procurement or 6428
expansion of all or part of a project. 6429

(B) The proposed small business borrower shall not have 6430
defaulted on a previous loan or guarantee from the director, and 6431
no full or limited partner, or major shareholder, or holder of any 6432
equity interest of the proposed minority business enterprise 6433
borrower shall have defaulted on a loan or guarantee from the 6434
director. 6435

(C) The proposed small business borrower shall demonstrate to 6436
the satisfaction of the director that it is able to successfully 6437
compete in the private sector if it obtains the necessary 6438
financial, technical, or managerial support and that support is 6439
available through the director, the minority business development 6440
office of the department of development, or other identified and 6441
acceptable sources. In determining whether a small business 6442
borrower will be able to successfully compete, the director may 6443
give consideration to such factors as the successful completion of 6444
or participation in courses of study, recognized by the board of 6445
regents as providing financial, technical, or managerial skills 6446
related to the operation of the business, by the economically 6447
disadvantaged individual, owner, or partner, and the prior success 6448
of the individual, owner, or partner in personal, career, or 6449
business activities, as well as to other factors identified by the 6450
director. 6451

(D) The director shall not guarantee funds for the purpose of 6452
procuring or improving motor vehicles, ~~power driven vehicles,~~ 6453
~~office equipment, raw materials, small tools, supplies,~~ 6454
~~inventories,~~ or accounts receivable. 6455

Sec. 122.78. Fees, charges, rates of interest, times of 6456
payment of interest and principal, and other terms, conditions, 6457
and provisions of the loans and guarantees made by the director of 6458
development pursuant to sections 122.71 to ~~122.89~~ 122.90 of the 6459
Revised Code shall be such as the director determines to be 6460
appropriate and in furtherance of the purpose for which the loans 6461
and guarantees are made, but the mortgage lien securing any money 6462
loaned or guaranteed by the director may be subordinate to the 6463
mortgage lien securing any money loaned or invested by a financial 6464
institution, but shall be superior to that securing any money 6465
loaned or expended by any other corporation or person. The funds 6466
used in making these loans or guarantees shall be disbursed upon 6467
order of the director. 6468

Sec. 122.79. The exercise of the powers granted by sections 6469
122.71 to ~~122.89~~ 122.90 of the Revised Code, will be in all 6470
respects for the benefit of the people of the state, for the 6471
increase of their commerce and prosperity, for the increase and 6472
expansion of minority business enterprises, and for the 6473
improvement of conditions of employment, and will constitute the 6474
performance of essential governmental functions; therefore, the 6475
director of development shall not be required to pay any taxes 6476
upon any property or assets held by ~~him~~ the director, or upon any 6477
property acquired or used by ~~him~~ the director under sections 6478
122.71 to ~~122.89~~ 122.90 of the Revised Code, or upon the income 6479
from it, provided that this exemption shall not apply to any 6480
property held by the director while it is in the possession of a 6481
private person, partnership, or corporation and used for private 6482
purposes for profit, in which case such tax liability shall accrue 6483
to ~~such~~ the private person, partnership, or corporation. 6484

Sec. 122.82. All moneys, funds, properties, and assets 6485

acquired by the director of development shall be held by ~~him~~ the 6486
director in trust to carry out ~~his~~ the director's powers and 6487
duties, shall be used as provided in sections 122.71 to ~~122.89~~ 6488
122.90 of the Revised Code, and shall at no time be part of other 6489
public funds. 6490

Sec. 122.83. Any person who intentionally misrepresents that 6491
person's self as owning, controlling, operating, or participating 6492
in a minority business enterprise for the purpose of obtaining 6493
funds, contracts, subcontracts, services, or any other benefits 6494
under sections 122.71 to 122.85 or 122.87 to ~~122.89~~ 122.90 of the 6495
Revised Code is guilty of theft by deception, pursuant to section 6496
2913.02 of the Revised Code. 6497

Sec. 122.95. As used in sections 122.95 to 122.952 of the 6498
Revised Code: 6499

(A) "Commercial or industrial areas" means areas ~~established~~ 6500
~~by a state, county, municipal, or other~~ zoned either commercial or 6501
industrial by the local zoning authority ~~as being most appropriate~~ 6502
~~for business, commerce, industry, or trade~~ or an area not zoned ~~by~~ 6503
~~state or local law, regulation, or ordinance~~, but in which there 6504
is located one or more commercial or industrial activities. 6505

(B) "Eligible county" means any of the following: 6506

(1) A county designated as being in the "Appalachian region" 6507
under the "Appalachian Regional Development Act of 1965," 79 Stat. 6508
5, 40 U.S.C. App. 403; 6509

(2) A county that is a "distressed area" as defined in 6510
section 122.16 of the Revised Code; 6511

(3) A county that within the previous calendar year has had a 6512
~~population of less than one hundred thousand according to the most~~ 6513
~~recent federal decennial census and in which three hundred fifty~~ 6514
~~or more residents of the county were, during the most recently~~ 6515

~~completed calendar year, permanently or temporarily terminated~~ 6516
~~from a private sector employment position for any reason not~~ 6517
~~reflecting discredit on the employee;~~ 6518

~~(4) A county that has a population of one hundred thousand or~~ 6519
~~more according to the most recent federal decennial census and in~~ 6520
~~which one thousand or more residents of the county were, during~~ 6521
~~the most recently completed calendar year, permanently or~~ 6522
~~temporarily terminated from a private sector employment position~~ 6523
~~for any reason not reflecting discredit on the employee job loss~~ 6524
~~numbering two hundred or more of which one hundred or more are~~ 6525
~~manufacturing-related as reported in the notices prepared by the~~ 6526
~~department of job and family services pursuant to the "Worker~~ 6527
~~Adjustment and Retraining Notification Act," 102 Stat. 890 (1988),~~ 6528
~~29 U.S.C. 2101 et seq., as amended.~~ 6529

Sec. 122.951. (A) If the director of development determines 6530
that a grant from the industrial site improvement fund ~~will~~ may 6531
create new jobs or preserve existing jobs and employment 6532
opportunities in an eligible county, the director may grant up to 6533
~~one million~~ five hundred thousand dollars from the fund to the 6534
eligible county for the purpose of acquiring commercial or 6535
industrial land or buildings and making improvements to commercial 6536
or industrial areas within the eligible county, including, but not 6537
limited to: 6538

(1) Expanding, remodeling, renovating, and modernizing 6539
buildings, structures, and other improvements; 6540

(2) Remediating environmentally contaminated property on 6541
which hazardous substances exist under conditions that have caused 6542
or would cause the property to be identified as contaminated by 6543
the Ohio or United States environmental protection agency; and 6544

(3) Infrastructure improvements, including, but not limited 6545
to, site preparation, including building demolition and removal; 6546

streets, roads, bridges, and traffic control devices; parking lots 6547
and facilities; water and sewer lines and treatment plants; gas, 6548
electric, and telecommunications, including broadband, hook-ups; 6549
and water and railway access improvements. 6550

A grant awarded under this section shall provide not more 6551
than seventy-five per cent of the estimated total cost of the 6552
project for which an application is submitted under this section. 6553
In addition, not more than ten per cent of the amount of the grant 6554
shall be used to pay the costs of professional services related to 6555
the project. 6556

(B) An eligible county may apply to the director for a grant 6557
under this section in the form and manner prescribed by the 6558
director. The eligible county shall include on the application all 6559
information required by the director. The application shall 6560
require the eligible county to provide a detailed description of 6561
how the eligible county would use a grant to improve commercial or 6562
industrial areas within the eligible county, and to specify how a 6563
grant will lead to the creation of new jobs or the preservation of 6564
existing jobs and employment opportunities in the eligible county. 6565
The eligible county shall specify in the application the amount of 6566
the grant for which the eligible county is applying. 6567

(C) An eligible county that receives a grant under this 6568
section is not eligible for any additional grants from the 6569
industrial site improvement fund in the fiscal year in which the 6570
grant is received and in the subsequent fiscal year. 6571

(D) An eligible county may designate a port authority, 6572
community improvement corporation as defined in section 122.71 of 6573
the Revised Code, or other economic development entity that is 6574
located in the county to apply for a grant under this section. If 6575
a port authority, community improvement corporation, or other 6576
economic development entity is so designated, references to an 6577
eligible county in this section include references to the 6578

authority, corporation, or other entity. 6579

Sec. 123.01. (A) The department of administrative services, 6580
in addition to those powers enumerated in Chapters 124. and 125. 6581
of the Revised Code and provided elsewhere by law, shall exercise 6582
the following powers: 6583

(1) To prepare, or contract to be prepared, by licensed 6584
engineers or architects, surveys, general and detailed plans, 6585
specifications, bills of materials, and estimates of cost for any 6586
projects, improvements, or public buildings to be constructed by 6587
state agencies that may be authorized by legislative 6588
appropriations or any other funds made available therefor, 6589
provided that the construction of the projects, improvements, or 6590
public buildings is a statutory duty of the department. This 6591
section does not require the independent employment of an 6592
architect or engineer as provided by section 153.01 of the Revised 6593
Code in the cases to which that section applies nor affect or 6594
alter the existing powers of the director of transportation. 6595

(2) To have general supervision over the construction of any 6596
projects, improvements, or public buildings constructed for a 6597
state agency and over the inspection of materials previous to 6598
their incorporation into those projects, improvements, or 6599
buildings; 6600

(3) To make contracts for and supervise the construction of 6601
any projects and improvements or the construction and repair of 6602
buildings under the control of a state agency, except contracts 6603
for the repair of buildings under the management and control of 6604
the departments of public safety, job and family services, mental 6605
health, mental retardation and developmental disabilities, 6606
rehabilitation and correction, and youth services, the bureau of 6607
workers' compensation, the rehabilitation services commission, and 6608
boards of trustees of educational and benevolent institutions and 6609

except contracts for the construction of projects that do not 6610
require the issuance of a building permit or the issuance of a 6611
certificate of occupancy and that are necessary to remediate 6612
conditions at a hazardous waste facility, solid waste facility, or 6613
other location at which the director of environmental protection 6614
has reason to believe there is a substantial threat to public 6615
health or safety or the environment. These contracts shall be made 6616
and entered into by the directors of public safety, job and family 6617
services, mental health, mental retardation and developmental 6618
disabilities, rehabilitation and correction, and youth services, 6619
the administrator of workers' compensation, the rehabilitation 6620
services commission, ~~and~~ the boards of trustees of such 6621
institutions, and the director of environmental protection, 6622
respectively. All such contracts may be in whole or in part on 6623
unit price basis of maximum estimated cost, with payment computed 6624
and made upon actual quantities or units. 6625

(4) To prepare and suggest comprehensive plans for the 6626
development of grounds and buildings under the control of a state 6627
agency; 6628

(5) To acquire, by purchase, gift, devise, lease, or grant, 6629
all real estate required by a state agency, in the exercise of 6630
which power the department may exercise the power of eminent 6631
domain, in the manner provided by sections 163.01 to 163.22 of the 6632
Revised Code; 6633

(6) To make and provide all plans, specifications, and models 6634
for the construction and perfection of all systems of sewerage, 6635
drainage, and plumbing for the state in connection with buildings 6636
and grounds under the control of a state agency; 6637

(7) To erect, supervise, and maintain all public monuments 6638
and memorials erected by the state, except where the supervision 6639
and maintenance is otherwise provided by law; 6640

- (8) To procure, by lease, storage accommodations for a state agency; 6641
6642
- (9) To lease or grant easements or licenses for unproductive and unused lands or other property under the control of a state agency. Such leases, easements, or licenses shall be granted for a period not to exceed fifteen years and shall be executed for the state by the director of administrative services and the governor and shall be approved as to form by the attorney general, provided that leases, easements, or licenses may be granted to any county, township, municipal corporation, port authority, water or sewer district, school district, library district, health district, park district, soil and water conservation district, conservancy district, or other political subdivision or taxing district, or any agency of the United States government, for the exclusive use of that agency, political subdivision, or taxing district, without any right of sublease or assignment, for a period not to exceed fifteen years, and provided that the director shall grant leases, easements, or licenses of university land for periods not to exceed twenty-five years for purposes approved by the respective university's board of trustees wherein the uses are compatible with the uses and needs of the university and may grant leases of university land for periods not to exceed forty years for purposes approved by the respective university's board of trustees pursuant to section 123.77 of the Revised Code. 6643
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- (10) To lease office space in buildings for the use of a state agency; 6665
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- (11) To have general supervision and care of the storerooms, offices, and buildings leased for the use of a state agency; 6667
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- (12) To exercise general custodial care of all real property of the state; 6669
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- (13) To assign and group together state offices in any city 6671

in the state and to establish, in cooperation with the state 6672
agencies involved, rules governing space requirements for office 6673
or storage use; 6674

(14) To lease for a period not to exceed forty years, 6675
pursuant to a contract providing for the construction thereof 6676
under a lease-purchase plan, buildings, structures, and other 6677
improvements for any public purpose, and, in conjunction 6678
therewith, to grant leases, easements, or licenses for lands under 6679
the control of a state agency for a period not to exceed forty 6680
years. The lease-purchase plan shall provide that at the end of 6681
the lease period, the buildings, structures, and related 6682
improvements, together with the land on which they are situated, 6683
shall become the property of the state without cost. 6684

(a) Whenever any building, structure, or other improvement is 6685
to be so leased by a state agency, the department shall retain 6686
either basic plans, specifications, bills of materials, and 6687
estimates of cost with sufficient detail to afford bidders all 6688
needed information or, alternatively, all of the following plans, 6689
details, bills of materials, and specifications: 6690

(i) Full and accurate plans suitable for the use of mechanics 6691
and other builders in the improvement; 6692

(ii) Details to scale and full sized, so drawn and 6693
represented as to be easily understood; 6694

(iii) Accurate bills showing the exact quantity of different 6695
kinds of material necessary to the construction; 6696

(iv) Definite and complete specifications of the work to be 6697
performed, together with such directions as will enable a 6698
competent mechanic or other builder to carry them out and afford 6699
bidders all needed information; 6700

(v) A full and accurate estimate of each item of expense and 6701
of the aggregate cost thereof. 6702

(b) The department shall give public notice, in such newspaper, in such form, and with such phraseology as the director of administrative services prescribes, published once each week for four consecutive weeks, of the time when and place where bids will be received for entering into an agreement to lease to a state agency a building, structure, or other improvement. The last publication shall be at least eight days preceding the day for opening the bids. The bids shall contain the terms upon which the builder would propose to lease the building, structure, or other improvement to the state agency. The form of the bid approved by the department shall be used, and a bid is invalid and shall not be considered unless that form is used without change, alteration, or addition. Before submitting bids pursuant to this section, any builder shall comply with Chapter 153. of the Revised Code.

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

bureau and the secretary of state have made the certifications 6736
required by this section of the builder who has submitted the 6737
lowest and best bid. Within ten days of the completion of the 6738
investigation of the bids, the department shall award the lease 6739
agreement to the builder who has submitted the lowest and best bid 6740
and who has been certified by the bureau and secretary of state as 6741
required by this section. If bidding for the lease agreement has 6742
been conducted upon the basis of basic plans, specifications, 6743
bills of materials, and estimates of costs, upon the award to the 6744
builder the department, or the builder with the approval of the 6745
department, shall appoint an architect or engineer licensed in 6746
this state to prepare such further detailed plans, specifications, 6747
and bills of materials as are required to construct the building, 6748
structure, or improvement. The department shall adopt such rules 6749
as are necessary to give effect to this section. The department 6750
may reject any bid. Where there is reason to believe there is 6751
collusion or combination among bidders, the bids of those 6752
concerned therein shall be rejected. 6753

(15) To acquire by purchase, gift, devise, or grant and to 6754
transfer, lease, or otherwise dispose of all real property 6755
required to assist in the development of a conversion facility as 6756
defined in section 5709.30 of the Revised Code as that section 6757
existed before its repeal by Amended Substitute House Bill 95 of 6758
the 125th general assembly; 6759

(16) To lease for a period not to exceed forty years, 6760
notwithstanding any other division of this section, the 6761
state-owned property located at 408-450 East Town Street, 6762
Columbus, Ohio, formerly the state school for the deaf, to a 6763
developer in accordance with this section. "Developer," as used in 6764
this section, has the same meaning as in section 123.77 of the 6765
Revised Code. 6766

Such a lease shall be for the purpose of development of the 6767

land for use by senior citizens by constructing, altering, 6768
renovating, repairing, expanding, and improving the site as it 6769
existed on June 25, 1982. A developer desiring to lease the land 6770
shall prepare for submission to the department a plan for 6771
development. Plans shall include provisions for roads, sewers, 6772
water lines, waste disposal, water supply, and similar matters to 6773
meet the requirements of state and local laws. The plans shall 6774
also include provision for protection of the property by insurance 6775
or otherwise, and plans for financing the development, and shall 6776
set forth details of the developer's financial responsibility. 6777

The department may employ, as employees or consultants, 6778
persons needed to assist in reviewing the development plans. Those 6779
persons may include attorneys, financial experts, engineers, and 6780
other necessary experts. The department shall review the 6781
development plans and may enter into a lease if it finds all of 6782
the following: 6783

(a) The best interests of the state will be promoted by 6784
entering into a lease with the developer; 6785

(b) The development plans are satisfactory; 6786

(c) The developer has established the developer's financial 6787
responsibility and satisfactory plans for financing the 6788
development. 6789

The lease shall contain a provision that construction or 6790
renovation of the buildings, roads, structures, and other 6791
necessary facilities shall begin within one year after the date of 6792
the lease and shall proceed according to a schedule agreed to 6793
between the department and the developer or the lease will be 6794
terminated. The lease shall contain such conditions and 6795
stipulations as the director considers necessary to preserve the 6796
best interest of the state. Moneys received by the state pursuant 6797
to this lease shall be paid into the general revenue fund. The 6798

lease shall provide that at the end of the lease period the 6799
buildings, structures, and related improvements shall become the 6800
property of the state without cost. 6801

(17) To lease to any person any tract of land owned by the 6802
state and under the control of the department, or any part of such 6803
a tract, for the purpose of drilling for or the pooling of oil or 6804
gas. Such a lease shall be granted for a period not exceeding 6805
forty years, with the full power to contract for, determine the 6806
conditions governing, and specify the amount the state shall 6807
receive for the purposes specified in the lease, and shall be 6808
prepared as in other cases. 6809

(18) To manage the use of space owned and controlled by the 6810
department, including space in property under the jurisdiction of 6811
the Ohio building authority, by doing all of the following: 6812

(a) Biennially implementing, by state agency location, a 6813
census of agency employees assigned space; 6814

(b) Periodically in the discretion of the director of 6815
administrative services: 6816

(i) Requiring each state agency to categorize the use of 6817
space allotted to the agency between office space, common areas, 6818
storage space, and other uses, and to report its findings to the 6819
department; 6820

(ii) Creating and updating a master space utilization plan 6821
for all space allotted to state agencies. The plan shall 6822
incorporate space utilization metrics. 6823

(iii) Conducting a cost-benefit analysis to determine the 6824
effectiveness of state-owned buildings; 6825

(iv) Assessing the alternatives associated with consolidating 6826
the commercial leases for buildings located in Columbus. 6827

(c) Commissioning a comprehensive space utilization and 6828

capacity study in order to determine the feasibility of 6829
consolidating existing commercially leased space used by state 6830
agencies into a new state-owned facility. 6831

(B) This section and section 125.02 of the Revised Code shall 6832
not interfere with any of the following: 6833

(1) The power of the adjutant general to purchase military 6834
supplies, or with the custody of the adjutant general of property 6835
leased, purchased, or constructed by the state and used for 6836
military purposes, or with the functions of the adjutant general 6837
as director of state armories; 6838

(2) The power of the director of transportation in acquiring 6839
rights-of-way for the state highway system, or the leasing of 6840
lands for division or resident district offices, or the leasing of 6841
lands or buildings required in the maintenance operations of the 6842
department of transportation, or the purchase of real property for 6843
garage sites or division or resident district offices, or in 6844
preparing plans and specifications for and constructing such 6845
buildings as the director may require in the administration of the 6846
department; 6847

(3) The power of the director of public safety and the 6848
registrar of motor vehicles to purchase or lease real property and 6849
buildings to be used solely as locations to which a deputy 6850
registrar is assigned pursuant to division (B) of section 4507.011 6851
of the Revised Code and from which the deputy registrar is to 6852
conduct the deputy registrar's business, the power of the director 6853
of public safety to purchase or lease real property and buildings 6854
to be used as locations for division or district offices as 6855
required in the maintenance of operations of the department of 6856
public safety, and the power of the superintendent of the state 6857
highway patrol in the purchase or leasing of real property and 6858
buildings needed by the patrol, to negotiate the sale of real 6859
property owned by the patrol, to rent or lease real property owned 6860

or leased by the patrol, and to make or cause to be made repairs 6861
to all property owned or under the control of the patrol; 6862

(4) The power of the division of liquor control in the 6863
leasing or purchasing of retail outlets and warehouse facilities 6864
for the use of the division; 6865

(5) The power of the director of development to enter into 6866
leases of real property, buildings, and office space to be used 6867
solely as locations for the state's foreign offices to carry out 6868
the purposes of section 122.05 of the Revised Code; 6869

(6) The power of the director of environmental protection to 6870
enter into environmental covenants, to grant and accept easements, 6871
or to sell property pursuant to division (G) of section 3745.01 of 6872
the Revised Code. 6873

(C) Purchases for, and the custody and repair of, buildings 6874
under the management and control of the capitol square review and 6875
advisory board, the rehabilitation services commission, the bureau 6876
of workers' compensation, or the departments of public safety, job 6877
and family services, mental health, mental retardation and 6878
developmental disabilities, and rehabilitation and correction, and 6879
buildings of educational and benevolent institutions under the 6880
management and control of boards of trustees, are not subject to 6881
the control and jurisdiction of the department of administrative 6882
services. 6883

(D) Any instrument by which real property is acquired 6884
pursuant to this section shall identify the agency of the state 6885
that has the use and benefit of the real property as specified in 6886
section 5301.012 of the Revised Code. 6887

Sec. 123.152. (A) As used in this section, "EDGE business 6888
enterprise" means a sole proprietorship, association, partnership, 6889
corporation, limited liability corporation, or joint venture 6890

certified as a participant in the encouraging diversity, growth, 6891
and equity program by the director of administrative services 6892
under this section of the Revised Code. 6893

(B) The director of administrative services shall establish a 6894
business assistance program known as the encouraging diversity, 6895
growth, and equity program and shall adopt rules in accordance 6896
with Chapter 119. of the Revised Code to administer the program 6897
~~and~~ that do all of the following: 6898

(1) Establish procedures by which a sole proprietorship, 6899
association, partnership, corporation, limited liability 6900
corporation, or joint venture may apply for certification as an 6901
EDGE business enterprise; 6902

(2) ~~Establish~~ Except as provided in division (B)(14) of this 6903
section, establish agency procurement goals for contracting with 6904
EDGE business enterprises in the award of contracts under Chapters 6905
123., 125., and 153. of the Revised Code based on the availability 6906
of eligible program participants by region or geographic area, as 6907
determined by the director, and by standard industrial code or 6908
equivalent code classification. 6909

(a) Goals established under division (B)(2) of this section 6910
shall be based on a percentage level of participation and a 6911
percentage of contractor availability. 6912

(b) Goals established under division (B)(2) of this section 6913
shall be applied at the contract level, relative to an overall 6914
dollar goal for each state agency, in accordance with the 6915
following certification categories: construction, architecture, 6916
and engineering; professional services; goods and services; and 6917
information technology services. 6918

(3) Establish a system of certifying EDGE business 6919
enterprises based on a requirement that the business owner or 6920

owners show both social and economic disadvantage based on the 6921
following, as determined to be sufficient by the director: 6922

(a) Relative wealth of the business seeking certification as 6923
well as the personal wealth of the owner or owners of the 6924
business; 6925

(b) Social disadvantage based on any of the following: 6926

(i) A rebuttable presumption when the business owner or 6927
owners demonstrate membership in a racial minority group or show 6928
personal disadvantage due to color, ethnic origin, gender, 6929
physical disability, long-term residence in an environment 6930
isolated from the mainstream of American society, location in an 6931
area of high unemployment; 6932

(ii) Some other demonstration of personal disadvantage not 6933
common to other small businesses; 6934

(iii) By business location in a qualified census tract. 6935

(c) Economic disadvantage based on economic and business size 6936
thresholds and eligibility criteria designed to stimulate economic 6937
development through contract awards to businesses located in 6938
qualified census tracts. 6939

(4) Establish standards to determine when an EDGE business 6940
enterprise no longer qualifies for EDGE business enterprise 6941
certification; 6942

(5) Develop a process for evaluating and adjusting goals 6943
established by this section to determine what adjustments are 6944
necessary to achieve participation goals established by the 6945
director; 6946

(6) Establish a point system or comparable system to evaluate 6947
bid proposals to encourage EDGE business enterprises to 6948
participate in the procurement of professional design and 6949
information technology services; 6950

- (7) Establish a system to track data and analyze each certification category established under division (B)(2)(b) of this section; 6951
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6953
- (8) Establish a process to mediate complaints and to review EDGE business enterprise certification appeals; 6954
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- (9) Implement an outreach program to educate potential participants about the encouraging diversity, growth, and equity program; 6956
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- (10) Establish a system to assist state agencies in identifying and utilizing EDGE business enterprises in their contracting processes; 6959
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- (11) Implement a system of self-reporting by EDGE business enterprises as well as an on-site inspection process to validate the qualifications of an EDGE business enterprise; 6962
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- (12) Establish a waiver mechanism to waive program goals or participation requirements for those companies that, despite their best-documented efforts, are unable to contract with certified EDGE business enterprises; 6965
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- (13) Establish a process for monitoring overall program compliance in which equal employment opportunity officers primarily are responsible for monitoring their respective agencies; 6969
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- (14) Establish guidelines for state universities as defined in section 3345.011 of the Revised Code and the Ohio school facilities commission created in section 3318.30 of the Revised Code for awarding contracts pursuant to Chapters 153., 3318., and 3345. of the Revised Code to allow the universities and commission to establish agency procurement goals for contracting with EDGE business enterprises. 6973
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- (C) ~~Not later than December 31, 2003, the director of~~ 6980

~~administrative services shall prepare a detailed report to the~~ 6981
~~governor outlining and evaluating the progress made in~~ 6982
~~implementing the Business and personal financial information and~~ 6983
~~trade secrets submitted by encouraging diversity, growth, and~~ 6984
~~equity program applicants to the director pursuant to this section~~ 6985
~~are not public records for purposes of section 149.43 of the~~ 6986
~~Revised Code, unless the director presents the financial~~ 6987
~~information or trade secrets at a public hearing or public~~ 6988
~~proceeding regarding the applicant's eligibility to participate in~~ 6989
~~the program.~~ 6990

Sec. 123.17. (A) As used in this section, "institution of 6991
higher education" means a state university or college, as defined 6992
in section 3345.12 of the Revised Code, or a state community 6993
college. 6994

(B) ~~The~~ Not later than December 30, 2005, the state architect 6995
shall establish a local administration competency certification 6996
program to certify institutions of higher education to administer 6997
capital facilities projects pursuant to section 3345.51 of the 6998
Revised Code without the supervision, control, or approval of the 6999
department of administrative services. The program shall offer 7000
instruction in the administration of capital facilities projects 7001
for employees of institutions of higher education who are 7002
responsible for such administration and who are selected by their 7003
employing institutions to participate in the program. 7004

(C) The program shall provide instruction about the 7005
provisions of Chapters 9., 123., and 153. of the Revised Code and 7006
any rules or policies adopted by the department regarding the 7007
planning, design, and construction of capital facilities, 7008
including all of the following: 7009

(1) The planning, design, and construction process; 7010

(2) Contract requirements; 7011

(3) Construction management; 7012

(4) Project management. 7013

(D) The state architect shall award local administration 7014
competency certification to any institution of higher education if 7015
all of the following apply: 7016

(1) The institution applied for certification on a form and 7017
in a manner prescribed by the state architect. 7018

(2) The state architect determines that a sufficient number 7019
of the institution's employees, representing a sufficient number 7020
of employee classifications, responsible for the administration of 7021
capital facilities projects ~~has~~ have successfully completed the 7022
certification program to ensure that any capital facilities 7023
project undertaken by the institution will be administered 7024
successfully and in accordance with all provisions of the Revised 7025
Code, and the board of trustees of the institution provides 7026
written assurance to the state architect that the institution will 7027
select new employees to participate in the certification program 7028
as necessary to compensate for employee turnover. 7029

(3) The state architect determines that the employees of the 7030
institution enrolled in the program demonstrate successful 7031
completion of the competency certification training and a 7032
satisfactory level of knowledge of and competency in the 7033
requirements for administering capital facilities projects. 7034

(4) The institution pays the fee prescribed by division 7035
~~(E)~~(F) of this section. 7036

(5) The board of trustees of the institution provides written 7037
assurance to the state architect that the institution will conduct 7038
biennial audits of the institution's administration of capital 7039
facilities projects in accordance with division (C) of section 7040
3345.51 of the Revised Code. 7041

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

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

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

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

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

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

~~(F)~~(G) Nothing in this section shall prohibit an institution 7073
that administers a capital facilities project under section 7074
3345.51 of the Revised Code from requesting guidance or other 7075
services from the department of administrative services. 7076

Sec. 124.07. (A) The director of administrative services 7077
shall appoint ~~such~~ examiners, inspectors, clerks, and other 7078
assistants as ~~are~~ necessary to carry out sections 124.01 to 124.64 7079
of the Revised Code. The director may designate persons in or out 7080
of the official service of the state to serve as examiners or 7081
assistants under the director's direction. An examiner or 7082
assistant shall receive ~~such~~ the compensation for each day 7083
actually and necessarily spent in the discharge of duties as an 7084
examiner or assistant ~~as is determined by that~~ the director 7085
determines; provided, that, if ~~any such~~ the examiner or assistant 7086
is in the official service of the state or any political 7087
subdivision of the state, it shall be a part of the examiner's or 7088
assistant's official duties to render ~~such~~ those services in 7089
connection with ~~such~~ an examination without extra compensation. 7090

(B) Each state agency and each state-supported college ~~and~~ or 7091
university shall pay the cost of the services and facilities 7092
furnished to it by the department of administrative services that 7093
are necessary to provide and maintain payroll services as 7094
prescribed in section 125.21 of the Revised Code and state merit 7095
standards as prescribed in sections 124.01 to 124.64 of the 7096
Revised Code for the agency, or state-supported college, or 7097
university. If a municipal corporation chooses to use the services 7098
and facilities furnished by the department that are necessary to 7099
provide and maintain the standards so prescribed, the municipal 7100
corporation shall pay the cost of the services and facilities that 7101
the department furnishes to it. ~~Such~~ The charges against a state 7102
agency, a state-supported college or university, or a municipal 7103
corporation shall be computed on a reasonable cost basis in 7104

accordance with procedures prescribed by the director of budget 7105
and management. Any moneys the department ~~of administrative~~ 7106
~~services~~ receives from ~~any such~~ a state agency, a state-supported 7107
college, or university, or a municipal corporation ~~which under~~ 7108
this division that are in excess of the amount necessary to pay 7109
the cost of furnishing ~~such~~ the department's services and 7110
facilities during any fiscal year shall be either refunded to or 7111
credited for the ensuing fiscal year to the state agency, the 7112
state-supported college, or university, or the municipal 7113
corporation ~~that contributed the excess moneys.~~ 7114

(C) The director of administrative services may enter into an 7115
agreement with any municipal corporation or other political 7116
subdivision to furnish services and facilities of the department 7117
~~of administrative services~~ in the administration of ~~its~~ a merit 7118
program. ~~Such~~ The agreement shall provide that the department 7119
shall be reimbursed for the reasonable costs of ~~such~~ those 7120
services and facilities as determined by the director. 7121

(D) All moneys received by the department ~~of administrative~~ 7122
~~services~~ as reimbursement for payroll and merit program services 7123
performed and facilities furnished under this section shall be 7124
paid into the state treasury to the credit of the human resources 7125
services fund, which is hereby created. 7126

(E) In counties of the state in which are located cities 7127
having municipal civil service commissions, the director of of 7128
administrative services may designate the municipal civil service 7129
commission of the largest city within ~~such~~ the county as the 7130
director's agent for the purpose of carrying out ~~such~~ the 7131
provisions of sections 124.01 to 124.64 of the Revised Code, 7132
within ~~such counties~~ the county, ~~as that~~ the director designates. 7133
Each municipal civil service commission designated as an agent of 7134
the director shall render to the director, at the end of each 7135
month, ~~render~~ an itemized statement ~~to the director~~ of the cost 7136

incurred by ~~such~~ the commission for work done as the agent of the 7137
director, and the director ~~shall~~, after approving ~~such~~ that 7138
statement, shall pay the total amount of it to the treasurer of 7139
~~such~~ the municipal corporation in the same manner as other 7140
expenses of the department of administrative services. 7141

(F) The director, of administrative services and the 7142
examiners, inspectors, clerks, and assistants referred to in this 7143
section shall receive, in addition to their salaries, ~~receive~~ 7144
reimbursement for ~~such~~ necessary traveling and other expenses ~~as~~ 7145
~~are~~ incurred in the actual discharge of their official duties. The 7146
director may also incur the necessary expenses for stationery, 7147
printing, and other supplies incident to the business of the 7148
department ~~of administrative services~~. 7149

Sec. 124.321. (A) Whenever it becomes necessary for an 7150
appointing authority to reduce its work force, the appointing 7151
authority shall lay off employees or abolish their positions in 7152
accordance with sections 124.321 to 124.327 of the Revised Code 7153
and the rules of the director of administrative services. 7154

(B) (1) Employees may be laid off as a result of a lack of 7155
funds within an appointing authority. For appointing authorities 7156
~~which~~ that employ persons whose salary or wage is paid by warrant 7157
of the auditor of state, the director of budget and management 7158
shall be responsible for determining whether a lack of funds 7159
exists. For ~~all other~~ appointing authorities ~~which~~ that employ 7160
persons whose salary or wage is paid other than by warrant of the 7161
auditor of state, the appointing authority ~~shall~~ itself shall 7162
determine whether a lack of funds exists and shall file a 7163
statement of rationale and supporting documentation with the 7164
director of administrative services prior to sending the layoff 7165
notice. 7166

A (2) As used in this division, a "lack of funds" means an 7167

appointing authority has a current or projected deficiency of 7168
funding to maintain current, or to sustain projected, levels of 7169
staffing and operations. This section does not require any 7170
transfer of money between funds in order to offset a deficiency or 7171
projected deficiency of federal funding for a program. 7172

(3) The director of budget and management shall ~~promulgate~~ 7173
adopt rules, under Chapter 119. of the Revised Code, for agencies 7174
whose employees are paid by warrant of the auditor of state, for 7175
determining whether a lack of funds exists. 7176

(C)(1) Employees may be laid off as a result of lack of work 7177
within an appointing authority. For appointing authorities whose 7178
employees are paid by warrant of the auditor of state, the 7179
director of administrative services shall determine whether a lack 7180
of work exists. All other appointing authorities shall themselves 7181
determine whether a lack of work exists and shall file a statement 7182
of rationale and supporting documentation with the director of 7183
administrative services prior to sending the layoff notice ~~of~~ 7184
layoff. 7185

A (2) As used in this division, a "lack of work, ~~for purposes~~ 7186
~~of layoff,~~" means an appointing authority has a current or 7187
projected temporary decrease in the workload, expected to last 7188
less than one year, ~~which~~ that requires a reduction of current or 7189
projected staffing levels. The determination of a lack of work 7190
shall indicate the current or projected temporary decrease in the 7191
workload of an appointing authority and whether the current or 7192
projected staffing levels of the appointing authority will be 7193
excessive. 7194

(D)(1) Employees may be laid off as a result of abolishment 7195
of positions. ~~Abolishment~~ As used in this division, "abolishment" 7196
means the ~~permanent~~ deletion of a position or positions from the 7197
organization or structure of an appointing authority ~~due to lack~~ 7198
~~of continued need for the position. An~~ 7199

For purposes of this division, an appointing authority may 7200
abolish positions for any one or any combination of the following 7201
reasons: as a result of a reorganization for the efficient 7202
operation of the appointing authority, for reasons of economy, or 7203
for lack of work. ~~The determination of the need to abolish~~ 7204
~~positions shall indicate the lack of continued need for positions~~ 7205
~~within an appointing authority~~ 7206

(2)(a) Reasons of economy permitting an appointing authority 7207
to abolish a position and to lay off the holder of that position 7208
under this division shall be determined at the time the appointing 7209
authority proposes to abolish the position. The reasons of economy 7210
shall be based on the appointing authority's estimated amount of 7211
savings with respect to salary, benefits, and other matters 7212
associated with the abolishment of the position, except that the 7213
reasons of economy associated with the position's abolishment 7214
instead may be based on the appointing authority's estimated 7215
amount of savings with respect to salary and benefits only, if: 7216

(i) Either the appointing authority's operating appropriation 7217
has been reduced by an executive or legislative action, or the 7218
appointing authority has a current or projected deficiency in 7219
funding to maintain current or projected levels of staffing and 7220
operations; and 7221

(ii) It files a notice of the position's abolishment with the 7222
director of administrative services within one year of the 7223
occurrence of the applicable circumstance described in division 7224
(D)(2)(a)(i) of this section. 7225

(b) The following principles apply when a circumstance 7226
described in division (D)(2)(a)(i) of this section would serve to 7227
authorize an appointing authority to abolish a position and to lay 7228
off the holder of the position under this division based on the 7229
appointing authority's estimated amount of savings with respect to 7230
salary and benefits only: 7231

(i) The position's abolishment shall be done in good faith 7232
and not as a subterfuge for discipline. 7233

(ii) If a circumstance affects a specific program only, the 7234
appointing authority only may abolish a position within that 7235
program. 7236

(iii) If a circumstance does not affect a specific program 7237
only, the appointing authority may identify a position that it 7238
considers appropriate for abolishment based on the reasons of 7239
economy. Appointing authorities 7240

(3) Each appointing authority shall themselves determine 7241
itself whether any position should be abolished and shall file a 7242
statement of rationale and supporting documentation with the 7243
director of administrative services prior to sending the notice of 7244
abolishment. ~~If~~ 7245

If an abolishment results in a reduction of the work force, 7246
the appointing authority shall follow the procedures for laying 7247
off employees, subject to the following modifications: 7248

~~(1)~~(a) The employee whose position has been abolished shall 7249
have the right to fill an available vacancy within the employee's 7250
classification~~+~~. 7251

~~(2)~~(b) If the employee whose position has been abolished has 7252
more retention points than any other employee serving in the same 7253
classification, ~~then~~ the employee with the fewest retention points 7254
shall be displaced~~+~~. 7255

~~(3)~~(c) If the employee whose position has been abolished has 7256
the fewest retention points in the classification, the employee 7257
shall have the right to fill an available vacancy in a lower 7258
classification in the classification series~~+~~. 7259

~~(4)~~(d) If the employee whose position has been abolished has 7260
the fewest retention points in the classification, the employee 7261

shall displace the employee with the fewest retention points in 7262
the next or successively lower classification in the 7263
classification series. 7264

(E) The director of administrative services shall ~~promulgate~~ 7265
~~adopt~~ rules, under Chapter 119. of the Revised Code, for the 7266
determination of lack of work within an appointing authority, for 7267
the abolishment of positions by an appointing authority, and for 7268
the implementation of this section. 7269

Sec. 124.328. A classified employee may appeal a layoff, or a 7270
displacement ~~which~~ that is the result of a layoff, to the state 7271
personnel board of review. The appeal shall be filed or 7272
~~post-marked~~ postmarked no later than ten days after receipt of the 7273
layoff notice ~~of layoff~~ or after the date the employee is 7274
displaced. In cases involving the laying off of classified 7275
employees, the affected employee or appointing authority may 7276
appeal the decision of the state personnel board of review to the 7277
court of common pleas court. ~~The appeal from the state personnel~~ 7278
~~board of review shall be made~~ in accordance with section 119.12 of 7279
the Revised Code. 7280

Sec. 125.041. Nothing in sections 125.02, 125.03 to 125.08, 7281
125.12 to 125.16, 125.18, 125.31 to 125.76, or 125.831 of the 7282
Revised Code shall be construed as limiting the attorney general, 7283
auditor of state, secretary of state, or treasurer of state in any 7284
of the following: 7285

(A) Purchases for less than the dollar amounts for the 7286
purchase of supplies or services determined pursuant to division 7287
(D) of section 125.05 of the Revised Code; 7288

(B) Purchases that equal or exceed the dollar amounts for the 7289
purchase of supplies or services determined pursuant to division 7290
(D) of section 125.05 of the Revised Code with the approval of the 7291

controlling board, if that approval is required by section 127.16 7292
of the Revised Code; 7293

(C) The final determination of the nature or quantity making 7294
any purchase of supplies or services to be purchased pursuant to 7295
section 125.06 of the Revised Code; 7296

(D) The final determination and disposal of excess and 7297
surplus supplies; 7298

(E) The inventory of state property; 7299

(F) The purchase of printing; 7300

(G) The Activities related to information technology 7301
development and use; 7302

(H) The fleet management program. 7303

Sec. 125.05. Except as provided in division (E) of this 7304
section, no state agency shall purchase any supplies or services 7305
except as provided in divisions (A) to (C) of this section. 7306

(A) Subject to division (D) of this section, a state agency 7307
may, without competitive selection, make any purchase of services 7308
that cost fifty thousand dollars or less or any purchase of 7309
supplies that cost twenty-five thousand dollars or less. The 7310
agency may make the purchase directly or may make the purchase 7311
from or through the department of administrative services, 7312
whichever the agency determines. The department shall establish 7313
written procedures to assist state agencies when they make direct 7314
purchases. If the agency makes the purchase directly, it shall 7315
make the purchase by a term contract whenever possible. 7316

(B) Subject to division (D) of this section, a state agency 7317
wanting to purchase services that cost more than fifty thousand 7318
dollars or supplies that cost more than twenty-five thousand 7319
dollars shall, unless otherwise authorized by law, make the 7320
purchase from or through the department. The department shall make 7321

the purchase by competitive selection under section 125.07 of the Revised Code. If the director of administrative services determines that it is not possible or not advantageous to the state for the department to make the purchase, the department shall grant the agency a release and permit under section 125.06 of the Revised Code to make the purchase. Section 127.16 of the Revised Code does not apply to purchases the department makes under this section.

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

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

(2) Not be exceeded and the department of administrative services approves the purchase.

(D) Not later than January 31, 1997, the amounts specified in divisions (A) and (B) of this section and, not later than the thirty-first day of January of each second year thereafter, any amounts computed by adjustments made under this division, shall be increased or decreased by the average percentage increase or decrease in the consumer price index prepared by the United States bureau of labor statistics (U.S. City Average for Urban Wage Earners and Clerical Workers: "All Items 1982-1984=100") for the twenty-four calendar month period prior to the immediately preceding first day of January over the immediately preceding twenty-four calendar month period, as reported by the bureau. The director of administrative services shall make this determination and adjust the appropriate amounts accordingly.

(E) If the eTech Ohio ~~SchoolNet~~ commission, the department of

education, or the Ohio education computer network determines that 7353
it can purchase software services or supplies for specified school 7354
districts at a price less than the price for which the districts 7355
could purchase the same software services or supplies for 7356
themselves, the ~~office~~ commission, department, or network shall 7357
certify that fact to the department of administrative services 7358
and, acting as an agent for the specified school districts, shall 7359
make that purchase without following the provisions in divisions 7360
(A) to (D) of this section. 7361

Sec. 125.11. (A) Subject to division (B) of this section, 7362
contracts awarded pursuant to a reverse auction under section 7363
125.072 of the Revised Code or pursuant to competitive sealed 7364
bidding, including contracts awarded under section 125.081 of the 7365
Revised Code, shall be awarded to the lowest responsive and 7366
responsible bidder on each item in accordance with section 9.312 7367
of the Revised Code. When the contract is for meat products as 7368
defined in section 918.01 of the Revised Code or poultry products 7369
as defined in section 918.21 of the Revised Code, only those bids 7370
received from vendors offering products from establishments on the 7371
current list of meat and poultry vendors established and 7372
maintained by the director of administrative services under 7373
section 125.17 of the Revised Code shall be eligible for 7374
acceptance. The department of administrative services may accept 7375
or reject any or all bids in whole or by items, except that when 7376
the contract is for services or products available from a 7377
qualified nonprofit agency pursuant to sections 125.60 to 125.6012 7378
or 4115.31 to 4115.35 of the Revised Code, the contract shall be 7379
awarded to that agency. 7380

(B) Prior to awarding a contract under division (A) of this 7381
section, the department of administrative services or the state 7382
agency responsible for evaluating a contract for the purchase of 7383
products shall evaluate the bids received according to the 7384

criteria and procedures established pursuant to divisions (C)(1) 7385
and (2) of section 125.09 of the Revised Code for determining if a 7386
product is produced or mined in the United States and if a product 7387
is produced or mined in this state. The department or other state 7388
agency shall first remove bids that offer products that have not 7389
been or that will not be produced or mined in the United States. 7390
From among the remaining bids, the department or other state 7391
agency shall select the lowest responsive and responsible bid, in 7392
accordance with section 9.312 of the Revised Code, from among the 7393
bids that offer products that have been produced or mined in this 7394
state where sufficient competition can be generated within this 7395
state to ensure that compliance with these requirements will not 7396
result in an excessive price for the product or acquiring a 7397
disproportionately inferior product. If there are two or more 7398
qualified bids that offer products that have been produced or 7399
mined in this state, it shall be deemed that there is sufficient 7400
competition to prevent an excessive price for the product or the 7401
acquiring of a disproportionately inferior product. 7402

(C) Division (B) of this section applies to contracts for 7403
which competitive bidding is waived by the controlling board. 7404

(D) Division (B) of this section does not apply to the 7405
purchase by the division of liquor control of spirituous liquor. 7406

(E) The director of administrative services shall publish in 7407
the form of a model act for use by counties, townships, municipal 7408
corporations, or any other political subdivision described in 7409
division (B) of section 125.04 of the Revised Code, a system of 7410
preferences for products mined and produced in this state and in 7411
the United States and for Ohio-based contractors. The model act 7412
shall reflect substantial equivalence to the system of preferences 7413
in purchasing and public improvement contracting procedures under 7414
which the state operates pursuant to this chapter and section 7415
153.012 of the Revised Code. To the maximum extent possible, 7416

consistent with the Ohio system of preferences in purchasing and 7417
public improvement contracting procedures, the model act shall 7418
incorporate all of the requirements of the federal "Buy America 7419
Act," 47 Stat. 1520 (1933), 41 U.S.C. 10a to 10d, as amended, and 7420
the rules adopted under that act. 7421

Before and during the development and promulgation of the 7422
model act, the director shall consult with appropriate statewide 7423
organizations representing counties, townships, and municipal 7424
corporations so as to identify the special requirements and 7425
concerns these political subdivisions have in their purchasing and 7426
public improvement contracting procedures. The director shall 7427
promulgate the model act by rule adopted pursuant to Chapter 119. 7428
of the Revised Code and shall revise the act as necessary to 7429
reflect changes in this chapter or section 153.012 of the Revised 7430
Code. 7431

The director shall make available copies of the model act, 7432
supporting information, and technical assistance to any township, 7433
county, or municipal corporation wishing to incorporate the 7434
provisions of the act into its purchasing or public improvement 7435
contracting procedure. 7436

Sec. 125.18. (A) There is hereby established the office of 7437
information technology housed within the department of 7438
administrative services. The office shall be under the supervision 7439
of a chief information officer to be appointed by the governor and 7440
subject to removal at the pleasure of the governor. The chief 7441
information officer shall serve as the director of the office. 7442

(B) The director of the office of information technology 7443
shall advise the governor regarding the superintendence and 7444
implementation of statewide information technology policy. 7445

(C) The director of the office of information technology 7446
shall lead, oversee, and direct state agency activities related to 7447

information technology development and use. In that regard, the 7448
director shall do all of the following: 7449

(1) Coordinate and superintend statewide efforts to promote 7450
common use and development of technology by state agencies. The 7451
office of information technology shall establish policies and 7452
standards that govern and direct state agency participation in 7453
statewide programs and initiatives. 7454

(2) Establish policies and standards for the acquisition and 7455
use of information technology by state agencies, including, but 7456
not limited to, hardware, software, technology services, and 7457
security, with which state agencies shall comply; 7458

(3) Establish criteria and review processes to identify state 7459
agency information technology projects that require alignment or 7460
oversight. As appropriate, the office of information technology 7461
shall provide the governor and the director of budget and 7462
management with notice and advice regarding the appropriate 7463
allocation of resources for those projects. The director of the 7464
office of information technology may require state agencies to 7465
provide, and may prescribe the form and manner by which they must 7466
provide, information to fulfill the director's alignment and 7467
oversight role. 7468

(D) The office of information technology shall have the same 7469
authority given to the department of administrative services under 7470
sections 125.01, 125.02, 125.023, 125.04, 125.05, 125.06, 125.07, 7471
125.071, 125.072, 125.081, 125.09, 125.10, 125.11, and 125.25 of 7472
the Revised Code for the purchase of information technology 7473
supplies and services for state agencies. 7474

(E) The office of information technology may make contracts 7475
for, operate, and superintend technology supplies and services for 7476
state agencies in accordance with this chapter. 7477

(F) The office of information technology may establish 7478

cooperative agreements with federal and local government agencies 7479
and state agencies that are not under the authority of the 7480
governor for the provision of technology services and the 7481
development of technology projects. 7482

(G) As used in this section, "state agency" means every 7483
organized body, office, or agency established by the laws of the 7484
state for the exercise of any function of state government, other 7485
than any state-supported institution of higher education, the 7486
office of the auditor of state, treasurer of state, secretary of 7487
state, or attorney general, the public employees retirement 7488
system, the Ohio police and fire pension fund, the state teachers 7489
retirement system, the school employees retirement system, the 7490
state highway patrol retirement system, the general assembly or 7491
any legislative agency, or the courts or any judicial agency. 7492

Sec. 125.25. (A) The director of administrative services may 7493
debar a vendor from consideration for contract awards upon a 7494
finding based upon a reasonable belief that the vendor has done 7495
any of the following: 7496

(1) Abused the selection process by repeatedly withdrawing 7497
bids or proposals before purchase orders or contracts are issued 7498
or failing to accept orders based upon firm bids; 7499

(2) Failed to substantially perform a contract according to 7500
its terms, conditions, and specifications within specified time 7501
limits; 7502

(3) Failed to cooperate in monitoring contract performance by 7503
refusing to provide information or documents required in a 7504
contract, failed to respond to complaints to the vendor, or 7505
accumulated repeated justified complaints regarding performance of 7506
a contract; 7507

(4) Attempted to influence a public employee to breach 7508

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|--|--|
| <u>ethical conduct standards or to influence a contract award;</u> | 7509 |
| <u>(5) Colluded to restrain competition by any means;</u> | 7510 |
| <u>(6) Been convicted of a criminal offense related to the application for or performance of any public or private contract, including, but not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, and any other offense that directly reflects on the vendor's business integrity;</u> | 7511 7512 7513 7514 7515 7516 |
| <u>(7) Been convicted under state or federal antitrust laws;</u> | 7517 |
| <u>(8) Deliberately or willfully submitted false or misleading information in connection with the application for or performance of a public contract;</u> | 7518 7519 7520 |
| <u>(9) Violated any other responsible business practice or performed in an unsatisfactory manner as determined by the director;</u> | 7521 7522 7523 |
| <u>(10) Through the default of a contract or through other means had a determination of unresolved finding for recovery by the auditor of state under section 9.24 of the Revised Code;</u> | 7524 7525 7526 |
| <u>(11) Acted in such a manner as to be debarred from participating in a contract with any governmental agency.</u> | 7527 7528 |
| <u>(B) When the director reasonably believes that grounds for debarment exist, the director shall send the vendor a notice of proposed debarment indicating the grounds for the proposed debarment and the procedure for requesting a hearing on the proposed debarment. The hearing shall be conducted in accordance with Chapter 119. of the Revised Code. If the vendor does not respond with a request for a hearing in the manner specified in Chapter 119. of the Revised Code, the director shall issue the debarment decision without a hearing and shall notify the vendor of the decision by certified mail, return receipt requested.</u> | 7529 7530 7531 7532 7533 7534 7535 7536 7537 7538 |

(C) The director shall determine the length of the debarment 7539
period and may rescind the debarment at any time upon notification 7540
to the vendor. During the period of debarment, the vendor is not 7541
eligible to participate in any state contract. After the debarment 7542
period expires, the vendor shall be eligible to be awarded 7543
contracts by state agencies. (D) The director, through the office 7544
of information technology and the office of procurement services, 7545
shall maintain a list of all vendors currently debarred under this 7546
section. 7547

Sec. 125.60. As used in sections 125.60 to 125.6012 of the 7548
Revised Code: 7549

(A) "Community rehabilitation program" means an agency that: 7550

(1) Is organized under the laws of the United States or this 7551
state such that no part of its net income inures to the benefit of 7552
any shareholder or other individual; 7553

(2) Is certified as a sheltered workshop, if applicable, by 7554
the wage and hour division of the United States department of 7555
labor; 7556

(3) Is registered and in good standing with the secretary of 7557
state as a domestic nonprofit or not-for-profit corporation; 7558

(4) Complies with applicable occupational health and safety 7559
standards required by the laws of the United States or of this 7560
state; 7561

(5) Operates in the interest of persons with work-limiting 7562
disabilities, provides vocational or other employment-related 7563
training to persons with work-limiting disabilities, and employs 7564
persons with work-limiting disabilities in the manufacture of 7565
products or the provision of services; 7566

(6) Is a nonprofit corporation for federal tax purposes. 7567

(B) "Government ordering office" means any of the following: 7568

(1) Any state agency, including the general assembly, the 7569
supreme court, and the office of a state elected official, or any 7570
state authority, board, bureau, commission, institution, or 7571
instrumentality that is funded in total or in part by state money; 7572

(2) A county, township, or village. 7573

(C) "Person with a work-limiting disability" means an 7574
individual who has a disability as defined in the "Americans with 7575
Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C. 12101, and 7576
who: 7577

(1) Because of that disability is substantially limited in 7578
the type or quantity of work the individual can perform or is 7579
prevented from working regularly; 7580

(2) Meets criteria established by the office of procurement 7581
from community rehabilitation programs. 7582

Sec. 125.601. (A) Not later than July 1, 2007, the director 7583
of administrative services shall establish the office of 7584
procurement from community rehabilitation programs within the 7585
department of administrative services. The director shall 7586
designate an employee of the department to serve as administrator 7587
of the office. 7588

(B) Not later than July 1, 2007, the director shall abolish 7589
the state committee for the purchase of products and services 7590
provided by persons with severe disabilities in accordance with 7591
section 4115.36 of the Revised Code. 7592

Sec. 125.602. (A) The department of mental retardation and 7593
developmental disabilities, the department of mental health, the 7594
department of job and family services, the rehabilitation services 7595
commission, and any other state or governmental agency or 7596
community rehabilitation program responsible for the provision of 7597
rehabilitation and vocational educational services to persons with 7598

work-limiting disabilities may, through written agreement, 7599
cooperate in providing resources to the department of 7600
administrative services for the operation of the office of 7601
procurement from community rehabilitation programs. These 7602
resources may include, but are not limited to, leadership and 7603
assistance in dealing with the societal aspects of meeting the 7604
needs of persons with work-limiting disabilities. 7605

(B) The office and all governmental entities that administer 7606
socioeconomic programs may enter into contractual agreements, 7607
cooperative working relationships, or other arrangements that are 7608
necessary for effective coordination and realization of the 7609
objectives of these entities. 7610

Sec. 125.603. (A) The office of procurement from community 7611
rehabilitation programs shall do the following in addition to 7612
other duties specified in sections 125.60 to 125.6012 of the 7613
Revised Code: 7614

(1) Establish, maintain, and periodically update a 7615
procurement list of approved supplies and services available from 7616
qualified nonprofit agencies; 7617

(2) Monitor the procurement practices of government ordering 7618
offices to ensure compliance with sections 125.60 to 125.6012 of 7619
the Revised Code; 7620

(3) In cooperation with qualified nonprofit agencies, 7621
government ordering offices, the department of mental retardation 7622
and developmental disabilities, the department of mental health, 7623
the department of job and family services, and the rehabilitation 7624
services commission, develop and recommend to the director of 7625
administrative services rules the director shall adopt in 7626
accordance with Chapter 119. of the Revised Code for the effective 7627
and efficient administration of sections 125.60 to 125.6012 of the 7628
Revised Code; 7629

(4) Prepare a report of its activities by the last day of 7630
December of each year. The report shall be posted electronically 7631
on the office's web site. 7632

(B) The office of procurement from community rehabilitation 7633
programs may enter into contractual agreements and establish pilot 7634
programs to further the objectives of sections 125.60 to 125.6012 7635
of the Revised Code. 7636

Sec. 125.604. A community rehabilitation program may apply to 7637
the office of procurement from community rehabilitation programs 7638
to be certified as qualified to provide its supplies and services 7639
for procurement by government ordering offices. The office shall 7640
prescribe the form of the application. If the office is satisfied 7641
the program is qualified, it shall certify the program as a 7642
qualified nonprofit agency for the purposes of sections 125.60 to 7643
125.6012 of the Revised Code. 7644

Sec. 125.605. The office of procurement from community 7645
rehabilitation programs may certify any entity to serve as an 7646
approved agent of a qualified nonprofit agency for the purposes of 7647
sections 125.60 to 125.6012 of the Revised Code. The office shall 7648
prescribe procedures under which an entity can apply and be 7649
considered for such certification. An approved agent may do any of 7650
the following: 7651

(A) Contract with the office of procurement from community 7652
rehabilitation programs to provide centralized business 7653
facilitation or other assistance to qualified nonprofit agencies. 7654
The office shall consult with qualified nonprofit agencies before 7655
agreeing to such a contract. 7656

(B) Act as a distributor of supplies and services registered 7657
on the procurement list maintained by the office under section 7658
125.603 of the Revised Code; 7659

(C) Provide marketing, administrative, and other services 7660
related to sales. 7661

Sec. 125.606. Prior to purchases by government ordering 7662
offices, the office of procurement from community rehabilitation 7663
programs shall attempt to establish for each item on the 7664
procurement list a fair market price that is representative of the 7665
range of prices that a government ordering office would expect to 7666
pay to purchase the item in the marketplace. When establishing a 7667
fair market price for an item, the office of procurement from 7668
community rehabilitation programs shall consider the costs of 7669
doing business with respect to that item, including sales, 7670
marketing, and research and development costs and agent fees. If 7671
the office of procurement from community rehabilitation programs 7672
cannot establish a fair market price for a particular supply or 7673
service, the government ordering office shall attempt to establish 7674
the fair market price pursuant to division (B) of section 125.607 7675
of the Revised Code for each purchase of such supply or service. 7676

Sec. 125.607. (A) Before purchasing any supply or service, a 7677
governmental ordering office shall determine whether the supply or 7678
service is on the procurement list maintained by the office of 7679
procurement from community rehabilitation programs. If the supply 7680
or service is on the list at an established fair market price, the 7681
government ordering office shall purchase it from the qualified 7682
nonprofit agency or approved agent at that price. 7683

(B) If the supply or service is on the procurement list but a 7684
fair market price has not been established, the government 7685
ordering office shall attempt to negotiate an agreement with one 7686
or more of the listed qualified nonprofit agencies or approved 7687
agents. The office of procurement from community rehabilitation 7688
programs may accept as fair market price an agreement negotiated 7689
between the government ordering office and a qualified nonprofit 7690

agency or approved agent. 7691

(C) If an agreement is not successfully negotiated, the 7692
office may establish a fair market price, or it may release a 7693
government ordering office from the requirements of this section. 7694

(D) A purchase under divisions (A) to (C) of this section is 7695
not subject to any competitive selection or competitive bidding 7696
requirements, notwithstanding any other provision of law. 7697

(E) The department of administrative services has the 7698
authority to structure or regulate competition among qualified 7699
nonprofit agencies for the overall benefit of the program. 7700

Sec. 125.608. All government ordering offices purchasing 7701
supplies and services from qualified non-profit agencies or their 7702
approved agents shall reimburse the department of administrative 7703
services a reasonable sum to cover the department's costs of 7704
administering sections 125.60 to 125.6012 of the Revised Code. The 7705
department may bill administrative costs to government ordering 7706
offices directly, or allow qualified non-profit agencies or 7707
approved agents to collect and remit department administrative 7708
fees, at the department's discretion. Any department 7709
administrative fees collected and remitted by qualified nonprofit 7710
agencies or their approved agents shall be considered allowable 7711
expenses in addition to the fair market price approved under 7712
section 125.606 or 125.607 of the Revised Code. The money so paid 7713
shall be deposited in the state treasury to the credit of the 7714
general services fund created under section 125.15 of the Revised 7715
Code. 7716

Sec. 125.609. The office of procurement from community 7717
rehabilitation programs, on its own or pursuant to a request from 7718
a government ordering office, may release a government ordering 7719
office from compliance with sections 125.60 to 125.6012 of the 7720

Revised Code. If the office determines that compliance is not possible or not advantageous, or if conditions prescribed in rules as may be adopted under section 125.603 of the Revised Code for granting a release are met, the office may grant a release. The release shall be in writing, and shall specify the supplies or services to which it applies, the period of time during which it is effective, and the reason for which it is granted.

Sec. 125.6010. Section 125.607 of the Revised Code does not apply to the purchase of a product or service available from a state agency, state instrumentality, or political subdivision under any law in effect on July 1, 2005.

Sec. 125.6011. (A) Nothing in sections 125.60 to 125.6012 of the Revised Code shall be construed to prohibit the purchase of a supply or service from a qualified nonprofit agency by a political subdivision that is not a government ordering office.

(B) Purchases made under this section by a political subdivision, as defined in section 125.04 of the Revised Code, are exempt from any competitive selection procedures otherwise required by law. Purchases under this section shall be made from qualified nonprofit agencies or their approved agents.

(C) A political subdivision, as defined in section 125.04 of the Revised Code, may not purchase under division (C) of that section a supply or service on the procurement list established under section 125.603 of the Revised Code.

Sec. 125.6012. A government ordering office and qualified nonprofit agency shall provide the necessary information and documentation requested by the office of procurement from community rehabilitation programs to enable the office to effectively administer sections 125.60 to 125.6012 of the Revised Code.

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

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

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

(2) "Motor vehicle" does not include, except for the purposes of division (C) of section 125.832 of the Revised Code, any vehicle described in division (B)(1) of this section that is used by a law enforcement officer and law enforcement agency or any vehicle that is so described and that is equipped with specialized equipment that is not normally found in such a vehicle and that is used to carry out a state agency's specific and specialized duties and responsibilities.

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

(D) "State agency" means every organized body, office, board, authority, commission, or agency established by the laws of the state for the exercise of any governmental or quasi-governmental function of state government regardless of the funding source for that entity, other than any ~~state-supported~~ state institution of higher education, the office of the governor, lieutenant governor, auditor of state, treasurer of state, secretary of state, or attorney general, the general assembly or any legislative agency,

~~or~~ the courts or any judicial agency, or any state retirement system or retirement program established by or referenced in the Revised Code.

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

Sec. 125.832. (A) The department of administrative services is granted exclusive authority over the acquisition and management of all motor vehicles used by state agencies. In carrying out this authority, the department shall do both of the following:

(1) Approve the purchase or lease of each motor vehicle for use by a state agency. The department shall decide if a motor vehicle shall be leased or purchased for that use.

Except as otherwise provided in division (A)(1) of this section, on and after July 1, 2005, each state agency shall acquire all passenger motor vehicles under the department's master leasing program. If the department determines that acquisition under that program is not the most economical method and if the department and the state agency acquiring the passenger motor vehicle can provide economic justification for doing so, the department may approve the purchase, rather than the lease, of a passenger motor vehicle for the acquiring state agency.

(2) Direct and approve all funds that are expended for the purchase, lease, repair, maintenance, registration, insuring, and other costs related to the possession and operation of motor vehicles for the use of state agencies.

(B) The director of administrative services shall establish and operate a fleet management program. The director shall operate the program for purposes including, but not limited to, cost-effective acquisition, maintenance, management, analysis, and disposal of all motor vehicles owned or leased by the state. All

state agencies shall comply with statewide fleet management 7812
policies and procedures established by the director for the 7813
program, including, but not limited to, motor vehicle assignments, 7814
additions of motor vehicles to fleets or motor vehicle 7815
replacements, motor vehicle fueling, and motor vehicle repairs. 7816

(C) The director shall establish and maintain a fleet 7817
reporting system and shall require state agencies to submit to the 7818
department information relative to state motor vehicles, including 7819
motor vehicles described in division (B)(2) of section 125.831 of 7820
the Revised Code, to be used in operating the fleet management 7821
program. State agencies shall provide to the department fleet data 7822
and other information, including, but not limited to, mileage and 7823
costs. The data and other information shall be submitted in 7824
formats and in a manner determined by the department. 7825

(D) All state agency purchases or leases of motor vehicles 7826
are subject to the prior approval of the director under division 7827
(A)(1) of this section. 7828

(E) State agencies that utilize state motor vehicles or pay 7829
mileage reimbursements to employees shall provide a fleet plan to 7830
the department as directed by the department. 7831

(F)(1) The fleets of state agencies that consist of one 7832
hundred or less vehicles on July 1, 2004, shall be managed by the 7833
department's fleet management program on a time schedule 7834
determined by the department, unless the state agency has received 7835
delegated authority as described in division (G) of this section. 7836

(2) The fleets of state agencies that consist of greater than 7837
one hundred motor vehicles, but less than five hundred motor 7838
vehicles, on July 1, 2005, also shall be managed by the 7839
department's fleet management program on a time schedule 7840
determined by the department, unless the state agency has received 7841
delegated authority as described in division (G) of this section. 7842

(G)(1) The department may delegate any or all of its duties regarding fleet management to a state agency, if the state agency demonstrates to the satisfaction of the department both of the following:

(a) Capabilities to institute and manage a fleet management program, including, but not limited to, the presence of a certified fleet manager;

(b) Fleet management performance, as demonstrated by fleet data and other information submitted pursuant to annual reporting requirements and any other criteria the department considers necessary in evaluating the performance.

(2) The department may determine that a state agency is not in compliance with this section and direct that the agency's fleet management duties be transferred to the department.

(H) The proceeds derived from the disposition of any motor vehicles under this section shall be paid to whichever of the following applies:

(1) The fund that originally provided moneys for the purchase or lease of the motor vehicles;

(2) If the motor vehicles were originally purchased with moneys derived from the general revenue fund, the proceeds shall be deposited, in the director's discretion, into the state treasury for to the credit to of either the fleet management fund created by section 125.83 of the Revised Code or the investment recovery fund created by section 125.14 of the Revised Code.

(I)(1) The department shall create and maintain a certified fleet manager program.

(2) State agencies that have received delegated authority as described in division (G) of this section shall have a certified fleet manager.

(J) The department annually shall prepare and submit a 7873
statewide fleet report to the governor, the speaker of the house 7874
of representatives, and the president of the senate. The report 7875
shall be submitted not later than the thirty-first day of January 7876
following the end of each fiscal year. It may include, but is not 7877
limited to, the numbers and types of motor vehicles, their 7878
mileage, miles per gallon, and cost per mile, mileage 7879
reimbursements, accident and insurance data, and information 7880
regarding compliance by state agencies having delegated authority 7881
under division (G) of this section with applicable fleet 7882
management requirements. 7883

(K) The director shall adopt rules for implementing the fleet 7884
management program that are consistent with recognized best 7885
practices. The program shall be supported by reasonable fee 7886
charges for the services provided. The director shall collect 7887
these fees and deposit them into the state treasury to the credit 7888
for the fleet management fund created by section 125.83 of the 7889
Revised Code. The setting and collection of fees under this 7890
division is not subject to any restriction imposed by law upon the 7891
director's or the department's authority to set or collect fees. 7892

(L) The director also shall adopt rules that prohibit, except 7893
in very limited circumstances, the exclusive assignment of 7894
state-owned, leased, or pooled motor vehicles to state employees 7895
and that prohibit the reimbursement under section 126.31 of the 7896
Revised Code of state employees who use their own motor vehicles 7897
for any mileage they incur above an amount that the department 7898
shall determine annually unless reimbursement for the excess 7899
mileage is approved by the department in accordance with standards 7900
for that approval the director shall establish in those rules. 7901
~~Beginning on the effective date of this section September 26,~~ 7902
~~2003, no such~~ state-owned, leased, or pooled motor vehicle shall 7903
be personally assigned as any form of compensation or benefit of 7904

state employment, and no ~~such~~ state-owned, leased, or pooled motor 7905
vehicle shall be assigned to an employee solely for commuting to 7906
and from home and work. 7907

(M) The director shall do both of the following: 7908

(1) Implement to the greatest extent possible the 7909
recommendations from the 2002 report entitled "Administrative 7910
Analysis of the Ohio Fleet Management Program" in connection with 7911
the authority granted to the department by this section; 7912

(2) Attempt to reduce the number of passenger vehicles used 7913
by state agencies during the fiscal years ending on June 30, 2004, 7914
and June 30, 2005. 7915

(N) Each state agency shall reimburse the department for all 7916
costs incurred in the assignment of motor vehicles to the state 7917
agency. 7918

(O) The director shall do all of the following in managing 7919
the fleet management program: 7920

(1) Determine how motor vehicles will be maintained, insured, 7921
operated, financed, and licensed; 7922

(2) Pursuant to the formula in division (O)(3) of this 7923
section, annually establish the minimum number of business miles 7924
per year an employee of a state agency must drive in order to 7925
qualify for approval by the department to receive a motor vehicle 7926
for business use; 7927

(3) Establish the minimum number of business miles per year 7928
at an amount that results when the annual motor vehicle cost is 7929
divided by the amount that is the reimbursement rate per mile 7930
minus the amount that is the sum of the fuel cost, the operating 7931
cost, and the insurance cost. As used in this division: 7932

(a) "Annual motor vehicle cost" means the price of a motor 7933
vehicle divided by the number of years an average motor vehicle is 7934

used. 7935

(b) "Fuel cost" means the average price per gallon of motor fuel divided by the miles per gallon fuel efficiency of a motor vehicle. 7936
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(c) "Insurance cost" means the cost of insuring a motor vehicle per year divided by the number of miles an average motor vehicle is driven per year. 7939
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(d) "Operating cost" means the maintenance cost of a motor vehicle per year divided by the product resulting when the number of miles an average motor vehicle is driven per year is multiplied by the number of years an average motor vehicle is used. 7942
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(e) "Reimbursement rate per mile" means the reimbursement per mile rate for travel expenses as provided by rule of the director of budget and management adopted under division (B) of section 126.31 of the Revised Code. 7946
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(P)(1) Not later than the fifteenth day of September of each year, each state institution of higher education shall report to the department on all of the following topics relating to motor vehicles that the institution acquires and manages: 7950
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(a) The methods it uses to track the motor vehicles; 7954

(b) Whether or not it uses a fuel card program to purchase fuel for, or to pay for the maintenance of, the motor vehicles; 7955
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(c) Whether or not it makes bulk purchases of fuel for the motor vehicles. 7957
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(2) Assuming it does not use the fleet management tracking, fuel card program, and bulk fuel purchases tools and services that the department provides, the report of a state institution of higher education required by division (P)(1) of this section also shall include both of the following: 7959
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(a) An analysis of the amount the institution would save, if 7964

any, if it were to use the fleet management tracking, fuel card program, and bulk fuel purchases tools and services that the department provides instead of the fleet management system the institution regularly uses; 7965
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(b) A rationale for either continuing with the fleet management system that the institution regularly uses or changing to the use of those tools and services that the department provides. 7969
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(3) The department shall certify within ninety days after receipt of all reports under division (P)(1) of this section a list of those state institutions of higher education that the department determines would save amounts if they were to use the fleet management tracking, fuel card program, and bulk fuel purchases tools and services that the department provides. The institutions so certified then shall use those tools and services that the department provides until the department next certifies institutions under division (P)(3) of this section. 7973
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Sec. 126.25. The accounting and budgeting services provided 7982
by the director of budget and management shall be supported by 7983
user charges. The director shall determine a rate that is 7984
sufficient to defray the expense of those services and the manner 7985
by which those charges shall be collected. All money collected 7986
from user charges shall be deposited in the state treasury to the 7987
credit of the ~~state~~ accounting and budgeting fund, which is hereby 7988
created. Rebates or revenue shares received from any state payment 7989
card program established under division (B) of section 126.21 of 7990
the Revised Code and miscellaneous payments that reimburse 7991
expenses paid from the ~~state~~ accounting and budgeting fund may be 7992
deposited into the ~~state~~ accounting and budgeting fund and used to 7993
support accounting and budgeting services. 7994

Sec. 127.16. (A) Upon the request of either a state agency or 7995
the director of budget and management and after the controlling 7996
board determines that an emergency or a sufficient economic reason 7997
exists, the controlling board may approve the making of a purchase 7998
without competitive selection as provided in division (B) of this 7999
section. 8000

(B) Except as otherwise provided in this section, no state 8001
agency, using money that has been appropriated to it directly, 8002
shall: 8003

(1) Make any purchase from a particular supplier, that would 8004
amount to fifty thousand dollars or more when combined with both 8005
the amount of all disbursements to the supplier during the fiscal 8006
year for purchases made by the agency and the amount of all 8007
outstanding encumbrances for purchases made by the agency from the 8008
supplier, unless the purchase is made by competitive selection or 8009
with the approval of the controlling board; 8010

(2) Lease real estate from a particular supplier, if the 8011
lease would amount to seventy-five thousand dollars or more when 8012
combined with both the amount of all disbursements to the supplier 8013
during the fiscal year for real estate leases made by the agency 8014
and the amount of all outstanding encumbrances for real estate 8015
leases made by the agency from the supplier, unless the lease is 8016
made by competitive selection or with the approval of the 8017
controlling board. 8018

(C) Any person who authorizes a purchase in violation of 8019
division (B) of this section shall be liable to the state for any 8020
state funds spent on the purchase, and the attorney general shall 8021
collect the amount from the person. 8022

(D) Nothing in division (B) of this section shall be 8023
construed as: 8024

- (1) A limitation upon the authority of the director of transportation as granted in sections 5501.17, 5517.02, and 5525.14 of the Revised Code; 8025
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- (2) Applying to medicaid provider agreements under Chapter 5111. of the Revised Code ~~or payments or provider agreements under the disability medical assistance program established under Chapter 5115. of the Revised Code;~~ 8028
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- (3) Applying to the purchase of examinations from a sole supplier by a state licensing board under Title XLVII of the Revised Code; 8032
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- (4) Applying to entertainment contracts for the Ohio state fair entered into by the Ohio expositions commission, provided that the controlling board has given its approval to the commission to enter into such contracts and has approved a total budget amount for such contracts as agreed upon by commission action, and that the commission causes to be kept itemized records of the amounts of money spent under each contract and annually files those records with the clerk of the house of representatives and the clerk of the senate following the close of the fair; 8035
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- (5) Limiting the authority of the chief of the division of mineral resources management to contract for reclamation work with an operator mining adjacent land as provided in section 1513.27 of the Revised Code; 8044
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- (6) Applying to investment transactions and procedures of any state agency, except that the agency shall file with the board the name of any person with whom the agency contracts to make, broker, service, or otherwise manage its investments, as well as the commission, rate, or schedule of charges of such person with respect to any investment transactions to be undertaken on behalf of the agency. The filing shall be in a form and at such times as the board considers appropriate. 8048
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| (7) Applying to purchases made with money for the per cent | 8056 |
| for arts program established by section 3379.10 of the Revised | 8057 |
| Code; | 8058 |
| (8) Applying to purchases made by the rehabilitation services | 8059 |
| commission of services, or supplies, that are provided to persons | 8060 |
| with disabilities, or to purchases made by the commission in | 8061 |
| connection with the eligibility determinations it makes for | 8062 |
| applicants of programs administered by the social security | 8063 |
| administration; | 8064 |
| (9) Applying to payments by the department of job and family | 8065 |
| services under section 5111.13 of the Revised Code for group | 8066 |
| health plan premiums, deductibles, coinsurance, and other | 8067 |
| cost-sharing expenses; | 8068 |
| (10) Applying to any agency of the legislative branch of the | 8069 |
| state government; | 8070 |
| (11) Applying to agreements or contracts entered into under | 8071 |
| section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the | 8072 |
| Revised Code; | 8073 |
| (12) Applying to purchases of services by the adult parole | 8074 |
| authority under section 2967.14 of the Revised Code or by the | 8075 |
| department of youth services under section 5139.08 of the Revised | 8076 |
| Code; | 8077 |
| (13) Applying to dues or fees paid for membership in an | 8078 |
| organization or association; | 8079 |
| (14) Applying to purchases of utility services pursuant to | 8080 |
| section 9.30 of the Revised Code; | 8081 |
| (15) Applying to purchases made in accordance with rules | 8082 |
| adopted by the department of administrative services of motor | 8083 |
| vehicle, aviation, or watercraft fuel, or emergency repairs of | 8084 |
| such vehicles; | 8085 |

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| (16) Applying to purchases of tickets for passenger air transportation; | 8086 8087 |
| (17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings; | 8088 8089 8090 |
| (18) Applying to the judicial branch of state government; | 8091 |
| (19) Applying to purchases of liquor for resale by the division of liquor control; | 8092 8093 |
| (20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules; | 8094 8095 8096 |
| (21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service; | 8097 8098 8099 8100 |
| (22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials; | 8101 8102 8103 |
| (23) Applying to purchases from other state agencies, including state-assisted institutions of higher education; | 8104 8105 |
| (24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section; | 8106 8107 8108 8109 |
| (25) Applying to purchases from a qualified nonprofit agency pursuant to sections <u>125.60 to 125.6012</u> or 4115.31 to 4115.35 of the Revised Code; | 8110 8111 8112 |
| (26) Applying to payments by the department of job and family services to the United States department of health and human services for printing and mailing notices pertaining to the tax | 8113 8114 8115 |

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| refund offset program of the internal revenue service of the | 8116 |
| United States department of the treasury; | 8117 |
| (27) Applying to contracts entered into by the department of | 8118 |
| mental retardation and developmental disabilities under sections | 8119 |
| 5123.18, 5123.182, and 5123.199 of the Revised Code; | 8120 |
| (28) Applying to payments made by the department of mental | 8121 |
| health under a physician recruitment program authorized by section | 8122 |
| 5119.101 of the Revised Code; | 8123 |
| (29) Applying to contracts entered into with persons by the | 8124 |
| director of commerce for unclaimed funds collection and remittance | 8125 |
| efforts as provided in division (F) of section 169.03 of the | 8126 |
| Revised Code. The director shall keep an itemized accounting of | 8127 |
| unclaimed funds collected by those persons and amounts paid to | 8128 |
| them for their services. | 8129 |
| (30) Applying to purchases made by a state institution of | 8130 |
| higher education in accordance with the terms of a contract | 8131 |
| between the vendor and an inter-university purchasing group | 8132 |
| comprised of purchasing officers of state institutions of higher | 8133 |
| education; | 8134 |
| (31) Applying to the department of job and family services' | 8135 |
| purchases of health assistance services under the children's | 8136 |
| health insurance program part I provided for under section 5101.50 | 8137 |
| of the Revised Code or the children's health insurance program | 8138 |
| part II provided for under section 5101.51 of the Revised Code; | 8139 |
| (32) Applying to payments by the attorney general from the | 8140 |
| reparations fund to hospitals and other emergency medical | 8141 |
| facilities for performing medical examinations to collect physical | 8142 |
| evidence pursuant to section 2907.28 of the Revised Code; | 8143 |
| (33) Applying to contracts with a contracting authority or | 8144 |
| administrative receiver under division (C) <u>(2)(B)</u> of section | 8145 |
| 5126.055 <u>5126.056</u> of the Revised Code; | 8146 |

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| (34) Applying to reimbursements paid to the United States | 8147 |
| department of veterans affairs for pharmaceutical and patient | 8148 |
| supply purchases made on behalf of the Ohio veterans' home agency; | 8149 |
| (35) Applying to agreements the department of job and family | 8150 |
| services enters into with terminal distributors of dangerous drugs | 8151 |
| under section 5110.12 of the Revised Code. | 8152 |
| (E) Notwithstanding division (B)(1) of this section, the | 8153 |
| cumulative purchase threshold shall be seventy-five thousand | 8154 |
| dollars for the departments of mental retardation and | 8155 |
| developmental disabilities, mental health, rehabilitation and | 8156 |
| correction, and youth services. | 8157 |
| (F) When determining whether a state agency has reached the | 8158 |
| cumulative purchase thresholds established in divisions (B)(1), | 8159 |
| (B)(2), and (E) of this section, all of the following purchases by | 8160 |
| such agency shall not be considered: | 8161 |
| (1) Purchases made through competitive selection or with | 8162 |
| controlling board approval; | 8163 |
| (2) Purchases listed in division (D) of this section; | 8164 |
| (3) For the purposes of the thresholds of divisions (B)(1) | 8165 |
| and (E) of this section only, leases of real estate. | 8166 |
| (G) As used in this section, "competitive selection," | 8167 |
| "purchase," "supplies," and "services" have the same meanings as | 8168 |
| in section 125.01 of the Revised Code. | 8169 |
| Sec. 131.02. (A) Whenever any amount is payable to the state, | 8170 |
| the officer, employee, or agent responsible for administering the | 8171 |
| law under which the amount is payable shall immediately proceed to | 8172 |
| collect the amount or cause the amount to be collected and shall | 8173 |
| pay the amount into the state treasury or into the appropriate | 8174 |
| custodial fund in the manner set forth pursuant to section 113.08 | 8175 |
| of the Revised Code. If <u>Except as otherwise provided in this</u> | 8176 |

division, if the amount is not paid within forty-five days after 8177
payment is due, the officer, employee, or agent shall certify the 8178
amount due to the attorney general, in the form and manner 8179
prescribed by the attorney general, and notify the director of 8180
budget and management thereof. In the case of an amount payable by 8181
a student enrolled in a state institution of higher education, the 8182
amount shall be certified within the later of forty-five days 8183
after the amount is due or the tenth day after the beginning of 8184
the next academic semester, quarter, or other session following 8185
the session for which the payment is payable. The attorney general 8186
may assess the collection cost to the amount certified in such 8187
manner and amount as prescribed by the attorney general. 8188

For the purposes of this section, a payment is due at the 8189
time provided in divisions (A)(1) to (9) of this section. If more 8190
than one division applies to a payment, the payment is due at the 8191
earliest of the applicable times. 8192

(1) If a law, including an administrative rule, of this state 8193
prescribes the time a payment is required to be made or reported, 8194
when the payment is required by that law to be paid or reported. 8195

(2) If the payment is for services rendered, when the 8196
rendering of the services is completed. 8197

(3) If the payment is reimbursement for a loss, when the loss 8198
is incurred. 8199

(4) In the case of a fine or penalty for which a law or 8200
administrative rule does not prescribe a time for payment, when 8201
the fine or penalty is first assessed. 8202

(5) If the payment arises from a legal finding, judgment, or 8203
adjudication order, when the finding, judgment, or order is 8204
rendered or issued. 8205

(6) If the payment arises from an overpayment of money by the 8206
state to another person, when the overpayment is discovered. 8207

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| <u>(7) The date on which the amount for which an individual is</u> | 8208 |
| <u>personally liable under section 5735.35, section 5739.33, or</u> | 8209 |
| <u>division (G) of section 5747.07 of the Revised Code is determined.</u> | 8210 |
| <u>(8) Upon proof of claim being filed in a bankruptcy case.</u> | 8211 |
| <u>(9) Any other appropriate time determined by the officer,</u> | 8212 |
| <u>employee, or agent responsible for administering the law under</u> | 8213 |
| <u>which the amount is payable on the basis of statutory requirements</u> | 8214 |
| <u>or ordinary business processes of the state agency to which the</u> | 8215 |
| <u>payment is owed.</u> | 8216 |
| (B)(1) The attorney general shall give immediate notice by | 8217 |
| mail or otherwise to the party indebted of the nature and amount | 8218 |
| of the indebtedness. | 8219 |
| (2) If the amount payable to this state arises from a tax | 8220 |
| levied under Chapter 5733., 5739., 5741., or 5747. of the Revised | 8221 |
| Code, the notice also shall specify all of the following: | 8222 |
| (a) The assessment or case number; | 8223 |
| (b) The tax pursuant to which the assessment is made; | 8224 |
| (c) The reason for the liability, including, if applicable, | 8225 |
| that a penalty or interest is due; | 8226 |
| (d) An explanation of how and when interest will be added to | 8227 |
| the amount assessed; | 8228 |
| (e) That the attorney general and tax commissioner, acting | 8229 |
| together, have the authority, but are not required, to compromise | 8230 |
| the claim and accept payment over a reasonable time, if such | 8231 |
| actions are in the best interest of the state. | 8232 |
| (C) The attorney general shall collect the claim or secure a | 8233 |
| judgment and issue an execution for its collection. | 8234 |
| (D) Each claim shall bear interest, from the day on which the | 8235 |
| claim became due, at the rate per annum required by section | 8236 |
| 5703.47 of the Revised Code. | 8237 |

(E) The attorney general and the chief officer of the agency reporting a claim, acting together, may do any of the following if such action is in the best interests of the state:

(1) Compromise the claim;

(2) Extend for a reasonable period the time for payment of the claim by agreeing to accept monthly or other periodic payments. The agreement may require security for payment of the claim.

(3) Add fees to recover the cost of processing checks or other draft instruments returned for insufficient funds and the cost of providing electronic payment options.

(F)(1) Except as provided in division (F)(2) of this section, if the attorney general finds, after investigation, that any claim due and owing to the state is uncollectible, the attorney general, with the consent of the chief officer of the agency reporting the claim, may do the following:

(a) Sell, convey, or otherwise transfer the claim to one or more private entities for collection;

(b) Cancel the claim or cause it to be cancelled.

(2) The attorney general shall cancel or cause to be cancelled an unsatisfied claim on the date that is forty years after the date the claim is certified.

(3) If information contained in a claim that is sold, conveyed, or transferred to a private entity pursuant to this section is confidential pursuant to federal law or a section of the Revised Code that implements a federal law governing confidentiality, such information remains subject to that law during and following the sale, conveyance, or transfer.

Sec. 131.022. (A) As used in this section:

(1) "Final overdue claim" means a claim that has been certified to the attorney general under section 131.02 of the Revised Code, that has been final for at least one year, and for which no arrangements have been made for the payment thereof or, if such arrangements have been made, the person owing the claim has failed to comply with the terms of the arrangement for more than thirty days.

"Final overdue claim" includes collection costs incurred with respect to such a claim and assessed by the attorney general under division (A) of section 131.02 of the Revised Code, interest accreting to the claim under division (D) of that section, and fees added under division (E)(3) of that section.

(2) "Final" means a claim has been finalized under the law providing for the imposition or determination of the amount due, and any time provided for appeal of the amount, legality, or validity of the claim has expired without an appeal having been filed in the manner provided by law. "Final" includes, but is not limited to, a final determination of the tax commissioner for which the time for appeal has expired without a notice of appeal having been filed.

(B) If a claim is certified to the attorney general under section 131.02 of the Revised Code, at any time after the claim is a final overdue claim, the attorney general may sell or otherwise transfer the claim to any person. If the claim is to be sold, it may be sold by private negotiated sale or at public auction conducted by the attorney general or a designee, as is most likely, in the opinion of the attorney general, to yield the most favorable return on the sale. For the purposes of this division, a public auction includes an auction conducted electronically whereby bids are solicited and received via the internet and the solicitation is open to the public.

(C) The attorney general may consolidate any number of final

overdue claims for sale under this section. 8299

(D) Not less than sixty days before first offering a final
overdue claim for sale, the attorney general shall provide written
notice, by ordinary mail, to the person owing the claim at that
person's last known mailing address. The notice shall state the
following: 8300
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(1) The nature and amount of the claim; 8305

(2) The manner in which the person may contact the office of
the attorney general to arrange terms for payment of the claim; 8306
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(3) That if the person does not contact the office of the
attorney general within sixty days after the date the notice is
issued and arrange terms for payment of the claim all of the
following apply: 8308
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(a) The claim will be offered for sale to a private party for
collection by that party by any legal means; 8312
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(b) The person is deemed to be denied any right to seek and
obtain a refund of any amount from which the claim arises if the
applicable law otherwise allows for such a refund; 8314
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(c) The person is deemed to waive any right the person may
have to confidentiality of information regarding the claim to the
extent confidentiality is provided under any other section of the
Revised Code. 8317
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(E) Upon the sale or transfer of a final overdue claim under
this section, the claim becomes the property of the purchaser or
transferee, and may be sold or otherwise transferred by that
person to any other person or otherwise disposed of. The owner of
the claim is entitled to all proceeds from the collection of the
claim. Purchasers or transferees of a final overdue claim are
subject to any applicable laws governing collection of debts of
the kind represented by the claim. 8321
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(F) Upon the sale or transfer of a final overdue claim under this section, no refund shall be issued or paid to the person owing the claim for any part of the amount from which the claim arises. 8329
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(G) Notwithstanding any other section of the Revised Code, the attorney general, solely for the purpose of effecting the sale or transfer of a final overdue claim under this section, may disclose information about the person owing the claim that otherwise would be confidential under a section of the Revised Code, and the person shall have no right of action against such disclosure to the extent such a right is available under that section. 8333
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(H) The authority granted under this section is supplemental to the authority granted under section 131.02 of the Revised Code. 8341
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Sec. 131.23. The various political subdivisions of this state may issue bonds, and any indebtedness created by such issuance shall not be subject to the limitations or included in the calculation of indebtedness prescribed by sections 133.05, 133.06, 133.07, and 133.09 of the Revised Code, but such bonds may be issued only under the following conditions: 8343
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(A) The subdivision desiring to issue such bonds shall obtain from the county auditor a certificate showing the total amount of delinquent taxes due and unpayable to such subdivision at the last semiannual tax settlement. 8349
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(B) The fiscal officer of that subdivision shall prepare a statement, from the books of the subdivision, verified by the fiscal officer under oath, which shall contain the following facts of such subdivision: 8353
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(1) The total bonded indebtedness; 8357

(2) The aggregate amount of notes payable or outstanding 8358

accounts of the subdivision, incurred prior to the commencement of 8359
the current fiscal year, which shall include all evidences of 8360
indebtedness issued by the subdivision except notes issued in 8361
anticipation of bond issues and the indebtedness of any 8362
nontax-supported public utility; 8363

(3) Except in the case of school districts, the aggregate 8364
current year's requirement for disability financial assistance ~~and~~ 8365
~~disability medical assistance~~ provided under Chapter 5115. of the 8366
Revised Code that the subdivision is unable to finance except by 8367
the issue of bonds; 8368

(4) The indebtedness outstanding through the issuance of any 8369
bonds or notes pledged or obligated to be paid by any delinquent 8370
taxes; 8371

(5) The total of any other indebtedness; 8372

(6) The net amount of delinquent taxes unpledged to pay any 8373
bonds, notes, or certificates, including delinquent assessments on 8374
improvements on which the bonds have been paid; 8375

(7) The budget requirements for the fiscal year for bond and 8376
note retirement; 8377

(8) The estimated revenue for the fiscal year. 8378

(C) The certificate and statement provided for in divisions 8379
(A) and (B) of this section shall be forwarded to the tax 8380
commissioner together with a request for authority to issue bonds 8381
of such subdivision in an amount not to exceed seventy per cent of 8382
the net unobligated delinquent taxes and assessments due and owing 8383
to such subdivision, as set forth in division (B)(6) of this 8384
section. 8385

(D) No subdivision may issue bonds under this section in 8386
excess of a sufficient amount to pay the indebtedness of the 8387
subdivision as shown by division (B)(2) of this section and, 8388

except in the case of school districts, to provide funds for 8389
disability financial assistance ~~and disability medical assistance,~~ 8390
as shown by division (B)(3) of this section. 8391

(E) The tax commissioner shall grant to such subdivision 8392
authority requested by such subdivision as restricted by divisions 8393
(C) and (D) of this section and shall make a record of the 8394
certificate, statement, and grant in a record book devoted solely 8395
to such recording and which shall be open to inspection by the 8396
public. 8397

(F) The commissioner shall immediately upon issuing the 8398
authority provided in division (E) of this section notify the 8399
proper authority having charge of the retirement of bonds of such 8400
subdivision by forwarding a copy of such grant of authority and of 8401
the statement provided for in division (B) of this section. 8402

(G) Upon receipt of authority, the subdivision shall proceed 8403
according to law to issue the amount of bonds authorized by the 8404
commissioner, and authorized by the taxing authority, provided the 8405
taxing authority of that subdivision may by resolution submit to 8406
the electors of that subdivision the question of issuing such 8407
bonds. Such resolution shall make the declarations and statements 8408
required by section 133.18 of the Revised Code. The county auditor 8409
and taxing authority shall thereupon proceed as set forth in 8410
divisions (C) and (D) of such section. The election on the 8411
question of issuing such bonds shall be held under divisions (E), 8412
(F), and (G) of such section, except that publication of the 8413
notice of such election shall be made on four separate days prior 8414
to such election in one or more newspapers of general circulation 8415
in the subdivisions. Such bonds may be exchanged at their face 8416
value with creditors of the subdivision in liquidating the 8417
indebtedness described and enumerated in division (B)(2) of this 8418
section or may be sold as provided in Chapter 133. of the Revised 8419
Code, and in either event shall be uncontestable. 8420

(H) The per cent of delinquent taxes and assessments 8421
collected for and to the credit of the subdivision after the 8422
exchange or sale of bonds as certified by the commissioner shall 8423
be paid to the authority having charge of the sinking fund of the 8424
subdivision, which money shall be placed in a separate fund for 8425
the purpose of retiring the bonds so issued. The proper authority 8426
of the subdivisions shall provide for the levying of a tax 8427
sufficient in amount to pay the debt charges on all such bonds 8428
issued under this section. 8429

(I) This section is for the sole purpose of assisting the 8430
various subdivisions in paying their unsecured indebtedness, and 8431
providing funds for disability financial assistance ~~and disability~~ 8432
~~medical assistance~~. The bonds issued under authority of this 8433
section shall not be used for any other purpose and any exchange 8434
for other purposes, or the use of the money derived from the sale 8435
of such bonds by the subdivision for any other purpose, is 8436
misapplication of funds. 8437

(J) The bonds authorized by this section shall be redeemable 8438
or payable in not to exceed ten years from date of issue and shall 8439
not be subject to or considered in calculating the net 8440
indebtedness of the subdivision. The budget commission of the 8441
county in which the subdivision is located shall annually allocate 8442
such portion of the then delinquent levy due such subdivision 8443
which is unpledged for other purposes to the payment of debt 8444
charges on the bonds issued under authority of this section. 8445

(K) The issue of bonds under this section shall be governed 8446
by Chapter 133. of the Revised Code, respecting the terms used, 8447
forms, manner of sale, and redemption except as otherwise provided 8448
in this section. 8449

The board of county commissioners of any county may issue 8450
bonds authorized by this section and distribute the proceeds of 8451
such bond issues to any or all of the cities and townships of such 8452

counties, according to their relative needs for disability 8453
financial assistance ~~and disability medical assistance~~ as 8454
determined by such county. 8455

All sections of the Revised Code inconsistent with or 8456
prohibiting the exercise of the authority conferred by this 8457
section are inoperative respecting bonds issued under this 8458
section. 8459

Sec. 133.08. (A) In addition to any power to issue securities 8460
under other provisions of the Revised Code for the purposes, a 8461
county may issue revenue securities as authorized in this section. 8462
8463

(B) A county may issue revenue securities to fund or refund 8464
revenue securities previously issued, or for any purposes for 8465
which it could issue self-supporting securities and, without 8466
limitation, any of the following general purposes: 8467

(1) For one or more established sewer districts, any of the 8468
purposes provided in divisions (C)(2)(a) and (b) of section 133.07 8469
of the Revised Code; 8470

(2) Hospital facilities as defined in division (E) of section 8471
140.01 of the Revised Code; 8472

(3) Facilities described in division (C)(10) of section 8473
133.07 of the Revised Code; 8474

(4) Off-street parking facilities pursuant to section 307.02 8475
of the Revised Code. 8476

(C) The county shall establish rates or charges for the use, 8477
availability, or rental of the facilities to which the financing 8478
relates, being the improvement, enterprise, system, project, or 8479
categories of improvements or the operation or function that the 8480
facilities serve, which rates or charges shall be designed to 8481
provide revenues to the county sufficient to pay the costs of all 8482

current expenses of the facilities payable by the county and to 8483
pay the debt charges on the securities and to establish and 8484
maintain any contractually required special funds relating to the 8485
securities or the facilities. 8486

(D) Revenue securities issued under this section shall not be 8487
general obligations of the county. Revenue securities issued under 8488
this section shall be secured only by a pledge of and lien upon 8489
the revenues of the county, derived from its ownership or 8490
operation of the facilities, including those rates or charges or 8491
rents and any interest subsidies or debt charges, grants, or other 8492
payments by federal or state agencies available therefor, and the 8493
covenants of the county to maintain sufficient rentals, rates, and 8494
charges to produce revenues sufficient to pay all current expenses 8495
of the facilities payable by the county and to pay the debt 8496
charges on the securities and to establish and maintain any 8497
contractually required special funds relating to the securities or 8498
the facilities, and, if the securities are anticipatory 8499
securities, to issue the revenue securities in anticipation of the 8500
issuance of which the revenue securities are issued. Revenue 8501
securities may also be secured by a pledge of and lien on the 8502
proceeds of any securities issued to fund or refund those revenue 8503
securities. 8504

(E) The county officers authorized by the county taxing 8505
authority shall execute the necessary documents, including but not 8506
limited to trust agreements and leases, to provide for the pledge, 8507
protection, and disposition of the pledged revenues from which 8508
debt charges and any special fund deposits are to be paid. 8509

(F) As long as any of these revenue securities, in either 8510
original or refunded form, remain outstanding, except as otherwise 8511
provided in those documents, all parts of the facilities the 8512
revenues from which are pledged, shall remain under the control of 8513
the county taxing authority, whether any parts of the facilities 8514

are leased to or operated by others or are in or thereafter come 8515
within the boundaries of any municipal corporation, and the 8516
facilities shall remain subject to the power and duty of the 8517
taxing authority to fix and collect rates or charges or rents for 8518
the use of facilities. 8519

(G) The authority to issue securities of the county under 8520
this section for permanent improvements described in division 8521
(B)(2) of this section or division (C)(2)(d) of section 133.07 of 8522
the Revised Code may separately and independently be exercised by 8523
a board of county hospital trustees established under section 8524
339.02 of the Revised Code for those permanent improvements and 8525
related operations under the control of that board. 8526

(H) Sections 9.98 to 9.983 of the Revised Code apply to 8527
securities issued under this section, notwithstanding any other 8528
provision in this chapter. 8529

Sec. 133.081. (A) As used in this section: 8530

(1) "Anticipation notes" means notes issued in anticipation 8531
of the sales tax supported bonds authorized by this section; 8532

(2) "Authorizing proceedings" means the resolution, 8533
legislation, trust agreement, certification, and other agreements, 8534
instruments, and documents, as amended and supplemented, 8535
authorizing, or providing for the security or sale or award of, 8536
sales tax supported bonds, and includes the provisions set forth 8537
or incorporated in those bonds and proceedings; 8538

(3) "County sales tax" means any sales tax levied by the 8539
taxing authority of a county pursuant to section 5739.021 or 8540
5739.026 of the Revised Code, and any tax levied by that taxing 8541
authority upon storage, use, or consumption under section 5741.021 8542
or 5741.023 of the Revised Code. However, "county sales tax" does 8543
not include a sales tax subject to referendum or a sales tax that 8544

was adopted as an emergency measure and is subject to initiative 8545
petition under section 5739.022 of the Revised Code. 8546

(4) "Sales tax supported bonds" means the sales tax supported 8547
bonds authorized by this section, including anticipation notes; 8548

(5) "Refunding bonds" means sales tax supported bonds issued 8549
to provide for the refunding of the sales tax supported bonds 8550
referred to in this section as refunded obligations. 8551

(B) The taxing authority of a county which has levied a 8552
county sales tax for the purpose of providing additional general 8553
revenues of the county pursuant to Chapter 5739. of the Revised 8554
Code may anticipate the receipts of such tax and issue sales tax 8555
supported bonds of the county in the principal amount necessary to 8556
pay the costs of financing any permanent improvement as defined in 8557
division (CC) of section 133.01 of the Revised Code, or to refund 8558
any refunded obligations, provided that the taxing authority 8559
certifies that the annual debt charges on the sales tax supported 8560
bonds, or on the sales tax supported bonds being anticipated by 8561
anticipation notes, do not exceed the estimated annual county 8562
sales tax. The maximum aggregate amount of sales tax supported 8563
bonds that may be outstanding at any time in accordance with their 8564
terms shall not exceed an amount which requires or is estimated to 8565
require payments from sales tax receipts of debt charges on the 8566
sales tax supported bonds, or, in the case of anticipation notes, 8567
projected debt charges on the sales tax supported bonds 8568
anticipated, in any calendar year in an amount exceeding the 8569
county sales tax in anticipation of which the bonds or 8570
anticipation notes are issued as estimated by the fiscal officer 8571
based on general sales tax receipts averaged for the prior two 8572
calendar years prior to the year in which the sales tax supported 8573
bonds are issued, and annualized for any increase in the county 8574
sales tax which may have been levied in part during such period or 8575
levied after such period. A taxing authority may at any time issue 8576

renewal anticipation notes, issue sales tax supported bonds to pay 8577
renewal anticipation notes, and, if it considers refunding 8578
expedient, issue refunding sales tax supported bonds whether the 8579
refunded obligations have or have not matured. The refunding sales 8580
tax supported bonds shall be sold and the proceeds needed for such 8581
purpose applied in the manner provided in the authorizing 8582
proceedings of the taxing authority. The maximum maturity of sales 8583
tax supported bonds shall be calculated by the fiscal officer in 8584
accordance with section 133.20 of the Revised Code, and such 8585
calculation shall be filed with the taxing authority of the county 8586
prior to passage of a bond authorizing resolution. If the county 8587
sales tax pledged to the payment of the sales tax supported bonds 8588
has a stated expiration date, the final principal maturity date of 8589
the sales tax supported bonds shall not extend beyond the final 8590
year of collection of the county sales tax pledged to the payment 8591
of the sales tax supported bonds. 8592

(C) Every issue of sales tax supported bonds outstanding in 8593
accordance with their terms shall be payable out of the sales tax 8594
receipts received by the county or proceeds of sales tax supported 8595
bonds, renewal anticipation notes, or refunding sales tax 8596
supported bonds which may be pledged for such payment in the 8597
authorizing proceedings. The pledge shall be valid and binding 8598
from the time the pledge is made, and the county sales tax 8599
receipts and proceeds so pledged and thereafter received by the 8600
county shall immediately be subject to the lien of that pledge 8601
without any physical delivery of the county sales tax receipts or 8602
proceeds or further act. The lien of any pledge is valid and 8603
binding as against all parties having claims of any kind in tort, 8604
contract, or otherwise against the county, whether or not such 8605
parties have notice of the lien. Neither the resolution nor any 8606
trust agreement by which a pledge is created or further evidenced 8607
need be filed or recorded except in the records of the taxing 8608
authority. 8609

(D) Sales tax supported bonds issued under this section do 8610
not constitute a debt, or a pledge of the faith and credit, of the 8611
state, the county, or any other political subdivision of the 8612
state, and the holders or owners of the notes have no right to 8613
have taxes levied by the general assembly or by the taxing 8614
authority of any political subdivision of the state, including the 8615
taxing authority of the county, for the payment of debt charges. 8616
Unless paid from other sources, sales tax supported bonds are 8617
payable from the sales tax receipts pledged for their payment as 8618
authorized by this section. All sales tax supported bonds shall 8619
contain on their face a statement to the effect that the sales tax 8620
supported bonds, as to debt charges, are not debts or obligations 8621
of the state and are not debts of any political subdivision of the 8622
state, but, unless paid from other sources, are payable from the 8623
sales tax receipts pledged for their payment. The utilization and 8624
pledge of the sales tax receipts and proceeds of sales tax 8625
supported bonds, renewal anticipation notes, or refunding sales 8626
tax supported bonds for the payment of debt charges is determined 8627
by the general assembly to create a special obligation which is 8628
not a bonded indebtedness subject to Section 11 of Article XII, 8629
Ohio Constitution. 8630

(E) The sales tax supported bonds shall bear such date or 8631
dates, shall be executed in the manner, and shall mature at such 8632
time or times, in the case of any anticipation notes not exceeding 8633
ten years from the date of issue of the original anticipation 8634
notes and in the case of any sales tax supported bonds or of any 8635
refunding sales tax supported bonds, not exceeding the maximum 8636
maturity certified to the taxing authority pursuant to division 8637
(B) of this section, all as the authorizing proceedings may 8638
provide. The sales tax supported bonds shall bear interest at such 8639
rates, or at variable rate or rates changing from time to time, in 8640
accordance with provisions in the authorizing proceedings, be in 8641
such denominations and form, either coupon or registered, carry 8642

such registration privileges, be payable in such medium of payment 8643
and at such place or places, and be subject to such terms of 8644
redemption, as the taxing authority may authorize or provide. The 8645
sales tax supported bonds may be sold at public or private sale, 8646
and at, or at not less than, the price or prices as the taxing 8647
authority determines. If any officer whose signature or a 8648
facsimile of whose signature appears on any sales tax supported 8649
bonds or coupons ceases to be such officer before delivery of the 8650
sales tax supported bonds or anticipation notes, the signature or 8651
facsimile shall nevertheless be sufficient for all purposes as if 8652
that officer had remained in office until delivery of the sales 8653
tax supported bonds. Whether or not the sales tax supported bonds 8654
are of such form and character as to be negotiable instruments 8655
under Title XIII of the Revised Code, the sales tax supported 8656
bonds shall have all the qualities and incidents of negotiable 8657
instruments, subject only to any provisions for registration. 8658
Neither the members of the board of the taxing authority nor any 8659
person executing the sales tax supported bonds shall be liable 8660
personally on the sales tax supported bonds or be subject to any 8661
personal liability or accountability by reason of their issuance. 8662

(F) Notwithstanding any other provision of this section, 8663
sections 9.98 to 9.983, 133.02, 133.70, and 5709.76, and division 8664
(A) of section 133.03 of the Revised Code apply to the sales tax 8665
supported bonds. Sales tax supported bonds issued under this 8666
section need not comply with any other law applicable to notes or 8667
bonds but the authorizing proceedings may provide that divisions 8668
(B) to (E) of section 133.25 of the Revised Code apply to the 8669
sales tax supported bonds or anticipation notes. 8670

(G) Any authorized proceedings may contain provisions, 8671
subject to any agreements with holders as may then exist, which 8672
shall be a part of the contract with the holders, as to the 8673
pledging of any or all of the county's anticipated sales tax 8674

receipts to secure the payment of the sales tax supported bonds; 8675
the use and disposition of the sales tax receipts of the county; 8676
the crediting of the proceeds of the sale of sales tax supported 8677
bonds to and among the funds referred to or provided for in the 8678
authorizing proceedings; limitations on the purpose to which the 8679
proceeds of the sales tax supported bonds may be applied and the 8680
pledging of portions of such proceeds to secure the payment of the 8681
sales tax supported bonds or of anticipation notes; the agreement 8682
of the county to do all things necessary for the authorization, 8683
issuance, and sale of those notes anticipated in such amounts as 8684
may be necessary for the timely payment of debt charges on any 8685
anticipation notes; limitations on the issuance of additional 8686
sales tax supported bonds; the terms upon which additional sales 8687
tax supported bonds may be issued and secured; the refunding of 8688
refunded obligations; the procedure by which the terms of any 8689
contract with holders may be amended, and the manner in which any 8690
required consent to amend may be given; securing any sales tax 8691
supported bonds by a trust agreement or other agreement; and any 8692
other matters, of like or different character, that in any way 8693
affect the security or protection of the sales tax supported bonds 8694
or anticipation notes. 8695

(H) The taxing authority of a county may not repeal, rescind, 8696
or reduce any portion of a county sales tax pledged to the payment 8697
of debt charges on sales tax supported bonds issued by the county 8698
while such sales tax supported bonds remain outstanding, and no 8699
portion of a county sales tax pledged to the payment of debt 8700
charges on sales tax supported bonds shall be subject to repeal or 8701
reduction by the electorate of the county or by the taxing 8702
authority of the county while such sales tax supported bonds are 8703
outstanding. 8704

Sec. 133.09. (A) Unless it is a township that has adopted a 8705
limited home rule government under Chapter 504. of the Revised 8706

Code, a township shall not incur net indebtedness that exceeds an amount equal to five per cent of its tax valuation and, except as specifically authorized by section 505.262 of the Revised Code or other laws, shall not incur any net indebtedness unless authorized by vote of the electors.

(B) A township that has adopted a limited home rule government under Chapter 504. of the Revised Code shall not incur net indebtedness that exceeds an amount equal to ten and one-half per cent of its tax valuation, or incur without a vote of the electors net indebtedness that exceeds an amount equal to five and one-half per cent of that tax valuation. In calculating the net indebtedness of a township that has adopted a limited home rule government, none of the following securities shall be considered:

(1) Self-supporting securities issued for any purpose;

(2) Securities issued for the purpose of purchasing, constructing, improving, or extending water or sanitary or surface and storm water sewerage systems or facilities, or a combination of those systems or facilities, to the extent that an agreement entered into with another subdivision requires the other subdivision to pay to the township amounts equivalent to debt charges on the securities;

(3) Securities that are not general obligations of the township;

(4) Voted securities issued for the purposes of redevelopment to the extent that their principal amount does not exceed an amount equal to two per cent of the tax valuation of the township;

(5) Securities issued for the purpose of acquiring or constructing roads, highways, bridges, or viaducts, or for the purpose of acquiring or making other highway permanent improvements, to the extent that the resolution of the board of township trustees authorizing the issuance of the securities

includes a covenant to appropriate from money distributed to the township under Chapter 4501., 4503., 4504., or 5735. of the Revised Code a sufficient amount to cover debt charges on and financing costs relating to the securities as they become due;

(6) Securities issued for energy conservation measures under section 505.264 of the Revised Code.

(C) In calculating the net indebtedness of any township, no obligation incurred under division (B) of section 513.17 or under section 505.261, 505.264, 505.265, 505.267, or 505.37 of the Revised Code, or in connection with a project undertaken pursuant to Section 515.03 of H.B. 66 of the 126th General Assembly, shall be considered.

Sec. 140.01. As used in this chapter:

(A) "Hospital agency" means any public hospital agency or any nonprofit hospital agency.

(B) "Public hospital agency" means any county, board of county hospital trustees established pursuant to section 339.02 of the Revised Code, county hospital commission established pursuant to section 339.14 of the Revised Code, municipal corporation, new community authority organized under Chapter 349. of the Revised Code, joint township hospital district, state or municipal university or college operating or authorized to operate a hospital facility, or the state.

(C) "Nonprofit hospital agency" means a corporation or association not for profit, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, that has authority to own or operate a hospital facility or provides or is to provide services to one or more other hospital agencies.

(D) "Governing body" means, in the case of a county, the

board of county commissioners or other legislative body; in the 8768
case of a board of county hospital trustees, the board; in the 8769
case of a county hospital commission, the commission; in the case 8770
of a municipal corporation, the council or other legislative 8771
authority; in the case of a new community authority, its board of 8772
trustees; in the case of a joint township hospital district, the 8773
joint township district hospital board; in the case of a state or 8774
municipal university or college, its board of trustees or board of 8775
directors; in the case of a nonprofit hospital agency, the board 8776
of trustees or other body having general management of the agency; 8777
and, in the case of the state, the director of development or the 8778
Ohio higher educational facility commission. 8779

(E) "Hospital facilities" means buildings, structures and 8780
other improvements, additions thereto and extensions thereof, 8781
furnishings, equipment, and real estate and interests in real 8782
estate, used or to be used for or in connection with one or more 8783
hospitals, emergency, intensive, intermediate, extended, 8784
long-term, or self-care facilities, diagnostic and treatment and 8785
out-patient facilities, facilities related to programs for home 8786
health services, clinics, laboratories, public health centers, 8787
research facilities, and rehabilitation facilities, for or 8788
pertaining to diagnosis, treatment, care, or rehabilitation of 8789
sick, ill, injured, infirm, impaired, disabled, or handicapped 8790
persons, or the prevention, detection, and control of disease, and 8791
also includes education, training, and food service facilities for 8792
health professions personnel, housing facilities for such 8793
personnel and their families, and parking and service facilities 8794
in connection with any of the foregoing; and includes any one, 8795
part of, or any combination of the foregoing; and further includes 8796
site improvements, utilities, machinery, facilities, furnishings, 8797
and any separate or connected buildings, structures, improvements, 8798
sites, utilities, facilities, or equipment to be used in, or in 8799
connection with the operation or maintenance of, or supplementing 8800

or otherwise related to the services or facilities to be provided 8801
by, any one or more of such hospital facilities. 8802

(F) "Costs of hospital facilities" means the costs of 8803
acquiring hospital facilities or interests in hospital facilities, 8804
including membership interests in nonprofit hospital agencies, 8805
costs of constructing hospital facilities, costs of improving one 8806
or more hospital facilities, including reconstructing, 8807
rehabilitating, remodeling, renovating, and enlarging, costs of 8808
equipping and furnishing such facilities, and all financing costs 8809
pertaining thereto, including, without limitation thereto, costs 8810
of engineering, architectural, and other professional services, 8811
designs, plans, specifications and surveys, and estimates of cost, 8812
costs of tests and inspections, the costs of any indemnity or 8813
surety bonds and premiums on insurance, all related direct or 8814
allocable administrative expenses pertaining thereto, fees and 8815
expenses of trustees, depositories, and paying agents for the 8816
obligations, cost of issuance of the obligations and financing 8817
charges and fees and expenses of financial advisors, attorneys, 8818
accountants, consultants and rating services in connection 8819
therewith, capitalized interest on the obligations, amounts 8820
necessary to establish reserves as required by the bond 8821
proceedings, the reimbursement of all moneys advanced or applied 8822
by the hospital agency or others or borrowed from others for the 8823
payment of any item or items of costs of such facilities, and all 8824
other expenses necessary or incident to planning or determining 8825
feasibility or practicability with respect to such facilities, and 8826
such other expenses as may be necessary or incident to the 8827
acquisition, construction, reconstruction, rehabilitation, 8828
remodeling, renovation, enlargement, improvement, equipment, and 8829
furnishing of such facilities, the financing thereof, and the 8830
placing of the same in use and operation, including any one, part 8831
of, or combination of such classes of costs and expenses, and 8832
means the costs of refinancing obligations issued by, or 8833

reimbursement of money advanced by, nonprofit hospital agencies or 8834
others the proceeds of which were used for the payment of costs of 8835
hospital facilities, if the governing body of the public hospital 8836
agency determines that the refinancing or reimbursement advances 8837
the purposes of this chapter, whether or not the refinancing or 8838
reimbursement is in conjunction with the acquisition or 8839
construction of additional hospital facilities. 8840

(G) "Hospital receipts" means all moneys received by or on 8841
behalf of a hospital agency from or in connection with the 8842
ownership, operation, acquisition, construction, improvement, 8843
equipping, or financing of any hospital facilities, including, 8844
without limitation thereto, any rentals and other moneys received 8845
from the lease, sale, or other disposition of hospital facilities, 8846
and any gifts, grants, interest subsidies, or other moneys 8847
received under any federal program for assistance in financing the 8848
costs of hospital facilities, and any other gifts, grants, and 8849
donations, and receipts therefrom, available for financing the 8850
costs of hospital facilities. 8851

(H) "Obligations" means bonds, notes, or other evidences of 8852
indebtedness or obligation, including interest coupons pertaining 8853
thereto, issued or issuable by a public hospital agency to pay 8854
costs of hospital facilities. 8855

(I) "Bond service charges" means principal, interest, and 8856
call premium, if any, required to be paid on obligations. 8857

(J) "Bond proceedings" means one or more ordinances, 8858
resolutions, trust agreements, indentures, and other agreements or 8859
documents, and amendments and supplements to the foregoing, or any 8860
combination thereof, authorizing or providing for the terms, 8861
including any variable interest rates, and conditions applicable 8862
to, or providing for the security of, obligations and the 8863
provisions contained in such obligations. 8864

| | |
|---|--------------------------------------|
| (K) "Nursing home" has the same meaning as in division (A)(1) of section 5701.13 of the Revised Code. | 8865 8866 |
| (L) "Residential care facility" has the same meaning as in division (A)(2) of section 5701.13 of the Revised Code. | 8867 8868 |
| (M) "Adult care facility" has the same meaning as in division (A)(3) of section 5701.13 of the Revised Code. | 8869 8870 |
| (N) "Independent living facility" means any self-care facility or other housing facility designed or used as a residence for elderly persons. An "independent living facility" does not include a residential facility, or that part of a residential facility, that is any of the following: | 8871 8872 8873 8874 8875 |
| (1) A hospital required to be certified by section 3727.02 of the Revised Code; | 8876 8877 |
| (2) A nursing home or residential care facility; | 8878 |
| (3) An adult care facility; | 8879 |
| (4) A hospice licensed under section 3712.04 of the Revised Code; | 8880 8881 |
| (5) A habilitation center as defined in section 5123.041 of the Revised Code; | 8882 8883 |
| (6) A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code; | 8884 8885 8886 |
| (7) <u>(6)</u> A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code; | 8887 8888 |
| (8) <u>(7)</u> A facility certified as an alcohol and drug addiction program under section 3793.06 of the Revised Code; | 8889 8890 |
| (9) <u>(8)</u> A residential facility licensed under section 5123.19 of the Revised Code or a facility providing services under a contract with the department of mental retardation and | 8891 8892 8893 |

developmental disabilities under section 5123.18 of the Revised Code; 8894
8895

~~(10)~~(9) A residential facility used as part of a hospital to 8896
provide housing for staff of the hospital or students pursuing a 8897
course of study at the hospital. 8898

Sec. 141.011. Beginning in calendar year 2001, the annual 8899
salaries of the elective officers of the state shall be as follows 8900
rather than as prescribed by divisions (A) to (F) of section 8901
141.01 of the Revised Code: 8902

(A)(1) In calendar year 2001 the annual salary of the 8903
governor shall be one hundred twenty-six thousand four hundred 8904
ninety-seven dollars. 8905

(2) In calendar years 2002 through 2006 the annual salary of 8906
the governor shall be one hundred thirty thousand two hundred 8907
ninety-two dollars. 8908

(3) In calendar year 2007 the annual salary of the governor 8909
shall be the annual salary in 2006 increased by each of the 8910
following percentages in succession: 8911

(a) The lesser of three per cent or the percentage increase, 8912
if any, in the consumer price index from October 1, 2001, to 8913
September 30, 2002, rounded to the nearest one-tenth of one per 8914
cent; 8915

(b) The lesser of three per cent or the percentage increase, 8916
if any, in the consumer price index from October 1, 2002, to 8917
September 30, 2003, rounded to the nearest one-tenth of one per 8918
cent; 8919

(c) The lesser of three per cent or the percentage increase, 8920
if any, in the consumer price index from October 1, 2003, to 8921
September 30, 2004, rounded to the nearest one-tenth of one per 8922
cent; 8923

(d) The lesser of three per cent or the percentage increase, 8924
if any, in the consumer price index from October 1, 2004, to 8925
September 30, 2005, rounded to the nearest one-tenth of one per 8926
cent; 8927

(e) The lesser of three per cent or the percentage increase, 8928
if any, in the consumer price index from October 1, 2005, to 8929
September 30, 2006, rounded to the nearest one-tenth of one per 8930
cent. 8931

(4) In calendar year 2008 and thereafter, the annual salary 8932
of the governor shall be the annual salary in 2007 increased by 8933
the lesser of the following: 8934

(a) Three per cent; 8935

(b) The percentage increase, if any, in the consumer price 8936
index from October 1, 2006, to September 30, 2007, rounded to the 8937
nearest one-tenth of one per cent. 8938

(B)(1) In calendar year 2001 the annual salary of the 8939
lieutenant governor shall be sixty-six thousand three hundred six 8940
dollars. 8941

(2) In calendar years 2002 through 2006 the annual salary of 8942
the lieutenant governor shall be sixty-eight thousand two hundred 8943
ninety-five dollars. 8944

(3) In calendar year 2007 the annual salary of the lieutenant 8945
governor shall be the annual salary in 2006 increased by each of 8946
the following percentages in succession: 8947

(a) The lesser of three per cent or the percentage increase, 8948
if any, in the consumer price index from October 1, 2001, to 8949
September 30, 2002, rounded to the nearest one-tenth of one per 8950
cent; 8951

(b) The lesser of three per cent or the percentage increase, 8952
if any, in the consumer price index from October 1, 2002, to 8953

September 30, 2003, rounded to the nearest one-tenth of one per cent; 8954
8955

(c) The lesser of three per cent or the percentage increase, 8956
if any, in the consumer price index from October 1, 2003, to 8957
September 30, 2004, rounded to the nearest one-tenth of one per 8958
cent; 8959

(d) The lesser of three per cent or the percentage increase, 8960
if any, in the consumer price index from October 1, 2004, to 8961
September 30, 2005, rounded to the nearest one-tenth of one per 8962
cent; 8963

(e) The lesser of three per cent or the percentage increase, 8964
if any, in the consumer price index from October 1, 2005, to 8965
September 30, 2006, rounded to the nearest one-tenth of one per 8966
cent. 8967

(4) In calendar year 2008 and thereafter, the annual salary 8968
of the lieutenant governor shall be the annual salary in 2007 8969
increased by the lesser of the following: 8970

(a) Three per cent; 8971

(b) The percentage increase, if any, in the consumer price 8972
index from October 1, 2006 to September 30, 2007, rounded to the 8973
nearest one-tenth of one per cent. 8974

If the governor appoints the lieutenant governor as an 8975
administrative department head ~~or as the director of the office of~~ 8976
~~criminal justice services under section 108.05 of the Revised~~ 8977
~~Code,~~ the lieutenant governor may accept the salary for that 8978
office while serving as its head in lieu of the salary for the 8979
office of lieutenant governor. 8980

(C)(1) In calendar year 2001 the annual salary of the 8981
secretary of state, auditor of state, treasurer of state, and 8982
attorney general shall be ninety-three thousand four hundred 8983

forty-seven dollars. 8984

(2) In calendar year 2002 the annual salary of the secretary 8985
of state, auditor of state, treasurer of state, and attorney 8986
general shall be ninety-six thousand two hundred fifty dollars. 8987

(3) In each calendar year from 2003 through 2008, the annual 8988
salary of the secretary of state, auditor of state, treasurer of 8989
state, and attorney general shall be increased by the lesser of 8990
the following: 8991

(a) Three per cent; 8992

(b) The percentage increase, if any, in the consumer price 8993
index over the twelve-month period that ends on the thirtieth day 8994
of September of the immediately preceding year, rounded to the 8995
nearest one-tenth of one per cent. 8996

(D) Upon the death of an elected executive officer of the 8997
state listed in divisions (A) to (F) of section 141.01 of the 8998
Revised Code during that person's term of office, an amount shall 8999
be paid in accordance with section 2113.04 of the Revised Code, or 9000
to that person's estate. The amount shall equal the amount of the 9001
salary that the officer would have received during the remainder 9002
of the officer's unexpired term or an amount equal to the salary 9003
of that person's office for two years, whichever is less. 9004

(E) As used in this section, "consumer price index" has the 9005
same meaning as in section 101.27 of the Revised Code. 9006

Sec. 141.04. (A) The annual salaries of the chief justice of 9007
the supreme court and of the justices and judges named in this 9008
section payable from the state treasury are as follows, rounded to 9009
the nearest fifty dollars: 9010

(1) For the chief justice of the supreme court, the following 9011
amounts effective in the following years: 9012

(a) Beginning January 1, 2000, one hundred twenty-four 9013

thousand nine hundred dollars; 9014

(b) Beginning January 1, 2001, one hundred twenty-eight 9015
thousand six hundred fifty dollars; 9016

(c) After 2001, the amount determined under division (E)(1) 9017
of this section. 9018

(2) For the justices of the supreme court, the following 9019
amounts effective in the following years: 9020

(a) Beginning January 1, 2000, one hundred seventeen thousand 9021
two hundred fifty dollars; 9022

(b) Beginning January 1, 2001, one hundred twenty thousand 9023
seven hundred fifty dollars; 9024

(c) After 2001, the amount determined under division (E)(1) 9025
of this section. 9026

(3) For the judges of the courts of appeals, the following 9027
amounts effective in the following years: 9028

(a) Beginning January 1, 2000, one hundred nine thousand two 9029
hundred fifty dollars; 9030

(b) Beginning January 1, 2001, one hundred twelve thousand 9031
five hundred fifty dollars; 9032

(c) After 2001, the amount determined under division (E)(1) 9033
of this section. 9034

(4) For the judges of the courts of common pleas, the 9035
following amounts effective in the following years: 9036

(a) Beginning January 1, 2000, one hundred thousand five 9037
hundred dollars, reduced by an amount equal to the annual 9038
compensation paid to that judge from the county treasury pursuant 9039
to section 141.05 of the Revised Code; 9040

(b) Beginning January 1, 2001, one hundred three thousand 9041
five hundred dollars, reduced by an amount equal to the annual 9042

compensation paid to that judge from the county treasury pursuant 9043
to section 141.05 of the Revised Code; 9044

(c) After 2001, the aggregate annual salary amount determined 9045
under division (E)(2) of this section reduced by an amount equal 9046
to the annual compensation paid to that judge from the county 9047
treasury pursuant to section 141.05 of the Revised Code. 9048

(5) For the full-time judges of a municipal court or the 9049
part-time judges of a municipal court of a territory having a 9050
population of more than fifty thousand, the following amounts 9051
effective in the following years, which amounts shall be in 9052
addition to all amounts received pursuant to divisions (B)(1)(a) 9053
and (2) of section 1901.11 of the Revised Code from municipal 9054
corporations and counties: 9055

(a) Beginning January 1, 2000, thirty-two thousand six 9056
hundred fifty dollars; 9057

(b) Beginning January 1, 2001, thirty-five thousand five 9058
hundred dollars; 9059

(c) After 2001, the amount determined under division (E)(3) 9060
of this section. 9061

(6) For judges of a municipal court designated as part-time 9062
judges by section 1901.08 of the Revised Code, other than 9063
part-time judges to whom division (A)(5) of this section applies, 9064
and for judges of a county court, the following amounts effective 9065
in the following years, which amounts shall be in addition to any 9066
amounts received pursuant to division (A) of section 1901.11 of 9067
the Revised Code from municipal corporations and counties or 9068
pursuant to division (A) of section 1907.16 of the Revised Code 9069
from counties: 9070

(a) Beginning January 1, 2000, eighteen thousand eight 9071
hundred dollars; 9072

(b) Beginning January 1, 2001, twenty thousand four hundred 9073
fifty dollars; 9074

(c) After 2001, the amount determined under division (E)(4) 9075
of this section. 9076

(B) Except as provided in section 1901.121 of the Revised 9077
Code, except as otherwise provided in this division, and except 9078
for the compensation to which the judges described in division 9079
(A)(5) of this section are entitled pursuant to divisions 9080
(B)(1)(a) and (2) of section 1901.11 of the Revised Code, the 9081
annual salary of the chief justice of the supreme court and of 9082
each justice or judge listed in division (A) of this section shall 9083
be paid in equal monthly installments from the state treasury. If 9084
the chief justice of the supreme court or any justice or judge 9085
listed in division (A)(2), (3), or (4) of this section delivers a 9086
written request to be paid biweekly to the administrative director 9087
of the supreme court prior to the first day of January of any 9088
year, the annual salary of the chief justice or the justice or 9089
judge that is listed in division (A)(2), (3), or (4) of this 9090
section shall be paid, during the year immediately following the 9091
year in which the request is delivered to the administrative 9092
director of the supreme court, biweekly from the state treasury. 9093

(C) Upon the death of the chief justice or a justice of the 9094
supreme court during that person's term of office, an amount shall 9095
be paid in accordance with section 2113.04 of the Revised Code, or 9096
to that person's estate. The amount shall equal the amount of the 9097
salary that the chief justice or justice would have received 9098
during the remainder of the unexpired term or an amount equal to 9099
the salary of office for two years, whichever is less. 9100

(D) Neither the chief justice of the supreme court nor any 9101
justice or judge of the supreme court, the court of appeals, the 9102
court of common pleas, or the probate court shall hold any other 9103
office of trust or profit under the authority of this state or the 9104

United States. 9105

(E)(1) Each calendar year from 2002 through 2008, the annual 9106
salaries of the chief justice of the supreme court and of the 9107
justices and judges named in divisions (A)(2) and (3) of this 9108
section shall be increased by an amount equal to the adjustment 9109
percentage for that year multiplied by the compensation paid the 9110
preceding year pursuant to division (A)(1), (2), or (3) of this 9111
section. 9112

(2) Each calendar year from 2002 through 2008, the aggregate 9113
annual salary payable under division (A)(4) of this section to the 9114
judges named in that division shall be increased by an amount 9115
equal to the adjustment percentage for that year multiplied by the 9116
aggregate compensation paid the preceding year pursuant to 9117
division (A)(4) of this section and section 141.05 of the Revised 9118
Code. 9119

(3) Each calendar year from 2002 through 2008, the salary 9120
payable from the state treasury under division (A)(5) of this 9121
section to the judges named in that division shall be increased by 9122
an amount equal to the adjustment percentage for that year 9123
multiplied by the aggregate compensation paid the preceding year 9124
pursuant to division (A)(5) of this section and division (B)(1)(a) 9125
of section 1901.11 of the Revised Code. 9126

(4) Each calendar year from 2002 through 2008, the salary 9127
payable from the state treasury under division (A)(6) of this 9128
section to the judges named in that division shall be increased by 9129
an amount equal to the adjustment percentage for that year 9130
multiplied by the aggregate compensation paid the preceding year 9131
pursuant to division (A)(6) of this section and division (A) of 9132
section 1901.11 of the Revised Code from municipal corporations 9133
and counties or division (A) of section 1907.16 of the Revised 9134
Code from counties. 9135

(F) In addition to the salaries payable pursuant to this section, the chief justice of the supreme court and the justices of the supreme court shall be entitled to a vehicle allowance of five hundred dollars per month, payable from the state treasury. The allowance shall be increased on the first day of January of each odd numbered year by an amount equal to the percentage increase, if any, in the consumer price index for the immediately preceding twenty-four month period for which information is available. 9136
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(G) As used in this section: 9145

(1) The "adjustment percentage" for a year is the lesser of the following: 9146
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(a) Three per cent; 9148

(b) The percentage increase, if any, in the consumer price index over the twelve-month period that ends on the thirtieth day of September of the immediately preceding year, rounded to the nearest one-tenth of one per cent. 9149
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(2) "Consumer price index" has the same meaning as in section 101.27 of the Revised Code. 9153
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(3) "Salary" does not include any portion of the cost, premium, or charge for health, medical, hospital, dental, or surgical benefits, or any combination of those benefits, covering the chief justice of the supreme court or a justice or judge named in this section and paid on the chief justice's or the justice's or judge's behalf by a governmental entity. 9155
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Sec. 145.01. As used in this chapter: 9161

(A) "Public employee" means: 9162

(1) Any person holding an office, not elective, under the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health 9163
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district, metropolitan housing authority, state retirement board, 9166
Ohio historical society, public library, county law library, union 9167
cemetery, joint hospital, institutional commissary, state 9168
university, or board, bureau, commission, council, committee, 9169
authority, or administrative body as the same are, or have been, 9170
created by action of the general assembly or by the legislative 9171
authority of any of the units of local government named in 9172
division (A)(1) of this section, or employed and paid in whole or 9173
in part by the state or any of the authorities named in division 9174
(A)(1) of this section in any capacity not covered by section 9175
742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. 9176

(2) A person who is a member of the public employees 9177
retirement system and who continues to perform the same or similar 9178
duties under the direction of a contractor who has contracted to 9179
take over what before the date of the contract was a publicly 9180
operated function. The governmental unit with which the contract 9181
has been made shall be deemed the employer for the purposes of 9182
administering this chapter. 9183

(3) Any person who is an employee of a public employer, 9184
notwithstanding that the person's compensation for that employment 9185
is derived from funds of a person or entity other than the 9186
employer. Credit for such service shall be included as total 9187
service credit, provided that the employee makes the payments 9188
required by this chapter, and the employer makes the payments 9189
required by sections 145.48 and 145.51 of the Revised Code. 9190

(4) A person who elects in accordance with section 145.015 of 9191
the Revised Code to remain a contributing member of the public 9192
employees retirement system. 9193

In all cases of doubt, the public employees retirement board 9194
shall determine whether any person is a public employee, and its 9195
decision is final. 9196

(B) "Member" means any public employee, other than a public employee excluded or exempted from membership in the retirement system by section 145.03, 145.031, 145.032, 145.033, 145.034, 145.035, or 145.38 of the Revised Code. "Member" includes a PERS retirant who becomes a member under division (C) of section 145.38 of the Revised Code. "Member" also includes a disability benefit recipient.

(C) "Head of the department" means the elective or appointive head of the several executive, judicial, and administrative departments, institutions, boards, and commissions of the state and local government as the same are created and defined by the laws of this state or, in case of a charter government, by that charter.

(D) "Employer" or "public employer" means the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio historical society, public library, county law library, union cemetery, joint hospital, institutional commissary, state medical college, state university, or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in this division not covered by section 742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. In addition, "employer" means the employer of any public employee.

(E) "Prior service" means all service as a public employee rendered before January 1, 1935, and all service as an employee of any employer who comes within the state teachers retirement system or of the school employees retirement system or of any other retirement system established under the laws of this state rendered prior to January 1, 1935, provided that if the employee

claiming the service was employed in any capacity covered by that 9229
other system after that other system was established, credit for 9230
the service may be allowed by the public employees retirement 9231
system only when the employee has made payment, to be computed on 9232
the salary earned from the date of appointment to the date 9233
membership was established in the public employees retirement 9234
system, at the rate in effect at the time of payment, and the 9235
employer has made payment of the corresponding full liability as 9236
provided by section 145.44 of the Revised Code. "Prior service" 9237
also means all service credited for active duty with the armed 9238
forces of the United States as provided in section 145.30 of the 9239
Revised Code. 9240

If an employee who has been granted prior service credit by 9241
the public employees retirement system for service rendered prior 9242
to January 1, 1935, as an employee of a board of education 9243
establishes, before retirement, one year or more of contributing 9244
service in the state teachers retirement system or school 9245
employees retirement system, then the prior service ceases to be 9246
the liability of this system. 9247

If the board determines that a position of any member in any 9248
calendar year prior to January 1, 1935, was a part-time position, 9249
the board shall determine what fractional part of a year's credit 9250
shall be allowed by the following formula: 9251

(1) When the member has been either elected or appointed to 9252
an office the term of which was two or more years and for which an 9253
annual salary is established, the fractional part of the year's 9254
credit shall be computed as follows: 9255

First, when the member's annual salary is one thousand 9256
dollars or less, the service credit for each such calendar year 9257
shall be forty per cent of a year. 9258

Second, for each full one hundred dollars of annual salary 9259

above one thousand dollars, the member's service credit for each 9260
such calendar year shall be increased by two and one-half per 9261
cent. 9262

(2) When the member is paid on a per diem basis, the service 9263
credit for any single year of the service shall be determined by 9264
using the number of days of service for which the compensation was 9265
received in any such year as a numerator and using two hundred 9266
fifty days as a denominator. 9267

(3) When the member is paid on an hourly basis, the service 9268
credit for any single year of the service shall be determined by 9269
using the number of hours of service for which the compensation 9270
was received in any such year as a numerator and using two 9271
thousand hours as a denominator. 9272

(F) "Contributor" means any person who has an account in the 9273
employees' savings fund created by section 145.23 of the Revised 9274
Code. When used in the sections listed in division (B) of section 9275
145.82 of the Revised Code, "contributor" includes any person 9276
participating in a PERS defined contribution plan. 9277

(G) "Beneficiary" or "beneficiaries" means the estate or a 9278
person or persons who, as the result of the death of a member, 9279
contributor, or retirant, qualify for or are receiving some right 9280
or benefit under this chapter. 9281

(H)(1) "Total service credit," except as provided in section 9282
145.37 of the Revised Code, means all service credited to a member 9283
of the retirement system since last becoming a member, including 9284
restored service credit as provided by section 145.31 of the 9285
Revised Code; credit purchased under sections 145.293 and 145.299 9286
of the Revised Code; all the member's prior service credit; all 9287
the member's military service credit computed as provided in this 9288
chapter; all service credit established pursuant to section 9289
145.297 of the Revised Code; and any other service credited under 9290

this chapter. In addition, "total service credit" includes any 9291
period, not in excess of three years, during which a member was 9292
out of service and receiving benefits under Chapters 4121. and 9293
4123. of the Revised Code. For the exclusive purpose of satisfying 9294
the service credit requirement and of determining eligibility for 9295
benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36, 9296
and 145.361 of the Revised Code, "five or more years of total 9297
service credit" means sixty or more calendar months of 9298
contributing service in this system. 9299

(2) "One and one-half years of contributing service credit," 9300
as used in division (B) of section 145.45 of the Revised Code, 9301
also means eighteen or more calendar months of employment by a 9302
municipal corporation that formerly operated its own retirement 9303
plan for its employees or a part of its employees, provided that 9304
all employees of that municipal retirement plan who have eighteen 9305
or more months of such employment, upon establishing membership in 9306
the public employees retirement system, shall make a payment of 9307
the contributions they would have paid had they been members of 9308
this system for the eighteen months of employment preceding the 9309
date membership was established. When that payment has been made 9310
by all such employee members, a corresponding payment shall be 9311
paid into the employers' accumulation fund by that municipal 9312
corporation as the employer of the employees. 9313

(3) Where a member also is a member of the state teachers 9314
retirement system or the school employees retirement system, or 9315
both, except in cases of retirement on a combined basis pursuant 9316
to section 145.37 of the Revised Code or as provided in section 9317
145.383 of the Revised Code, service credit for any period shall 9318
be credited on the basis of the ratio that contributions to the 9319
public employees retirement system bear to total contributions in 9320
all state retirement systems. 9321

(4) Not more than one year of credit may be given for any 9322

period of twelve months. 9323

(5) "Ohio service credit" means credit for service that was 9324
rendered to the state or any of its political subdivisions or any 9325
employer. 9326

(I) "Regular interest" means interest at any rates for the 9327
respective funds and accounts as the public employees retirement 9328
board may determine from time to time. 9329

(J) "Accumulated contributions" means the sum of all amounts 9330
credited to a contributor's individual account in the employees' 9331
savings fund together with any interest credited to the 9332
contributor's account under section 145.471 or 145.472 of the 9333
Revised Code. 9334

(K)(1) "Final average salary" means the quotient obtained by 9335
dividing by three the sum of the three full calendar years of 9336
contributing service in which the member's earnable salary was 9337
highest, except that if the member has a partial year of 9338
contributing service in the year the member's employment 9339
terminates and the member's earnable salary for the partial year 9340
is higher than for any comparable period in the three years, the 9341
member's earnable salary for the partial year shall be substituted 9342
for the member's earnable salary for the comparable period during 9343
the three years in which the member's earnable salary was lowest. 9344

(2) If a member has less than three years of contributing 9345
service, the member's final average salary shall be the member's 9346
total earnable salary divided by the total number of years, 9347
including any fraction of a year, of the member's contributing 9348
service. 9349

(3) For the purpose of calculating benefits payable to a 9350
member qualifying for service credit under division (Z) of this 9351
section, "final average salary" means the total earnable salary on 9352
which contributions were made divided by the total number of years 9353

during which contributions were made, including any fraction of a 9354
year. If contributions were made for less than twelve months, 9355
"final average salary" means the member's total earnable salary. 9356

(L) "Annuity" means payments for life derived from 9357
contributions made by a contributor and paid from the annuity and 9358
pension reserve fund as provided in this chapter. All annuities 9359
shall be paid in twelve equal monthly installments. 9360

(M) "Annuity reserve" means the present value, computed upon 9361
the basis of the mortality and other tables adopted by the board, 9362
of all payments to be made on account of any annuity, or benefit 9363
in lieu of any annuity, granted to a retirant as provided in this 9364
chapter. 9365

(N)(1) "Disability retirement" means retirement as provided 9366
in section 145.36 of the Revised Code. 9367

(2) "Disability allowance" means an allowance paid on account 9368
of disability under section 145.361 of the Revised Code. 9369

(3) "Disability benefit" means a benefit paid as disability 9370
retirement under section 145.36 of the Revised Code, as a 9371
disability allowance under section 145.361 of the Revised Code, or 9372
as a disability benefit under section 145.37 of the Revised Code. 9373

(4) "Disability benefit recipient" means a member who is 9374
receiving a disability benefit. 9375

(O) "Age and service retirement" means retirement as provided 9376
in sections 145.32, 145.33, 145.331, 145.34, 145.37, and 145.46 of 9377
the Revised Code. 9378

(P) "Pensions" means annual payments for life derived from 9379
contributions made by the employer that at the time of retirement 9380
are credited into the annuity and pension reserve fund from the 9381
employers' accumulation fund and paid from the annuity and pension 9382
reserve fund as provided in this chapter. All pensions shall be 9383

paid in twelve equal monthly installments. 9384

(Q) "Retirement allowance" means the pension plus that 9385
portion of the benefit derived from contributions made by the 9386
member. 9387

(R)(1) Except as otherwise provided in division (R) of this 9388
section, "earnable salary" means all salary, wages, and other 9389
earnings paid to a contributor by reason of employment in a 9390
position covered by the retirement system. The salary, wages, and 9391
other earnings shall be determined prior to determination of the 9392
amount required to be contributed to the employees' savings fund 9393
under section 145.47 of the Revised Code and without regard to 9394
whether any of the salary, wages, or other earnings are treated as 9395
deferred income for federal income tax purposes. "Earnable salary" 9396
includes the following: 9397

(a) Payments made by the employer in lieu of salary, wages, 9398
or other earnings for sick leave, personal leave, or vacation used 9399
by the contributor; 9400

(b) Payments made by the employer for the conversion of sick 9401
leave, personal leave, and vacation leave accrued, but not used if 9402
the payment is made during the year in which the leave is accrued, 9403
except that payments made pursuant to section 124.383 or 124.386 9404
of the Revised Code are not earnable salary; 9405

(c) Allowances paid by the employer for full maintenance, 9406
consisting of housing, laundry, and meals, as certified to the 9407
retirement board by the employer or the head of the department 9408
that employs the contributor; 9409

(d) Fees and commissions paid under section 507.09 of the 9410
Revised Code; 9411

(e) Payments that are made under a disability leave program 9412
sponsored by the employer and for which the employer is required 9413
by section 145.296 of the Revised Code to make periodic employer 9414

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| and employee contributions; | 9415 |
| (f) Amounts included pursuant to divisions (K)(3) and (Y) of this section. | 9416 9417 |
| (2) "Earnable salary" does not include any of the following: | 9418 |
| (a) Fees and commissions, other than those paid under section 507.09 of the Revised Code, paid as sole compensation for personal services and fees and commissions for special services over and above services for which the contributor receives a salary; | 9419 9420 9421 9422 |
| (b) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the contributor or the contributor's family, or amounts paid by the employer to the contributor in lieu of providing the insurance; | 9423 9424 9425 9426 9427 |
| (c) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, or use of the employer's property or equipment, or amounts paid by the employer to the contributor in lieu of providing the incidental benefits; | 9428 9429 9430 9431 |
| (d) Reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development; | 9432 9433 9434 |
| (e) Payments for accrued but unused sick leave, personal leave, or vacation that are made at any time other than in the year in which the sick leave, personal leave, or vacation was accrued; | 9435 9436 9437 9438 |
| (f) Payments made to or on behalf of a contributor that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended; | 9439 9440 9441 9442 9443 |
| (g) Payments made under division (B), (C), or (E) of section | 9444 |

5923.05 of the Revised Code, Section 4 of Substitute Senate Bill 9445
No. 3 of the 119th general assembly, Section 3 of Amended 9446
Substitute Senate Bill No. 164 of the 124th general assembly, or 9447
Amended Substitute House Bill No. 405 of the 124th general 9448
assembly; 9449

(h) Anything of value received by the contributor that is 9450
based on or attributable to retirement or an agreement to retire, 9451
except that payments made on or before January 1, 1989, that are 9452
based on or attributable to an agreement to retire shall be 9453
included in earnable salary if both of the following apply: 9454

(i) The payments are made in accordance with contract 9455
provisions that were in effect prior to January 1, 1986; 9456

(ii) The employer pays the retirement system an amount 9457
specified by the retirement board equal to the additional 9458
liability resulting from the payments. 9459

(3) The retirement board shall determine by rule whether any 9460
compensation not enumerated in division (R) of this section is 9461
earnable salary, and its decision shall be final. 9462

(S) "Pension reserve" means the present value, computed upon 9463
the basis of the mortality and other tables adopted by the board, 9464
of all payments to be made on account of any retirement allowance 9465
or benefit in lieu of any retirement allowance, granted to a 9466
member or beneficiary under this chapter. 9467

(T)(1) "Contributing service" means all service credited to a 9468
member of the system since January 1, 1935, for which 9469
contributions are made as required by sections 145.47, 145.48, and 9470
145.483 of the Revised Code. In any year subsequent to 1934, 9471
credit for any service shall be allowed by the following formula: 9472

(a) For each month for which the member's earnable salary is 9473
two hundred fifty dollars or more, allow one month's credit. 9474

(b) For each month for which the member's earnable salary is 9475
less than two hundred fifty dollars, allow a fraction of a month's 9476
credit. The numerator of this fraction shall be the earnable 9477
salary during the month, and the denominator shall be two hundred 9478
fifty dollars, except that if the member's annual earnable salary 9479
is less than six hundred dollars, the member's credit shall not be 9480
reduced below twenty per cent of a year for a calendar year of 9481
employment during which the member worked each month. Division 9482
(T)(1)(b) of this section shall not reduce any credit earned 9483
before January 1, 1985. 9484

(2) Notwithstanding division (T)(1) of this section, an 9485
elected official who prior to January 1, 1980, was granted a full 9486
year of credit for each year of service as an elected official 9487
shall be considered to have earned a full year of credit for each 9488
year of service regardless of whether the service was full-time or 9489
part-time. The public employees retirement board has no authority 9490
to reduce the credit. 9491

(U) "State retirement board" means the public employees 9492
retirement board, the school employees retirement board, or the 9493
state teachers retirement board. 9494

(V) "Retirant" means any former member who retires and is 9495
receiving a monthly allowance as provided in sections 145.32, 9496
145.33, 145.331, 145.34, and 145.46 of the Revised Code. 9497

(W) "Employer contribution" means the amount paid by an 9498
employer as determined under section 145.48 of the Revised Code. 9499

(X) "Public service terminates" means the last day for which 9500
a public employee is compensated for services performed for an 9501
employer or the date of the employee's death, whichever occurs 9502
first. 9503

(Y) When a member has been elected or appointed to an office, 9504
the term of which is two or more years, for which an annual salary 9505

is established, and in the event that the salary of the office is 9506
increased and the member is denied the additional salary by reason 9507
of any constitutional provision prohibiting an increase in salary 9508
during a term of office, the member may elect to have the amount 9509
of the member's contributions calculated upon the basis of the 9510
increased salary for the office. At the member's request, the 9511
board shall compute the total additional amount the member would 9512
have contributed, or the amount by which each of the member's 9513
contributions would have increased, had the member received the 9514
increased salary for the office the member holds. If the member 9515
elects to have the amount by which the member's contribution would 9516
have increased withheld from the member's salary, the member shall 9517
notify the employer, and the employer shall make the withholding 9518
and transmit it to the retirement system. A member who has not 9519
elected to have that amount withheld may elect at any time to make 9520
a payment to the retirement system equal to the additional amount 9521
the member's contribution would have increased, plus interest on 9522
that contribution, compounded annually at a rate established by 9523
the board and computed from the date on which the last 9524
contribution would have been withheld from the member's salary to 9525
the date of payment. A member may make a payment for part of the 9526
period for which the increased contribution was not withheld, in 9527
which case the interest shall be computed from the date the last 9528
contribution would have been withheld for the period for which the 9529
payment is made. Upon the payment of the increased contributions 9530
as provided in this division, the increased annual salary as 9531
provided by law for the office for the period for which the member 9532
paid increased contributions thereon shall be used in determining 9533
the member's earnable salary for the purpose of computing the 9534
member's final average salary. 9535

(Z) "Five years of service credit," for the exclusive purpose 9536
of satisfying the service credit requirements and of determining 9537
eligibility for benefits under section 145.33 of the Revised Code, 9538

means employment covered under this chapter or under a former 9539
retirement plan operated, recognized, or endorsed by the employer 9540
prior to coverage under this chapter or under a combination of the 9541
coverage. 9542

(AA) "Deputy sheriff" means any person who is commissioned 9543
and employed as a full-time peace officer by the sheriff of any 9544
county, and has been so employed since on or before December 31, 9545
1965, and whose primary duties are to preserve the peace, to 9546
protect life and property, and to enforce the laws of this state; 9547
any person who is or has been commissioned and employed as a peace 9548
officer by the sheriff of any county since January 1, 1966, and 9549
who has received a certificate attesting to the person's 9550
satisfactory completion of the peace officer training school as 9551
required by section 109.77 of the Revised Code and whose primary 9552
duties are to preserve the peace, protect life and property, and 9553
enforce the laws of this state; or any person deputized by the 9554
sheriff of any county and employed pursuant to section 2301.12 of 9555
the Revised Code as a criminal bailiff or court constable who has 9556
received a certificate attesting to the person's satisfactory 9557
completion of the peace officer training school as required by 9558
section 109.77 of the Revised Code and whose primary duties are to 9559
preserve the peace, protect life and property, and enforce the 9560
laws of this state. 9561

(BB) "Township constable or police officer in a township 9562
police department or district" means any person who is 9563
commissioned and employed as a full-time peace officer pursuant to 9564
Chapter 505. or 509. of the Revised Code, who has received a 9565
certificate attesting to the person's satisfactory completion of 9566
the peace officer training school as required by section 109.77 of 9567
the Revised Code, and whose primary duties are to preserve the 9568
peace, protect life and property, and enforce the laws of this 9569
state. 9570

(CC) "Drug agent" means any person who is either of the 9571
following: 9572

(1) Employed full-time as a narcotics agent by a county 9573
narcotics agency created pursuant to section 307.15 of the Revised 9574
Code and has received a certificate attesting to the satisfactory 9575
completion of the peace officer training school as required by 9576
section 109.77 of the Revised Code; 9577

(2) Employed full-time as an undercover drug agent as defined 9578
in section 109.79 of the Revised Code and is in compliance with 9579
section 109.77 of the Revised Code. 9580

(DD) "Department of public safety enforcement agent" means a 9581
full-time employee of the department of public safety who is 9582
designated under section 5502.14 of the Revised Code as an 9583
enforcement agent and who is in compliance with section 109.77 of 9584
the Revised Code. 9585

(EE) "Natural resources law enforcement staff officer" means 9586
a full-time employee of the department of natural resources who is 9587
designated a natural resources law enforcement staff officer under 9588
section 1501.013 of the Revised Code and is in compliance with 9589
section 109.77 of the Revised Code. 9590

(FF) "Park officer" means a full-time employee of the 9591
department of natural resources who is designated a park officer 9592
under section 1541.10 of the Revised Code and is in compliance 9593
with section 109.77 of the Revised Code. 9594

(GG) "Forest officer" means a full-time employee of the 9595
department of natural resources who is designated a forest officer 9596
under section 1503.29 of the Revised Code and is in compliance 9597
with section 109.77 of the Revised Code. 9598

(HH) "Preserve officer" means a full-time employee of the 9599
department of natural resources who is designated a preserve 9600
officer under section 1517.10 of the Revised Code and is in 9601

compliance with section 109.77 of the Revised Code. 9602

(II) "Wildlife officer" means a full-time employee of the 9603
department of natural resources who is designated a wildlife 9604
officer under section 1531.13 of the Revised Code and is in 9605
compliance with section 109.77 of the Revised Code. 9606

(JJ) "State watercraft officer" means a full-time employee of 9607
the department of natural resources who is designated a state 9608
watercraft officer under section 1547.521 of the Revised Code and 9609
is in compliance with section 109.77 of the Revised Code. 9610

(KK) "Park district police officer" means a full-time 9611
employee of a park district who is designated pursuant to section 9612
511.232 or 1545.13 of the Revised Code and is in compliance with 9613
section 109.77 of the Revised Code. 9614

(LL) "Conservancy district officer" means a full-time 9615
employee of a conservancy district who is designated pursuant to 9616
section 6101.75 of the Revised Code and is in compliance with 9617
section 109.77 of the Revised Code. 9618

(MM) "Municipal police officer" means a member of the 9619
organized police department of a municipal corporation who is 9620
employed full-time, is in compliance with section 109.77 of the 9621
Revised Code, and is not a member of the Ohio police and fire 9622
pension fund. 9623

(NN) "Veterans' home police officer" means any person who is 9624
employed at a veterans' home as a police officer pursuant to 9625
section 5907.02 of the Revised Code and is in compliance with 9626
section 109.77 of the Revised Code. 9627

(OO) "Special police officer for a mental health institution" 9628
means any person who is designated as such pursuant to section 9629
5119.14 of the Revised Code and is in compliance with section 9630
109.77 of the Revised Code. 9631

(PP) "Special police officer for an institution for the mentally retarded and developmentally disabled" means any person who is designated as such pursuant to section 5123.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(QQ) "State university law enforcement officer" means any person who is employed full-time as a state university law enforcement officer pursuant to section 3345.04 of the Revised Code and who is in compliance with section 109.77 of the Revised Code.

(RR) "House sergeant at arms" means any person appointed by the speaker of the house of representatives under division (B)(1) of section 101.311 of the Revised Code who has arrest authority under division (E)(1) of that section.

(SS) "Assistant house sergeant at arms" means any person appointed by the house sergeant at arms under division (C)(1) of section 101.311 of the Revised Code.

(TT) "Regional transit authority police officer" means a person who is employed full time as a regional transit authority police officer under division (Y) of section 306.35 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(UU) "State highway patrol police officer" means a special police officer employed full time and designated by the superintendent of the state highway patrol pursuant to section 5503.09 of the Revised Code or a person serving full time as a special police officer pursuant to that section on a permanent basis on October 21, 1997, who is in compliance with section 109.77 of the Revised Code.

(VV) "Municipal public safety director" means a person who serves full-time as the public safety director of a municipal corporation with the duty of directing the activities of the

municipal corporation's police department and fire department. 9663

(WW) Notwithstanding section 2901.01 of the Revised Code, 9664
"PERS law enforcement officer" means a sheriff, deputy sheriff, 9665
township constable or police officer in a township police 9666
department or district, drug agent, municipal public safety 9667
director, department of public safety enforcement agent, natural 9668
resources law enforcement staff officer, park officer, forest 9669
officer, preserve officer, wildlife officer, state watercraft 9670
officer, park district police officer, conservancy district 9671
officer, veterans' home police officer, special police officer for 9672
a mental health institution, special police officer for an 9673
institution for the mentally retarded and developmentally 9674
disabled, state university law enforcement officer, municipal 9675
police officer, house sergeant at arms, assistant house sergeant 9676
at arms, regional transit authority police officer, or state 9677
highway patrol police officer. 9678

~~(WW)~~(XX) "Hamilton county municipal court bailiff" means a 9679
person appointed by the clerk of courts of the Hamilton county 9680
municipal court under division (A)(3) of section 1901.32 of the 9681
Revised Code who is employed full time as a bailiff or deputy 9682
bailiff, who has received a certificate attesting to the person's 9683
satisfactory completion of the peace officer basic training 9684
described in division (D)(1) of section 109.77 of the Revised 9685
Code, and whose primary duties are to preserve the peace, to 9686
protect life and property, and to enforce the laws of this state. 9687

~~(XX)~~(YY) "Fiduciary" means a person who does any of the 9688
following: 9689

(1) Exercises any discretionary authority or control with 9690
respect to the management of the system or with respect to the 9691
management or disposition of its assets; 9692

(2) Renders investment advice for a fee, direct or indirect, 9693

with respect to money or property of the system; 9694

(3) Has any discretionary authority or responsibility in the 9695
administration of the system. 9696

~~(YY)~~(ZZ) "Actuary" means an individual who satisfies all of 9697
the following requirements: 9698

(1) Is a member of the American academy of actuaries; 9699

(2) Is an associate or fellow of the society of actuaries; 9700

(3) Has a minimum of five years' experience in providing 9701
actuarial services to public retirement plans. 9702

~~(ZZ)~~(AAA) "PERS defined benefit plan" means the plan 9703
described in sections 145.201 to 145.79 of the Revised Code. 9704

~~(AAA)~~(BBB) "PERS defined contribution plans" means the plan 9705
or plans established under section 145.81 of the Revised Code. 9706

Sec. 145.33. (A) Except as provided in division (B) or (C) of 9707
this section, a member with at least five years of total service 9708
credit who has attained age sixty, or who has thirty years of 9709
total Ohio service credit, may apply for age and service 9710
retirement, which shall consist of: 9711

(1) An annuity having a reserve equal to the amount of the 9712
member's accumulated contributions at that time; 9713

(2) A pension equal to the annuity provided by division 9714
(A)(1) of this section; 9715

(3) An additional pension, if the member can qualify for 9716
prior service, equal to forty dollars multiplied by the number of 9717
years, and fraction thereof, of such prior and military service 9718
credit; 9719

(4) A basic annual pension equal to one hundred eighty 9720
dollars if the member has ten or more years of total service 9721
credit as of October 1, 1956, except that the basic annual pension 9722

shall not exceed the sum of the annual benefits provided by 9723
divisions (A)(1), (2), and (3) of this section. 9724

(5) When a member retires on age and service retirement, the 9725
member's total annual single lifetime allowance, including the 9726
allowances provided in divisions (A)(1), (2), (3), and (4) of this 9727
section, shall be not less than a base amount adjusted in 9728
accordance with division (A)(5) of this section and determined by 9729
multiplying the member's total service credit by the greater of 9730
the following: 9731

(a) Eighty-six dollars; 9732

(b) Two and two-tenths per cent of the member's final average 9733
salary for each of the first thirty years of service plus two and 9734
one-half per cent of the member's final average salary for each 9735
subsequent year of service. 9736

The allowance shall be adjusted by the factors of attained 9737
age or years of service to provide the greater amount as 9738
determined by the following schedule: 9739

| Attained | or | Years of | Percentage | |
|----------|----|---------------|-------------|------|
| Birthday | | Total Service | of | |
| | | Credit | Base Amount | |
| 58 | | 25 | 75 | 9743 |
| 59 | | 26 | 80 | 9744 |
| 60 | | 27 | 85 | 9745 |
| 61 | | | 88 | 9746 |
| | | 28 | 90 | 9747 |
| 62 | | | 91 | 9748 |
| 63 | | | 94 | 9749 |
| | | 29 | 95 | 9750 |
| 64 | | | 97 | 9751 |
| 65 | | 30 or more | 100 | 9752 |

Members shall vest the right to a benefit in accordance with 9753

the following schedule, based on the member's attained age by 9754
September 1, 1976: 9755

| Attained | Percentage | |
|------------|-------------|------|
| Birthday | of | |
| | Base Amount | |
| 66 | 102 | 9759 |
| 67 | 104 | 9760 |
| 68 | 106 | 9761 |
| 69 | 108 | 9762 |
| 70 or more | 110 | 9763 |

(6) The total annual single lifetime allowance that a member 9764
shall receive under division (A)(5) of this section shall not 9765
exceed the lesser of one hundred per cent of the member's final 9766
average salary or the limit established by section 415 of the 9767
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, 9768
as amended. 9769

(B)(1) For the purposes of divisions (B) to (G) of this 9770
section, "total service credit as a PERS law enforcement officer" 9771
and "total service credit as a Hamilton county municipal court 9772
bailiff" include credit for military service to the extent 9773
permitted by division (E)(2) of this section and credit for 9774
service as a police officer or state highway patrol trooper to the 9775
extent permitted by divisions (E)(3) and (4) of this section. 9776

(2) A member who meets the conditions in division (B)(2)(a), 9777
(b), (c), or (d) of this section may apply for an age and service 9778
retirement benefit under this division: 9779

(a) The member has attained age forty-eight and has at least 9780
twenty-five years of total service credit as a PERS law 9781
enforcement officer whose primary duties were to preserve the 9782
peace, protect life and property, and enforce the laws in the 9783
member's jurisdiction; 9784

(b) The member has attained age fifty-two, and has at least 9785
twenty-five years of total service credit as a PERS law 9786
enforcement officer, but the member's primary duties were other 9787
than to preserve the peace, protect life and property, and enforce 9788
the laws in the member's jurisdiction; 9789

(c) The member has attained age fifty-two and has at least 9790
twenty-five years of total service as a Hamilton county municipal 9791
court bailiff; 9792

(d) The member has attained age sixty-two and has at least 9793
fifteen years of total service credit as either of the following: 9794

(i) A PERS law enforcement officer; 9795

(ii) A Hamilton county municipal court bailiff. 9796

(3) A benefit paid under division (B)(2) of this section 9797
shall consist of an annual single lifetime allowance equal to the 9798
sum of two and one-half per cent of the member's final average 9799
salary multiplied by the first twenty-five years of the member's 9800
total service plus two and one-tenth per cent of the member's 9801
final average salary multiplied by the number of years of the 9802
member's total service credit in excess of twenty-five years. 9803

(4) A member with at least fifteen years of total service 9804
credit as a PERS law enforcement officer or Hamilton county 9805
municipal court bailiff who voluntarily resigns or is discharged 9806
for any reason except death, dishonesty, cowardice, intemperate 9807
habits, or conviction of a felony may apply for an age and service 9808
retirement benefit, which shall consist of an annual single 9809
lifetime allowance equal to one and one-half per cent of the 9810
member's final average salary multiplied by the number of years of 9811
the member's total service credit. The allowance shall commence on 9812
the first day of the calendar month following the month in which 9813
the application is filed with the public employees retirement 9814
board on or after the attainment by the applicant of age 9815

fifty-two. 9816

(C)(1) A member with at least twenty-five years of total 9817
service credit who would be eligible to retire under division 9818
(B)(2)(b) or (c) of this section had the member attained age 9819
fifty-two and who voluntarily resigns or is discharged for any 9820
reason except death, dishonesty, cowardice, intemperate habits, or 9821
conviction of a felony, on or after the date of attaining 9822
forty-eight years of age, but before the date of attaining 9823
fifty-two years of age, may elect to receive a reduced benefit as 9824
determined by the following schedule: 9825

| Attained Age | Reduced Benefit | |
|--------------|----------------------------------|------|
| 48 | 75% of the benefit payable under | 9827 |
| | division (B)(3) of this section | 9828 |
| 49 | 80% of the benefit payable under | 9829 |
| | division (B)(3) of this section | 9830 |
| 50 | 86% of the benefit payable under | 9831 |
| | division (B)(3) of this section | 9832 |
| 51 | 93% of the benefit payable under | 9833 |
| | division (B)(3) of this section | 9834 |

(2) If a member elects to receive a reduced benefit after 9835
attaining age forty-eight the reduced benefit is payable from the 9836
later of the date of the member's most recent birthday or the date 9837
the member becomes eligible to receive the reduced benefit. 9838

(3) Once a member elects to receive a reduced benefit 9839
determined by the schedule in division (C)(1) of this section and 9840
has received a payment, the member may not reelect to change that 9841
election. 9842

(4) If a member who has resigned or been discharged has left 9843
on deposit the member's accumulated contributions in the 9844
employees' savings fund and has not elected to receive a reduced 9845
benefit determined by the schedule in division (C)(1) of this 9846
section, upon attaining fifty-two years of age, the member shall 9847

be entitled to receive a benefit computed and paid under division 9848
(B)(3) of this section. 9849

(D) A benefit paid under division (B) or (C) of this section 9850
shall not exceed the lesser of ninety per cent of the member's 9851
final average salary or the limit established by section 415 of 9852
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 9853
415, as amended. 9854

(E)(1) A member with service credit as a PERS law enforcement 9855
officer or a Hamilton county municipal court bailiff and other 9856
service credit under this chapter may elect one of the following: 9857

(a) To have all the member's service credit under this 9858
chapter, including credit for service as a PERS law enforcement 9859
officer or Hamilton county municipal court bailiff, used in 9860
calculating a retirement allowance under division (A) of this 9861
section if the member qualifies for an allowance under that 9862
division; 9863

(b) If the member qualifies for an allowance under division 9864
(B) or (C) of this section, to have the member's service credit as 9865
a PERS law enforcement officer or Hamilton county municipal court 9866
bailiff used in calculating a benefit under the appropriate 9867
division and the member's credit for all service other than PERS 9868
law enforcement service or service as a Hamilton county municipal 9869
court bailiff under this chapter used in calculating a benefit 9870
consisting of a single life annuity having a reserve equal to the 9871
amount of the member's accumulated contributions and an equal 9872
amount of the employer's contributions. 9873

(2) Notwithstanding sections 145.01 and 145.30 of the Revised 9874
Code, no more than four years of military service credit granted 9875
under section 145.30 of the Revised Code and five years of 9876
military service credit purchased under section 145.301 or 145.302 9877
of the Revised Code shall be used in calculating service as a PERS 9878

law enforcement officer or Hamilton county municipal court bailiff 9879
or the total service credit of that person. 9880

(3) Only credit for the member's service as a PERS law 9881
enforcement officer or service credit obtained as a police officer 9882
or state highway patrol trooper shall be used in computing the 9883
benefit of a member who qualifies for a benefit under division 9884
(B)(2)(a), (b), or (d)(ii) or (4) or division (C) of this section 9885
for the following: 9886

(a) Any person who originally is commissioned and employed as 9887
a deputy sheriff by the sheriff of any county, or who originally 9888
is elected sheriff, on or after January 1, 1975; 9889

(b) Any deputy sheriff who originally is employed as a 9890
criminal bailiff or court constable on or after April 16, 1993; 9891

(c) Any person who originally is appointed as a township 9892
constable or police officer in a township police department or 9893
district on or after January 1, 1981; 9894

(d) Any person who originally is employed as a county 9895
narcotics agent on or after September 26, 1984; 9896

(e) Any person who originally is employed as an undercover 9897
drug agent as defined in section 109.79 of the Revised Code, 9898
department of public safety enforcement agent who prior to June 9899
30, 1999, was a liquor control investigator, park officer, forest 9900
officer, wildlife officer, state watercraft officer, park district 9901
police officer, conservancy district officer, veterans' home 9902
police officer, special police officer for a mental health 9903
institution, special police officer for an institution for the 9904
mentally retarded and developmentally disabled, or municipal 9905
police officer on or after December 15, 1988; 9906

(f) Any person who originally is employed as a state 9907
university law enforcement officer on or after November 6, 1996; 9908

| | |
|--|--|
| (g) Any person who is originally employed as a state university law enforcement officer by the university of Akron on or after September 16, 1998; | 9909 9910 9911 |
| (h) Any person who originally is employed as a preserve officer on or after March 18, 1999; | 9912 9913 |
| (i) Any person who originally is employed as a natural resources law enforcement staff officer on or after March 18, 1999; | 9914 9915 9916 |
| (j) Any person who is originally employed as a department of public safety enforcement agent on or after June 30, 1999; | 9917 9918 |
| (k) Any person who is originally employed as a house sergeant at arms or assistant house sergeant at arms on or after September 5, 2001; | 9919 9920 9921 |
| (l) Any person who is originally appointed as a regional transit authority police officer or state highway patrol police officer on or after February 1, 2002; | 9922 9923 9924 |
| <u>(m) Any person who is originally employed as a municipal public safety director on or after the effective date of this amendment.</u> | 9925 9926 9927 |
| (4) Only credit for a member's service as a Hamilton county municipal court bailiff or service credit obtained as a PERS law enforcement officer, police officer, or state highway patrol trooper shall be used in computing the benefit of a member who qualifies for a benefit under division (B)(2)(c) or (d)(ii) or (4) or division (C) of this section for any person who originally is employed as a Hamilton county municipal court bailiff on or after November 6, 1996. | 9928 9929 9930 9931 9932 9933 9934 9935 |
| (F) Retirement allowances determined under this section shall be paid as provided in section 145.46 of the Revised Code. | 9936 9937 |
| (G) For the purposes of this section, service prior to June | 9938 |

30, 1999, as a food stamp trafficking agent under former section 9939
5502.14 of the Revised Code shall be considered service as a law 9940
enforcement officer. 9941

Sec. 147.05. (A) Before entering upon the duties of the 9942
office of notary public, a notary public shall leave the notary 9943
public's commission with the oath endorsed on the commission with 9944
the clerk of the court of common pleas of the county in which the 9945
notary public resides. The clerk shall record the commission in a 9946
book kept for that purpose. The clerk shall endorse on the margin 9947
of the record and on the back of the commission the time that the 9948
clerk received the commission for record and make a proper index 9949
to all commissions so recorded. For recording and indexing a 9950
commission, the fee of the clerk shall be as provided in division 9951
(R) of section 2303.20 of the Revised Code. 9952

(B) The secretary of state shall maintain a record of the 9953
commissions of each notary public appointed and commissioned by 9954
the secretary of state under this chapter and make a proper index 9955
to that record. 9956

The governor's office shall transfer to the secretary of 9957
state's office, on or after ~~the effective date of this amendment~~ 9958
June 6, 2001, the record of notaries public formerly kept by the 9959
governor's office under section 107.10 of the Revised Code. The 9960
secretary of state's office shall maintain that record together 9961
with the record and index of commissions of notaries public 9962
required by this division. 9963

(C) If a notary public legally changes the notary public's 9964
name or address after having been commissioned as a notary public, 9965
the notary public shall notify the secretary of state and the 9966
appropriate clerk of courts within thirty days after the name or 9967
address change. Notification to the secretary of state shall be on 9968
a form prescribed by the secretary of state. 9969

(D) A notary, other than an attorney, who resigns the 9970
person's commission shall deliver to the secretary of state, on a 9971
form prescribed by the secretary of state, a written notice 9972
indicating the effective date of resignation. 9973

Sec. 147.10. No notary public shall do or perform any act as 9974
a notary public knowing that ~~his~~ the notary public's term of 9975
office has expired or that the notary public has resigned the 9976
notary public's commission. 9977

Sec. 147.11. A person appointed notary public who performs 9978
any act as such after the expiration of ~~his~~ the person's term of 9979
office or after the person resigns the person's commission, 9980
knowing that ~~his~~ the person's term has expired or that the person 9981
has resigned, shall forfeit not more than five hundred dollars, to 9982
be recovered by an action in the name of the state. Such act shall 9983
render ~~such~~ the person ineligible for reappointment. 9984

Sec. 147.12. An official act done by a notary public after 9985
the expiration of ~~his~~ the notary public's term of office or after 9986
the notary public resigns the notary public's commission is as 9987
valid as if done during ~~his~~ the notary public's term of office. 9988

Sec. 147.371. (A) Upon receipt of a fee of two dollars and an 9989
affidavit that the original commission of a notary public has been 9990
lost or destroyed, a duplicate commission as notary public shall 9991
be issued by the secretary of state. 9992

(B) Upon receipt of a fee of two dollars and the properly 9993
completed, prescribed form for a name and address change under 9994
division (C) of section 147.05 of the Revised Code, the secretary 9995
of state shall issue a duplicate commission as a notary public. 9996

Sec. 149.30. The Ohio historical society, chartered by this 9997

state as a corporation not for profit to promote a knowledge of 9998
history and archaeology, especially of Ohio, and operated 9999
continuously in the public interest since 1885, may perform public 10000
functions as prescribed by law. 10001

The general assembly may appropriate money to the Ohio 10002
historical society each biennium to carry out the public functions 10003
of the society as enumerated in this section. An appropriation by 10004
the general assembly to the society constitutes an offer to 10005
contract with the society to carry out those public functions for 10006
which appropriations are made. An acceptance by the society of the 10007
appropriated funds constitutes an acceptance by the society of the 10008
offer and is considered an agreement by the society to perform 10009
those functions in accordance with the terms of the appropriation 10010
and the law and to expend the funds only for the purposes for 10011
which appropriated. The governor may request on behalf of the 10012
society, and the controlling board may release, additional funds 10013
to the society for survey, salvage, repair, or rehabilitation of 10014
an emergency nature for which funds have not been appropriated, 10015
and acceptance by the society of those funds constitutes an 10016
agreement on the part of the society to expend those funds only 10017
for the purpose for which released by the controlling board. 10018

The society shall faithfully expend and apply all moneys 10019
received from the state to the uses and purposes directed by law 10020
and for necessary administrative expenses. ~~The~~ If the general 10021
assembly appropriates money to the society for grants or subsidies 10022
to other entities for their site-related programs, the society, 10023
except for good cause, shall distribute the money within ninety 10024
days of accepting a grant or subsidy application for the money. 10025

The society shall perform the public function of sending 10026
notice by certified mail to the owner of any property at the time 10027
it is listed on the national register of historic places. The 10028
society shall accurately record all expenditures of such funds in 10029

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| conformity with generally accepted accounting principles. | 10030 |
| The auditor of state shall audit all funds and fiscal records of the society. | 10031 10032 |
| The public functions to be performed by the Ohio historical society shall include all of the following: | 10033 10034 |
| (A) Creating, supervising, operating, protecting, maintaining, and promoting for public use a system of state memorials, titles to which may reside wholly or in part with this state or wholly or in part with the society as provided in and in conformity to appropriate acts and resolves of the general assembly, and leasing for renewable periods of two years or less, with the advice and consent of the attorney general and the director of administrative services, lands and buildings owned by the state which are in the care, custody, and control of the society, all of which shall be maintained and kept for public use at reasonable hours; | 10035 10036 10037 10038 10039 10040 10041 10042 10043 10044 10045 |
| (B) Making alterations and improvements, marking, and constructing, reconstructing, protecting, or restoring structures, earthworks, and monuments in its care, and equipping such facilities with appropriate educational maintenance facilities; | 10046 10047 10048 10049 |
| (C) Serving as the archives administration for the state and its political subdivisions as provided in sections 149.31 to 149.42 of the Revised Code; | 10050 10051 10052 |
| (D) Administering a state historical museum, to be the headquarters of the society and its principal museum and library, which shall be maintained and kept for public use at reasonable hours; | 10053 10054 10055 10056 |
| (E) Establishing a marking system to identify all designated historic and archaeological sites within the state and marking or causing to be marked historic sites and communities considered by the society to be historically or archaeologically significant; | 10057 10058 10059 10060 |

(F) Publishing books, pamphlets, periodicals, and other 10061
publications about history, archaeology, and natural science and 10062
offering one copy of each regular periodical issue to all public 10063
libraries in this state at a reasonable price, which shall not 10064
exceed one hundred ten per cent more than the total cost of 10065
publication; 10066

(G) Engaging in research in history, archaeology, and natural 10067
science and providing historical information upon request to all 10068
state agencies; 10069

(H) Collecting, preserving, and making available by all 10070
appropriate means and under approved safeguards all manuscript, 10071
print, or near-print library collections and all historical 10072
objects, specimens, and artifacts which pertain to the history of 10073
Ohio and its people, including the following original documents: 10074
Ohio Constitution of 1802; Ohio Constitution of 1851; proposed 10075
Ohio Constitution of 1875; design and the letters of patent and 10076
assignment of patent for the state flag; S.J.R. 13 (1873); S.J.R. 10077
53 (1875); S.J.R. 72 (1875); S.J.R. 50 (1883); H.J.R. 73 (1883); 10078
S.J.R. 28 (1885); H.J.R. 67 (1885); S.J.R. 17 (1902); S.J.R. 28 10079
(1902); H.J.R. 39 (1902); S.J.R. 23 (1903); H.J.R. 19 (1904); 10080
S.J.R. 16 (1905); H.J.R. 41 (1913); H.J.R. 34 (1917); petition 10081
form (2) (1918); S.J.R. 6 (1921); H.J.R. 5 (1923); H.J.R. 40 10082
(1923); H.J.R. 8 (1929); H.J.R. 20 (1929); S.J.R. 4 (1933); 10083
petition form (2) (1933); S.J.R. 57 (1936); petition form (1936); 10084
H.J.R. 14 (1942); H.J.R. 15 (1944); H.J.R. 8 (1944); S.J.R. 6 10085
(1947); petition form (1947); H.J.R. 24 (1947); and H.J.R. 48 10086
(1947); 10087

(I) Encouraging and promoting the organization and 10088
development of county and local historical societies; 10089

(J) Providing to Ohio schools such materials as the society 10090
may prepare to facilitate the instruction of Ohio history at a 10091
reasonable price, which shall not exceed one hundred ten per cent 10092

more than the total cost of preparation and delivery; 10093

(K) Providing advisory and technical assistance to local 10094
societies for the preservation and restoration of historic and 10095
archaeological sites; 10096

(L) Devising uniform criteria for the designation of historic 10097
and archaeological sites throughout the state and advising local 10098
historical societies of the criteria and their application; 10099

(M) Taking inventory, in cooperation with the Ohio arts 10100
council, the Ohio archaeological council, and the archaeological 10101
society of Ohio, of significant designated and undesignated state 10102
and local sites and keeping an active registry of all designated 10103
sites within the state; 10104

(N) Contracting with the owners or persons having an interest 10105
in designated historic or archaeological sites or property 10106
adjacent or contiguous to those sites, or acquiring, by purchase, 10107
gift, or devise, easements in those sites or in property adjacent 10108
or contiguous to those sites, in order to control or restrict the 10109
use of those historic or archaeological sites or adjacent or 10110
contiguous property for the purpose of restoring or preserving the 10111
historical or archaeological significance or educational value of 10112
those sites; 10113

(O) Constructing a monument honoring Governor James A. 10114
Rhodes, which shall stand on the northeast quadrant of the grounds 10115
surrounding the capitol building. The monument shall be 10116
constructed with private funds donated to the Ohio historical 10117
society and designated for this purpose. No public funds shall be 10118
expended to construct this monument. The department of 10119
administrative services shall cooperate with the Ohio historical 10120
society in carrying out this function and shall maintain the 10121
monument in a manner compatible with the grounds of the capitol 10122
building. 10123

(P) Commissioning a portrait of each departing governor, 10124
which shall be displayed in the capitol building. The Ohio 10125
historical society may accept private contributions designated for 10126
this purpose and, at the discretion of its board of trustees, also 10127
may apply for the same purpose funds appropriated by the general 10128
assembly to the society pursuant to this section. 10129

(Q) Planning and developing a center at the capitol building 10130
for the purpose of educating visitors about the history of Ohio, 10131
including its political, economic, and social development and the 10132
design and erection of the capitol building and its grounds. The 10133
Ohio historical society may accept contributions of private moneys 10134
and in-kind services designated for this purpose and may, at the 10135
discretion of its board of trustees, also apply, for the same 10136
purpose, personnel and other resources paid in whole or in part by 10137
its state subsidy. 10138

(R) Submitting an annual report of its activities, programs, 10139
and operations to the governor within two months after the close 10140
of each fiscal year of the state. 10141

The society shall not sell, mortgage, transfer, or dispose of 10142
historical or archaeological sites to which it has title and in 10143
which the state has monetary interest except by action of the 10144
general assembly. 10145

In consideration of the public functions performed by the 10146
Ohio historical society for the state, employees of the society 10147
shall be considered public employees within the meaning of section 10148
145.01 of the Revised Code. 10149

Sec. 150.07. (A) For the purpose stated in section 150.01 of 10150
the Revised Code, the authority may authorize a lender to claim 10151
one of the tax credits allowed under section 5707.031, 5725.19, 10152
5727.241, 5729.08, 5733.49, or 5747.80 of the Revised Code. The 10153
credits shall be authorized by a written contract with the lender. 10154

The contract shall specify the terms under which the lender may claim the credit, including the amount of loss, if any, the lender must incur before the lender may claim the credit; specify that the credit shall not exceed the amount of the loss; and specify that the lender may claim the credit only for a loss certified by a program administrator to the authority under the procedures prescribed under division (B)(6) of section 150.05 of the Revised Code.

(B) Tax credits may be authorized at any time after the authority establishes the investment policy under section 150.03 of the Revised Code, but a tax credit so authorized may not be claimed until the beginning of the fifth year after the authority establishes the investment policy. A tax credit may not be claimed after June 30, 2026.

(C) (1) Upon receiving certification of a lender's loss from a program administrator pursuant to the procedures in the investment policy, the authority shall issue a tax credit certificate to the lender, except as otherwise provided in division (D) of this section. ~~The~~

(2) If the lender is a pass-through entity, as defined in section 5733.04 of the Revised Code, then each equity investor in the lender pass-through entity shall be entitled to claim one of the tax credits allowed under division (A) of this section for that equity investor's taxable year in which or with which ends the taxable year of the lender pass-through entity in an amount based on the equity investor's distributive or proportionate share of the credit amount set forth in the certificate issued by the authority. If all equity investors of the lender pass-through entity are not eligible to claim a credit against the same tax set forth in division (A) of this section, then each equity investor may elect to claim a credit against the tax to which the equity

investor is subject to in an amount based on the equity investor's 10186
distributive or proportionate share of the credit amount set forth 10187
in the certificate issued by the authority. 10188

(3) The authority shall not issue a certificate until the 10189
lender, in the manner prescribed by the authority, or in the case 10190
of a lender pass-through entity, until each equity investor in 10191
that lender pass-through entity, elects to receive a refundable or 10192
nonrefundable tax credit. The election, once made, is irrevocable. 10193
The certificate shall state the amount of the credit, whether the 10194
credit is refundable or nonrefundable, and the calendar year, 10195
under section 5707.031, 5725.19, 5727.241, or 5729.08, the tax 10196
year, under section 5733.49, or the taxable year under section 10197
5747.80 of the Revised Code, for which the credit may be claimed. 10198
The authority, in conjunction with the tax commissioner, shall 10199
develop a system for issuing tax credit certificates for the 10200
purpose of verifying that any credit claimed is a credit issued 10201
under this section and is properly taken in the year specified in 10202
the certificate and in compliance with division (B) of this 10203
section. 10204

(D) The authority shall not, in any fiscal year, issue tax 10205
credit certificates in a total amount exceeding twenty million 10206
dollars. 10207

Sec. 150.10. (A) On the first day of January of the second 10208
year after the date of entering into an agreement under section 10209
150.05 of the Revised Code and of each ensuing year, the authority 10210
shall file with the clerk of the house of representatives, the 10211
clerk of the senate, and the chairpersons of the house and senate 10212
standing committees predominantly concerned with economic 10213
development a written report on the Ohio venture capital program. 10214
The report shall include all the following: 10215

(1) A description of the details of the investment policy 10216

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| established or modified in accordance with sections 150.03 and | 10217 |
| 150.04 of the Revised Code; | 10218 |
| (2) The authority's assessment of the program's achievement | 10219 |
| of its purpose stated in section 150.01 of the Revised Code; | 10220 |
| (3) The value of tax credit certificates issued by the | 10221 |
| authority under section 150.07 of the Revised Code in each fiscal | 10222 |
| year ending on or before the preceding thirtieth day of June; | 10223 |
| (4) The amount of tax credits claimed pursuant to section | 10224 |
| <u>5707.031</u> , 5725.19, <u>5727.241</u> , 5729.08, 5733.49, or 5747.80 of the | 10225 |
| Revised Code, as to the respective taxes involved; | 10226 |
| (5) The financial status of the Ohio venture capital fund; | 10227 |
| (6) The names of venture capital funds in which money from | 10228 |
| the program fund has been invested and the locations of their | 10229 |
| principal offices, and the names of the enterprises in which each | 10230 |
| of those venture capital funds has invested such money and the | 10231 |
| locations of those enterprises' principal offices; | 10232 |
| (7) Any recommendations for modifying the program to better | 10233 |
| achieve the purpose stated in section 150.01 of the Revised Code. | 10234 |
| (B) During each year that a report is issued under division | 10235 |
| (A) of this section, the chairperson of the authority, or another | 10236 |
| member of the authority designated by the chairperson as the | 10237 |
| authority's representative, shall be required to appear in person | 10238 |
| before the standing committees of the house and senate | 10239 |
| predominantly concerned with economic development to give | 10240 |
| testimony concerning the status of the Ohio venture capital | 10241 |
| program. | 10242 |
| <u>Sec. 153.02.</u> (A) <u>The director of administrative services may</u> | 10243 |
| <u>debar a contractor from contract awards for public improvements as</u> | 10244 |
| <u>referred to in section 153.01 of the Revised Code upon proof that</u> | 10245 |
| <u>the contractor has done any of the following:</u> | 10246 |

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| <u>(1) Defaulted on a contract requiring the execution of a takeover agreement as set forth in division (B) of section 153.17 of the Revised Code;</u> | 10247 |
| | 10248 |
| | 10249 |
| <u>(2) Knowingly failed during the course of a contract to maintain the coverage required by the bureau of workers' compensation;</u> | 10250 |
| | 10251 |
| | 10252 |
| <u>(3) Knowingly failed during the course of a contract to maintain the contractor's drug-free workplace program as required by the contract;</u> | 10253 |
| | 10254 |
| | 10255 |
| <u>(4) Knowingly failed during the course of a contract to maintain insurance required by the contract or otherwise by law, resulting in a substantial loss to the owner, as owner is referred to in section 153.01 of the Revised Code;</u> | 10256 |
| | 10257 |
| | 10258 |
| | 10259 |
| <u>(5) Misrepresented the firm's qualifications in the selection process set forth in sections 153.65 to 153.71 of the Revised Code;</u> | 10260 |
| | 10261 |
| | 10262 |
| <u>(6) Been convicted of a criminal offense related to the application for or performance of any public or private contract, including, but not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, and any other offense that directly reflects on the contractor's business integrity;</u> | 10263 |
| | 10264 |
| | 10265 |
| | 10266 |
| | 10267 |
| | 10268 |
| <u>(7) Been convicted of a criminal offense under state or federal antitrust laws;</u> | 10269 |
| | 10270 |
| <u>(8) Deliberately or willfully submitted false or misleading information in connection with the application for or performance of a public contract;</u> | 10271 |
| | 10272 |
| | 10273 |
| <u>(9) Been debarred from bidding on or participating in a contract with any state or federal agency.</u> | 10274 |
| | 10275 |
| <u>(B) When the director reasonably believes that grounds for</u> | 10276 |

debarment exist, the director shall send the contractor a notice 10277
of proposed debarment indicating the grounds for the proposed 10278
debarment and the procedure for requesting a hearing on the 10279
proposed debarment. The hearing shall be conducted in accordance 10280
with Chapter 119. of the Revised Code. If the contractor does not 10281
respond with a request for a hearing in the manner specified in 10282
Chapter 119. of the Revised Code, the director shall issue the 10283
debarment decision without a hearing and shall notify the 10284
contractor of the decision by certified mail, return receipt 10285
requested. 10286

(C) The director shall determine the length of the debarment 10287
period and may rescind the debarment at any time upon notification 10288
to the contractor. During the period of debarment, the contractor 10289
is not eligible to bid for or participate in any contract for a 10290
public improvement as referred to in section 153.01 of the Revised 10291
Code. After the debarment period expires, the contractor shall be 10292
eligible to bid for and participate in contracts for a public 10293
improvement as referred to in section 153.01 of the Revised Code. 10294

(D) The director, through the office of the state architect, 10295
shall maintain a list of all contractors currently debarred under 10296
this section. Any governmental entity awarding a contract for 10297
construction of a public improvement may use a contractor's 10298
presence on the debarment list to determine whether a contractor 10299
is responsible or best under section 9.312 or any other section of 10300
the Revised Code in the award of a contract. 10301

Sec. 154.11. The issuing authority may authorize and issue 10302
obligations for the refunding, including funding and retirement, 10303
of any obligations previously issued under this chapter and any 10304
bonds or notes previously issued under Chapter 152. of the Revised 10305
Code to pay costs of capital facilities leased to the Ohio 10306
cultural facilities commission, formerly known as the Ohio arts 10307

and sports facilities commission. Such obligations may be issued 10308
in amounts sufficient for payment of the principal amount of the 10309
prior obligations, any redemption premiums thereon, principal 10310
maturities of any such obligations maturing prior to the 10311
redemption of the remaining obligations on a parity therewith, 10312
interest accrued or to accrue to the maturity dates or dates of 10313
redemption of such obligations, and any expenses incurred or to be 10314
incurred in connection with such issuance and such refunding, 10315
funding, and retirement. Subject to the bond proceedings therefor, 10316
the portion of proceeds of the sale of obligations issued under 10317
this section to be applied to bond service charges on the prior 10318
obligations shall be credited to the bond service fund for those 10319
prior obligations. Obligations authorized under this section shall 10320
be deemed to be issued for those purposes for which those prior 10321
obligations were issued and are subject to the provisions of 10322
Chapter 154. of the Revised Code pertaining to other obligations, 10323
except as otherwise indicated by this section and except for 10324
division (A) of section 154.02 of the Revised Code, provided that, 10325
unless otherwise authorized by the general assembly, any 10326
limitations imposed by the general assembly pursuant to that 10327
division with respect to bond service charges applicable to the 10328
prior obligations shall be applicable to the obligations issued 10329
under this section to refund, fund, or retire those prior 10330
obligations. 10331

Sec. 173.26. (A) Each of the following facilities shall 10332
annually pay to the department of aging six dollars for each bed 10333
maintained by the facility for use by a resident during any part 10334
of the previous year: 10335

(1) Nursing homes, residential care facilities, and homes for 10336
the aging as defined in section 3721.01 of the Revised Code; 10337

(2) Facilities authorized to provide extended care services 10338

under Title XVIII of the "Social Security Act," 49 Stat. 620 10339
(1935), 42 U.S.C. 301, as amended; 10340

(3) County homes and district homes operated pursuant to 10341
Chapter 5155. of the Revised Code; 10342

(4) Adult care facilities as defined in section 3722.01 of 10343
the Revised Code; 10344

(5) Facilities approved by the Veterans Administration under 10345
Section 104(a) of the "Veterans Health Care Amendments of 1983," 10346
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 10347
the placement and care of veterans. 10348

The department shall, by rule adopted in accordance with 10349
Chapter 119. of the Revised Code, establish deadlines for payments 10350
required by this section. A facility that fails, within ninety 10351
days after the established deadline, to pay a payment required by 10352
this section shall be assessed at two times the original invoiced 10353
payment. 10354

(B) All money collected under this section shall be deposited 10355
in the state treasury to the credit of the office of the state 10356
long-term care ombudsperson program fund, which is hereby created. 10357
Money credited to the fund shall be used solely to pay the costs 10358
of operating the regional long-term care ombudsperson programs. 10359

(C) The state long-term care ombudsperson and the regional 10360
programs may solicit and receive contributions to support the 10361
operation of the office or a regional program, except that no 10362
contribution shall be solicited or accepted that would interfere 10363
with the independence or objectivity of the office or program. 10364

Sec. 173.39. As used in sections 173.39 to 173.393 of the 10365
Revised Code, "community-based long-term care services" has the 10366
same meaning as in section 173.14 of the Revised Code. 10367

Except as provided in section 173.392 of the Revised Code, 10368

the department of aging may not pay a person or government entity 10369
for providing community-based long-term care services under a 10370
program the department administers unless the person or government 10371
entity is certified under section 173.391 of the Revised Code and 10372
provides the services. 10373

Sec. 173.391. (A) The department of aging or its designee 10374
shall do all of the following in accordance with Chapter 119. of 10375
the Revised Code: 10376

(1) Certify a person or government entity to provide 10377
community-based long-term care services under a program the 10378
department administers if the person or government entity 10379
satisfies the requirements for certification established by rules 10380
adopted under division (B) of this section; 10381

(2) When required to do so by rules adopted under division 10382
(B) of this section, take one or more of the following 10383
disciplinary actions against a person or government entity issued 10384
a certificate under division (A)(1) of this section: 10385

(a) Issue a written warning; 10386

(b) Require the submission of a plan of correction; 10387

(c) Suspend referrals; 10388

(d) Remove clients; 10389

(e) Impose a fiscal sanction such as a civil monetary penalty 10390
or an order that unearned funds be repaid; 10391

(f) Revoke the certificate; 10392

(g) Impose another sanction. 10393

(3) Hold hearings when there is a dispute between the 10394
department or its designee and a person or government entity 10395
concerning actions the department or its designee takes or does 10396
not take under division (A)(1) or (2)(c) to (g) of this section. 10397

(B) The director of aging shall adopt rules in accordance 10398
with Chapter 119. of the Revised Code establishing certification 10399
requirements and standards for determining which type of 10400
disciplinary action to take under division (A)(2) of this section 10401
in individual situations. The rules shall establish procedures for 10402
all of the following: 10403

(1) Ensuring that PASSPORT agencies, as defined in section 10404
173.41 of the Revised Code, comply with that section; 10405

(2) Evaluating the services provided to ensure that they are 10406
provided in a quality manner advantageous to the individual 10407
receiving the services; 10408

(3) Determining when to take disciplinary action under 10409
division (A)(2) of this section and which disciplinary action to 10410
take. 10411

(C) The procedures established in rules adopted under 10412
division (B)(2) of this section shall require that all of the 10413
following be considered as part of an evaluation: 10414

(1) The service provider's experience and financial 10415
responsibility; 10416

(2) The service provider's ability to comply with standards 10417
for the community-based long-term care services that the provider 10418
provides under a program the department administers; 10419

(3) The service provider's ability to meet the needs of the 10420
individuals served; 10421

(4) Any other factor the director considers relevant. 10422

(D) The rules adopted under division (B)(3) of this section 10423
shall specify that the reasons disciplinary action may be taken 10424
under division (A)(2) of this section include good cause, 10425
including misfeasance, malfeasance, nonfeasance, confirmed abuse 10426
or neglect, financial irresponsibility, or other conduct the 10427

director determines is injurious to the health or safety of 10428
individuals being served. 10429

Sec. 173.392. (A) The department of aging may pay a person or 10430
government entity for providing community-based long-term care 10431
services under a program the department administers, even though 10432
the person or government entity is not certified under section 10433
173.391 of the Revised Code if all of the following are the case: 10434

(1) The person or government entity has a contract with the 10435
department of aging or the department's designee to provide the 10436
services; 10437

(2) The contract includes detailed conditions of 10438
participation for providers of services under a program the 10439
department administers and service standards that the person or 10440
government entity is required to satisfy; 10441

(3) The person or government entity complies with the 10442
contract; 10443

(4) The contract is not for medicaid-funded services, other 10444
than services provided under the PACE program administered by the 10445
department of aging under section 173.50 of the Revised Code. 10446

(B) The director of aging shall adopt rules in accordance 10447
with Chapter 119. of the Revised Code governing both of the 10448
following: 10449

(1) Contracts between the department of aging and persons and 10450
government entities regarding community-based long-term care 10451
services provided under a program the department administers; 10452

(2) The department's payment for community-based long-term 10453
care services provided under such a contract. 10454

Sec. 173.393. (A) Except as provided in division (B) of this 10455
section, the records of an evaluation conducted in accordance with 10456

rules adopted under division (B)(2) of section 173.391 of the 10457
Revised Code are public records for purposes of section 149.43 of 10458
the Revised Code and shall be made available on request of any 10459
person, including individuals receiving or seeking community-based 10460
long-term care services under a program the department of aging 10461
administers. 10462

(B) A part of a record of an evaluation that is otherwise 10463
available as a public record under division (A) of this section is 10464
not available as a public record if its release would violate a 10465
federal or state statute, regulation, or rule, including 10466
regulations adopted by the United States department of health and 10467
human services to implement the health information privacy 10468
provisions of the "Health Insurance Portability and Accountability 10469
Act of 1996," 110 Stat. 1955, 42 U.S.C. 1320d, et seq., as 10470
amended. 10471

Sec. 173.40. There is hereby created a medicaid waiver 10472
component of the medicaid program established under Chapter 5111, 10473
as defined in section 5111.85 of the Revised Code, to be known as 10474
the preadmission screening system providing options and resources 10475
today program, or PASSPORT. The PASSPORT program shall provide 10476
home and community-based services as an alternative to nursing 10477
facility placement for aged and disabled medicaid recipients. The 10478
program shall be operated pursuant to a home and community-based 10479
waiver granted by the United States secretary of health and human 10480
services under section 1915 of the "Social Security Act," 49 Stat. 10481
620 (1935), 42 U.S.C. 1396n, as amended. The department of aging 10482
shall administer the program through a contract entered into with 10483
the department of job and family services under section 5111.91 of 10484
the Revised Code. The ~~directors~~ director of aging and job and 10485
family services shall adopt rules under section 5111.85 of the 10486
Revised Code and the director of aging shall adopt rules in 10487

accordance with Chapter 119. of the Revised Code to implement the 10488
program. 10489

Sec. ~~5101.75~~ 173.42. (A) As used in ~~sections 5101.75,~~ 10490
~~5101.751, 5101.752, 5101.753, and 5101.754 of the Revised Code~~ 10491
this section: 10492

(1) ~~"Alternative source of long term care" includes a~~ 10493
~~residential care facility licensed under Chapter 3721. of the~~ 10494
~~Revised Code, an adult care facility licensed under Chapter 3722.~~ 10495
~~of the Revised Code, home and community based services, and a~~ 10496
~~nursing home licensed under Chapter 3721. of the Revised Code that~~ 10497
~~is not a nursing facility~~ Area agency on aging" means a public or 10498
private nonprofit entity designated under section 173.011 of the 10499
Revised Code to administer programs on behalf of the department of 10500
aging. 10501

(2) "Long-term care consultation" means the process used to 10502
provide services under the long-term care consultation program 10503
established pursuant to this section, including, but not limited 10504
to, such services as the provision of information about long-term 10505
care options and costs, the assessment of an individual's 10506
functional capabilities, and the conduct of all or part of the 10507
reviews, assessments, and determinations specified in sections 10508
5111.202, 5111.204, 5119.061, and 5123.021 of the Revised Code and 10509
the rules adopted under those sections. 10510

(3) "Medicaid" means the medical assistance program 10511
established under Chapter 5111. of the Revised Code. 10512

~~(3)~~(4) "Nursing facility" has the same meaning as in section 10513
5111.20 of the Revised Code. 10514

~~(4)~~(5) "Representative" means a person acting on behalf of an 10515
~~applicant~~ individual seeking a long-term care consultation, 10516
applying for admission to a nursing facility, or residing in a 10517

nursing facility. A representative may be a family member, 10518
attorney, hospital social worker, or any other person chosen to 10519
act on behalf of ~~an applicant~~ the individual. 10520

~~(5) "Third party payment source" means a third party payer as 10521
defined in section 3901.38 of the Revised Code or medicaid. 10522~~

~~(B) Effective July 1, 1994, the department of job and family 10523
services may assess a person applying or intending to apply for 10524
admission to a nursing facility who is not an applicant for or 10525
recipient of medicaid to determine whether the person is in need 10526
of nursing facility services and whether an alternative source of 10527
long term care is more appropriate for the person in meeting the 10528
person's physical, mental, and psychosocial needs than admission 10529
to the facility to which the person has applied. 10530~~

~~Each assessment shall be performed by the department or an 10531
agency designated by the department under section 5101.751 of the 10532
Revised Code and shall be based on information provided by the 10533
person or the person's representative. It shall consider the 10534
person's physical, mental, and psychosocial needs and the 10535
availability and effectiveness of informal support and care. The 10536
department or designated agency shall determine the person's 10537
physical, mental, and psychosocial needs by using, to the maximum 10538
extent appropriate, information from the resident assessment 10539
instrument specified in rules adopted by the department under 10540
division (A) of section 5111.231 of the Revised Code. The 10541
department or designated agency shall also use the criteria and 10542
procedures established in rules adopted by the department under 10543
division (I) of this section. Assessments may be performed only by 10544
persons The department of aging shall develop a long-term care 10545
consultation program whereby individuals or their representatives 10546
are provided with long-term care consultations and receive through 10547
these professional consultations information about options 10548
available to meet long-term care needs and information about 10549~~

factors to consider in making long-term care decisions. The 10550
long-term care consultations provided under the program may be 10551
provided at any appropriate time, as permitted or required under 10552
this section and the rules adopted under it, including either 10553
prior to or after the individual who is the subject of a 10554
consultation has been admitted to a nursing facility. 10555

(C) The long-term care consultation program shall be 10556
administered by the department of aging, except that the 10557
department may enter into a contract with an area agency on aging 10558
or other entity selected by the department under which the program 10559
for a particular area is administered by the area agency on aging 10560
or other entity pursuant to the contract. 10561

(D) The long-term care consultations provided for purposes of 10562
the program shall be provided by individuals certified by the 10563
department under section 5101.752 173.43 of the Revised Code. The 10564
department or designated agency shall make a recommendation on the 10565
basis of the assessment and, not later than the time the 10566
assessment is required to be performed under division (D) of this 10567
section, give the person assessed written notice of the 10568
recommendation, which shall explain the basis for the 10569
recommendation. If the department or designated agency determines 10570
pursuant to an assessment that an alternative source of long term 10571
care is more appropriate for the person than admission to the 10572
facility to which the person has applied, the department or 10573
designated agency shall include in the notice possible sources of 10574
financial assistance for the alternative source of long term care. 10575
If the department or designated agency has been informed that the 10576
person has a representative, it shall give the notice to the 10577
representative. 10578

~~(C) A person~~ (E) The information provided through a long-term 10579
care consultation shall be appropriate to the individual's needs 10580
and situation and shall address all of the following: 10581

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| <u>(1) The availability of any long-term care options open to the individual;</u> | 10582 |
| | 10583 |
| <u>(2) Sources and methods of both public and private payment for long-term care services;</u> | 10584 |
| | 10585 |
| <u>(3) Factors to consider when choosing among the available programs, services, and benefits;</u> | 10586 |
| | 10587 |
| <u>(4) Opportunities and methods for maximizing independence and self-reliance, including support services provided by the individual's family, friends, and community.</u> | 10588 |
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| <u>(F) An individual's long-term care consultation may include an assessment of the individual's functional capabilities. The consultation may incorporate portions of the determinations required under sections 5111.202, 5119.061, and 5123.021 of the Revised Code and may be provided concurrently with the assessment required under section 5111.204 of the Revised Code.</u> | 10591 |
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| <u>(G)(1) Unless an exemption specified in division (I) of this section is applicable, each individual in the following categories shall be provided with a long-term care consultation:</u> | 10597 |
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| <u>(a) Individuals who apply or indicate an intention to apply for admission to a nursing facility, regardless of the source of payment to be used for their care in a nursing facility;</u> | 10600 |
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| <u>(b) Nursing facility residents who apply or indicate an intention to apply for medicaid;</u> | 10603 |
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| <u>(c) Nursing facility residents who are likely to spend down their resources within six months after admission to a nursing facility to a level at which they are financially eligible for medicaid;</u> | 10605 |
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| <u>(d) Individuals who request a long-term care consultation.</u> | 10609 |
| <u>(2) In addition to the individuals included in the categories specified in division (G)(1) of this section, long-term care</u> | 10610 |
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consultations may be provided to nursing facility residents who 10612
have not applied and have not indicated an intention to apply for 10613
medicaid. The purpose of the consultations provided to these 10614
individuals shall be to determine continued need for nursing 10615
facility services, to provide information on alternative services, 10616
and to make referrals to alternative services. 10617

(H)(1) When a long-term care consultation is required to be 10618
provided pursuant to division (G)(1) of this section, the 10619
consultation shall be provided as follows or pursuant to division 10620
(H)(2) or (3) of this section: 10621

(a) If the individual for whom the consultation is being 10622
provided has applied for medicaid and the consultation is being 10623
provided concurrently with the assessment required under section 10624
5111.204 of the Revised Code, the consultation shall be completed 10625
in accordance with the applicable time frames specified in that 10626
section for providing a level of care determination based on the 10627
assessment. 10628

(b) In all other cases, the consultation shall be provided 10629
not later than five calendar days after the department or the 10630
program administrator under contract with the department receives 10631
notice of the reason for which the consultation is required to be 10632
provided pursuant to division (G)(1) of this section. 10633

(2) An individual or the individual's representative may 10634
request that a long-term care consultation be provided on a date 10635
that is later than the date required under division (H)(1)(a) or 10636
(b) of this section. 10637

(3) If a long-term care consultation cannot be completed 10638
within the number of days required by division (H)(1) or (2) of 10639
this section, the department or the program administrator under 10640
contract with the department may do any of the following: 10641

(a) Exempt the individual from the consultation pursuant to 10642

rules that may be adopted under division (L) of this section; 10643

(b) In the case of an applicant for admission to a nursing facility, provide the consultation after the individual is admitted to the nursing facility; 10644
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(c) In the case of a resident of a nursing facility, provide the consultation as soon as practicable. 10647
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(I) An individual is not required to be assessed provided a long-term care consultation under division (B) of this section if any of the following apply: 10649
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(1) The circumstances individual or the individual's representative chooses to forego participation in the consultation pursuant to criteria specified by in rules adopted under division (I)(L) of this section exist.; 10652
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(2) The person individual is to receive care in a nursing facility under a contract for continuing care as defined in section 173.13 of the Revised Code.; 10656
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(3) The person individual has a contractual right to admission to a nursing facility operated as part of a system of continuing care in conjunction with one or more facilities that provide a less intensive level of services, including a residential care facility licensed under Chapter 3721. of the Revised Code, an ~~adult-care~~ adult care facility licensed under Chapter 3722. of the Revised Code, or an independent living arrangement; 10659
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(4) The person individual is to receive continual care in a home for the aged exempt from taxation under section 5701.13 of the Revised Code; 10667
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(5) The person is to receive care in the nursing facility for not more than fourteen days in order to provide temporary relief to the person's primary caregiver and the nursing facility 10670
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~~notifies the department of the person's admittance not later than~~ 10673
~~twenty four hours after admitting the person individual is seeking~~ 10674
~~admission to a facility that is not a nursing facility with a~~ 10675
~~provider agreement under section 5111.22 of the Revised Code;~~ 10676

(6) ~~The person individual is to be transferred from another~~ 10677
~~nursing facility, unless the nursing facility from which or to~~ 10678
~~which the person is to be transferred determines that the person's~~ 10679
~~medical condition has changed substantially since the person's~~ 10680
~~admission to the nursing facility from which the person is to be~~ 10681
~~transferred or a review is required by a third party payment~~ 10682
~~source;~~ 10683

(7) ~~The person individual is to be readmitted to a nursing~~ 10684
~~facility following a period of hospitalization, unless the~~ 10685
~~hospital or nursing facility determines that the person's medical~~ 10686
~~condition has changed substantially since the person's admission~~ 10687
~~to the hospital, or a review is required by a third party payment~~ 10688
~~source;~~ 10689

(8) ~~The department or designated agency fails to complete an~~ 10690
~~assessment within the time required by division (D) or (E) of this~~ 10691
~~section or determines after a partial assessment that the person~~ 10692
~~should be exempt from the assessment individual is exempted from~~ 10693
~~the long-term care consultation requirement by the department or~~ 10694
~~the program administrator pursuant to rules that may be adopted~~ 10695
~~under division (L) of this section.~~ 10696

~~(D) The department or designated agency shall perform a~~ 10697
~~complete assessment, or, if circumstances provided by rules~~ 10698
~~adopted under division (I) of this section exist, a partial~~ 10699
~~assessment, as follows:~~ 10700

~~(1) In the case of a hospitalized person applying or~~ 10701
~~intending to apply to a nursing facility, not later than two~~ 10702
~~working days after the person or the person's representative is~~ 10703

~~notified that a bed is available in a nursing facility;~~ 10704

~~(2) In the case of an emergency as determined in accordance with rules adopted under division (I) of this section, not later than one working day after the person or the person's representative is notified that a bed is available in a nursing facility;~~ 10705
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~~(3) In all other cases, not later than five calendar days after the person or the person's representative who submits the application is notified that a bed is available in a nursing facility.~~ 10710
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~~(E) If the department or designated agency conducts a partial assessment under division (D) of this section, it shall complete the rest of the assessment not later than one hundred eighty days after the date the person is admitted to the nursing facility unless the assessment entity determines the person should be exempt from the assessment.~~ 10714
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~~(F) A person assessed under this section or the person's representative may file a complaint with the department about the assessment process. The department shall work to resolve the complaint in accordance with rules adopted under division (I) of this section.~~ 10720
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~~(G) A person (J) At the conclusion of an individual's long-term care consultation, the department or the program administrator under contract with the department shall provide the individual or individual's representative with a written summary of options and resources available to meet the individual's needs. Even though the summary may specify that a source of long-term care other than care in a nursing facility is appropriate and available, the individual is not required to seek an alternative source of long-term care and may be admitted to or continue to reside in a nursing facility even though an alternative source of~~ 10725
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~~long term care is available or the person is determined pursuant to an assessment under this section not to need nursing facility services.~~ 10735
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~~(H)(K)~~ No nursing facility for which an operator has a provider agreement ~~with the department~~ under section 5111.22 of the Revised Code shall admit or retain any ~~person, other than a person exempt from the assessment requirement as provided by division (C) of this section,~~ individual as a resident, unless the nursing facility has received evidence that a ~~complete or partial assessment~~ long-term care consultation has been completed for the individual or division (I) of this section is applicable to the individual. 10738
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~~(I)(L)~~ The director of ~~job and family services~~ shall aging ~~may~~ adopt any rules ~~in accordance with Chapter 119. of the Revised Code to implement and administer~~ the director considers necessary for the implementation and administration of this section. The rules shall ~~include~~ be adopted in accordance with Chapter 119. of the Revised Code and may specify any or all of the following: 10747
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(1) ~~The information a person being assessed or the person's representative must provide to enable the department or designated agency to do the assessment;~~ 10753
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~~(2) Criteria to be used to determine whether a person is in need of nursing facility services;~~ 10756
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~~(3) Criteria to be used to determine whether an alternative source of long term care is appropriate for the person being assessed;~~ 10758
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~~(4) Criteria and procedures to be used to determine a person's physical, mental, and psychosocial needs;~~ 10761
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~~(5) Criteria to be used to determine the effectiveness and continued availability of a person's current source of informal support and care;~~ 10763
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| (6) Circumstances, in addition to those specified in division | 10766 |
| (C) of this section, under which a person is not required to be | 10767 |
| assessed; | 10768 |
| (7) Circumstances under which the department or designated | 10769 |
| agency may perform a partial assessment under division (D) of this | 10770 |
| section; | 10771 |
| (8) The method by which a situation will be determined to be | 10772 |
| an emergency for the purpose of division (D)(2) of this section; | 10773 |
| (9) The method by which the department will attempt to | 10774 |
| resolve complaints filed under division (F) of this section | 10775 |
| <u>Procedures for providing long-term care consultations pursuant to</u> | 10776 |
| <u>this section;</u> | 10777 |
| <u>(2) Information to be provided through long-term care</u> | 10778 |
| <u>consultations regarding long-term care services that are</u> | 10779 |
| <u>available;</u> | 10780 |
| <u>(3) Criteria under which an individual or the individual's</u> | 10781 |
| <u>representative may choose to forego participation in a long-term</u> | 10782 |
| <u>care consultation;</u> | 10783 |
| <u>(4) Criteria for exempting individuals from the long-term</u> | 10784 |
| <u>care consultation requirement;</u> | 10785 |
| <u>(5) Circumstances under which it may be appropriate to</u> | 10786 |
| <u>provide an individual's long-term care consultation after the</u> | 10787 |
| <u>individual's admission to a nursing facility rather than before</u> | 10788 |
| <u>admission;</u> | 10789 |
| <u>(6) Criteria for identifying nursing facility residents who</u> | 10790 |
| <u>would benefit from the provision of a long-term care consultation.</u> | 10791 |
| (J)(M) The director of job and family services <u>aging</u> may fine | 10792 |
| a nursing facility an amount determined by rules the director | 10793 |
| shall adopt in accordance with Chapter 119. of the Revised Code in | 10794 |
| either of the following circumstances: | 10795 |

~~(1) The nursing facility fails to notify the department
within the required time about an admission described in division
(C)(5) of this section;~~ 10796
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~~(2) The if the nursing facility admits or retains an
individual, without evidence that a ~~complete or partial assessment~~
long-term care consultation has been ~~conducted~~ provided, a ~~person~~
~~other than a person exempt from the assessment requirement as~~
~~provided~~ required by division ~~(C)~~ of this section.~~ 10799
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~~The director shall deposit~~ In accordance with section 5111.62
of the Revised Code, all fines collected under this division shall
be deposited into the state treasury to the credit of the
~~residents protection fund established by section 5111.62 of the~~
~~Revised Code.~~ 10804
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Sec. ~~5101.752~~ 173.43. The department of ~~job and family~~
~~services aging~~ shall certify ~~registered nurses licensed under~~
Chapter ~~4723.~~ of the Revised Code and ~~social workers and~~
~~independent social workers licensed under Chapter 4757.~~ of the
Revised Code individuals who meet certification requirements
established by rule to ~~perform assessments under~~ provide long-term
care consultations for purposes of section ~~5101.75 or 5101.754~~
173.42 of the Revised Code. The director of ~~job and family~~
~~services aging~~ shall adopt rules in accordance with Chapter 119.
of the Revised Code governing the certification process and
requirements. The rules shall specify the education, experience,
or training in ~~geriatric~~ long-term care a person must have to
qualify for certification. 10809
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Sec. 173.44. (A) As used in this section, "nursing home" and
"residential care facility" have the same meanings as in section
3721.01 of the Revised Code. 10822
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(B) The department of aging may conduct an annual survey of 10825

nursing homes and residential care facilities. The survey shall 10826
include questions about capacity, occupancy, and private pay 10827
charges. The department may contract with an outside entity to 10828
conduct the survey and analyze the results. The results of the 10829
survey and any analysis completed by the department or its 10830
designee shall be made available to the general assembly, other 10831
state agencies, nursing home and residential care facility 10832
providers, and the general public. 10833

(C) No nursing home or residential care facility shall 10834
recklessly fail to complete the survey. 10835

Sec. 173.45. As used in this section and in sections 173.46 10836
to 173.49 of the Revised Code: 10837

(A) "Long-term care facility" means a nursing home or 10838
residential care facility. 10839

(B) "Nursing home" and "residential care facility" have the 10840
same meanings as in section 3721.01 of the Revised Code. 10841

(C) "Nursing facility" has the same meaning as in section 10842
5111.20 of the Revised Code. 10843

Sec. 173.46. (A) The department of aging shall develop and 10844
publish a guide to long-term care facilities for use by 10845
individuals considering long-term care facility admission and 10846
their families, friends, and advisors. The guide, which shall be 10847
titled the Ohio long-term care consumer guide, may be published in 10848
printed form or in electronic form for distribution over the 10849
internet. The guide may be developed as a continuation or 10850
modification of the guide published by the department prior to the 10851
effective date of this section under rules adopted under section 10852
173.02 of the Revised Code. 10853

(B) The Ohio long-term care consumer guide shall include 10854
information on each long-term care facility in this state. For 10855

each facility, the guide shall include the following information, 10856
as applicable to the facility: 10857

(1) Information regarding the facility's compliance with 10858
state statutes and rules and federal statutes and regulations; 10859

(2) Information generated by the centers for medicare and 10860
medicaid services of the United States department of health and 10861
human services from the quality measures developed as part of its 10862
nursing home quality initiative; 10863

(3) Results of the customer satisfaction surveys conducted 10864
under section 173.47 of the Revised Code; 10865

(4) Any other information the department specifies in rules 10866
adopted under section 173.49 of the Revised Code. 10867

Sec. 173.47. (A) For purposes of publishing the Ohio 10868
long-term care consumer guide, the department of aging shall 10869
conduct or provide for the conduct of an annual customer 10870
satisfaction survey of each long-term care facility. The results 10871
of the surveys may include information obtained from long-term 10872
care facility residents, their families, or both. 10873

(B)(1) The department may charge fees for the conduct of 10874
annual customer satisfaction surveys. The department may contract 10875
with any person or government entity to collect the fees on its 10876
behalf. All fees collected under this section shall be deposited 10877
in accordance with section 173.48 of the Revised Code. 10878

(2) The fees charged under this section shall not exceed the 10879
following amounts: 10880

(a) Four hundred dollars for the customer satisfaction survey 10881
of a long-term care facility that is a nursing home; 10882

(b) Three hundred dollars for the customer satisfaction 10883
survey pertaining to a long-term care facility that is a 10884
residential care facility. 10885

(3) Fees paid by a long-term care facility that is a nursing facility shall be reimbursed through the medicaid program operated under Chapter 5111. of the Revised Code. 10886
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(C) Each long-term care facility shall cooperate in the conduct of its annual customer satisfaction survey. 10889
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Sec. 173.48. There is hereby created in the state treasury the long-term care consumer guide fund. Money collected from the fees charged for the conduct of customer satisfaction surveys under section 173.47 of the Revised Code shall be credited to the fund. The department of aging shall use money in the fund for costs associated with publishing the Ohio long-term care consumer guide, including, but not limited to, costs incurred in conducting or providing for the conduct of customer satisfaction surveys. 10891
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Sec. 173.49. The department of aging shall adopt rules as the department considers necessary to implement and administer sections 173.45 to 173.48 of the Revised Code. The rules shall be adopted under Chapter 119. of the Revised Code. 10899
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Sec. 173.50. (A) Pursuant to a contract entered into with the department of job and family services as an interagency agreement under section 5111.91 of the Revised Code, the department of aging shall carry out the day-to-day administration of the component of the medicaid program established under Chapter 5111. of the Revised Code known as the program of all-inclusive care for the elderly or PACE. The department of aging shall carry out its PACE administrative duties in accordance with the provisions of the interagency agreement and all applicable federal laws, including the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396u-4, as amended. 10903
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(B) The department of aging may adopt rules in accordance with Chapter 119. of the Revised Code regarding the PACE program, 10914
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subject to both of the following: 10916

(1) The rules shall be authorized by rules adopted by the 10917
department of job and family services. 10918

(2) The rules shall address only those issues that are not 10919
addressed in rules adopted by the department of job and family 10920
services for the PACE program. 10921

Sec. 173.99. (A) A long-term care provider, person employed 10922
by a long-term care provider, other entity, or employee of such 10923
other entity that violates division (C) of section 173.24 of the 10924
Revised Code is subject to a fine not to exceed one thousand 10925
dollars for each violation. 10926

(B) Whoever violates division (C) of section 173.23 of the 10927
Revised Code is guilty of registering a false complaint, a 10928
misdemeanor of the first degree. 10929

(C) A long-term care provider, other entity, or person 10930
employed by a long-term care provider or other entity that 10931
violates division (E) of section 173.19 of the Revised Code by 10932
denying a representative of the office of the state long-term care 10933
ombudsperson program the access required by that division is 10934
subject to a fine not to exceed five hundred dollars for each 10935
violation. 10936

(D) Whoever violates division (C) of section 173.44 of the 10937
Revised Code is subject to a fine of one hundred dollars. 10938

Sec. 183.28. The education technology trust fund is hereby 10939
created in the state treasury. Money credited to the fund shall be 10940
used to pay costs of the eTech Ohio ~~SchoolNet~~ commission under 10941
section ~~3301.80~~ 3353.02 of the Revised Code. All investment 10942
earnings of the fund shall be credited to the fund. 10943

Sec. 184.02. (A) The third frontier commission may perform 10944

any act to ensure the performance of any function necessary or 10945
appropriate to carry out the purposes of, and exercise the powers 10946
granted under, sections 184.01 and 184.02 of the Revised Code. In 10947
addition, the commission may do any of the following: 10948

(1) Adopt, amend, and rescind rules under section 111.15 of 10949
the Revised Code for the administration of any aspect of its 10950
operations; 10951

(2) Adopt bylaws governing its operations, including bylaws 10952
that establish procedures and set policies as may be necessary to 10953
assist with the furtherance of its purposes; 10954

(3) Appoint and set the compensation of employees needed to 10955
carry out its duties; 10956

(4) Contract with, retain the services of, or designate, and 10957
fix the compensation of, such financial consultants, accountants, 10958
other consultants and advisors, and other independent contractors 10959
as may be necessary or desirable to carry out its duties; 10960

(5) Solicit input and comments from the third frontier 10961
advisory board, and specialized industry, professional, and other 10962
relevant interest groups concerning its purposes; 10963

(6) Facilitate alignment of the state's science and 10964
technology programs and activities; 10965

(7) Make grants and loans to individuals, public agencies, 10966
private companies or organizations, or joint ventures for any of 10967
the broad range of activities related to its purposes. 10968

(B) The commission shall do all of the following: 10969

(1) Establish a competitive process for the award of grants 10970
and loans that is designed to fund the most meritorious proposals 10971
and, when appropriate, provide for peer review of proposals; 10972

(2) Within ninety days after the end of each fiscal year, 10973

submit to the governor and the general assembly a report of the 10974
activities of the commission during the preceding fiscal year; 10975

(3) With specific application to the biomedical research and 10976
technology transfer trust fund, periodically make strategic 10977
assessments of the types of state investments in biomedical 10978
research and biotechnology in the state that would likely create 10979
jobs and business opportunities in the state and produce the most 10980
beneficial long-term improvements to the public health of ~~Ohioians~~ 10981
Ohioans, including, but not limited to, biomedical research and 10982
biotechnology initiatives that address tobacco-related illnesses 10983
as may be outlined in any master agreement. The commission shall 10984
award grants and loans from the fund pursuant to a process 10985
established under division (B)(1) of this section. 10986

(C) Notwithstanding the authority granted to the commission 10987
under sections 184.01 to 184.04 of the Revised Code, the 10988
commission shall not make any grants or loans to individuals, 10989
public agencies, private companies or organizations, or joint 10990
ventures for any activities involving stem cell research with 10991
human embryonic tissue. 10992

Sec. 305.171. (A) The board of county commissioners of any 10993
county may contract for, purchase, or otherwise procure and pay 10994
all or any part of the cost of group insurance policies that may 10995
provide benefits including, but not limited to, hospitalization, 10996
surgical care, major medical care, disability, dental care, eye 10997
care, medical care, hearing aids, or prescription drugs, and that 10998
may provide sickness and accident insurance, group legal services, 10999
or group life insurance, or a combination of any of the foregoing 11000
types of insurance or coverage, for county officers and employees 11001
and their immediate dependents from the funds or budgets from 11002
which the county officers or employees are compensated for 11003
services, issued by an insurance company. 11004

(B) The board of county commissioners also may negotiate and 11005
contract for any plan or plans of health care services with health 11006
insuring corporations holding a certificate of authority under 11007
Chapter 1751. of the Revised Code, provided that each county 11008
officer or employee shall be permitted to do both of the 11009
following: 11010

(1) Exercise an option between a plan offered by an insurance 11011
company and ~~such a~~ plan or plans offered by health insuring 11012
corporations under this division, on the condition that the county 11013
officer or employee shall pay any amount by which the cost of the 11014
plan chosen by ~~such the~~ county officer or employee pursuant to 11015
this division exceeds the cost of the plan offered under division 11016
(A) of this section; 11017

(2) Change from one of the plans to another at a time each 11018
year as determined by the board. 11019

(C) Section 307.86 of the Revised Code does not apply to the 11020
purchase of benefits for county officers or employees under 11021
divisions (A) and (B) of this section when those benefits are 11022
provided through a jointly administered health and welfare trust 11023
fund in which the county or contracting authority and a collective 11024
bargaining representative of the county employees or contracting 11025
authority agree to participate. 11026

(D) The board of trustees of a jointly administered trust 11027
fund that receives contributions pursuant to collective bargaining 11028
agreements entered into between the board of county commissioners 11029
of any county and a collective bargaining representative of the 11030
employees of the county may provide for self-insurance of all risk 11031
in the provision of fringe benefits, and may provide through the 11032
self-insurance method specific fringe benefits as authorized by 11033
the rules of the board of trustees of the jointly administered 11034
trust fund. The fringe benefits may include, but are not limited 11035
to, hospitalization, surgical care, major medical care, 11036

disability, dental care, vision care, medical care, hearing aids, 11037
prescription drugs, group life insurance, sickness and accident 11038
insurance, group legal services, or a combination of any of the 11039
foregoing types of insurance or coverage, for county employees and 11040
their dependents. 11041

(E) The board of county commissioners may provide the 11042
benefits described in divisions (A) to (D) of this section through 11043
an individual self-insurance program or a joint self-insurance 11044
program as provided in section 9.833 of the Revised Code. 11045

(F) When a board of county commissioners offers health 11046
benefits authorized under this section to ~~an a~~ county officer or 11047
employee ~~of the county~~, the board may offer the benefits through a 11048
cafeteria plan meeting the requirements of section 125 of the 11049
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 125, 11050
as amended, and, as part of that plan, may offer the county 11051
officer or employee the option of receiving a cash payment in any 11052
form permissible under such cafeteria plans. A cash payment made 11053
to ~~an a~~ county officer or employee under this division shall not 11054
exceed twenty-five per cent of the cost of premiums or payments 11055
that otherwise would be paid by the board for benefits for the 11056
county officer or employee under a policy or plan. 11057

(G) The board of county commissioners may establish a policy 11058
authorizing any county appointing authority to make a cash payment 11059
to any county officer or employee in lieu of providing a benefit 11060
authorized under this section if the county officer or employee 11061
elects to take the cash payment instead of the offered benefit. A 11062
cash payment made to ~~an a~~ county officer or employee under this 11063
division shall not exceed twenty-five per cent of the cost of 11064
premiums or payments that otherwise would be paid by the board for 11065
benefits for the county officer or employee under an offered 11066
policy or plan. 11067

(H) No cash payment in lieu of a health benefit shall be made 11068

to a county officer or employee under division (F) or (G) of this 11069
section unless the county officer or employee signs a statement 11070
affirming that the county officer or employee is covered under 11071
another health insurance or health care policy, contract, or plan, 11072
and setting forth the name of the employer, if any, that sponsors 11073
the coverage, the name of the carrier that provides the coverage, 11074
and the identifying number of the policy, contract, or plan. 11075

~~(I)(1) As used in this division:~~ 11076

~~(a) "County operated municipal court" and "legislative 11077
authority" have the same meanings as in section 1901.03 of the 11078
Revised Code.~~ 11079

~~(b) "Health care coverage" has the same meaning as in section 11080
1901.111 of the Revised Code.~~ 11081

~~(2) The legislative authority of a county-operated municipal 11082
court, after consultation with the judges, or the clerk and deputy 11083
clerks, of the municipal court, shall negotiate and contract for, 11084
purchase, or otherwise procure, and pay the costs, premiums, or 11085
charges for, group health care coverage for the judges, and group 11086
health care coverage for the clerk and deputy clerks, in 11087
accordance with section 1901.111 or 1901.312 of the Revised Code. 11088~~

(J) As used in this section: 11089

(1) "County officer or employee" includes, but is not limited 11090
to, a member or employee of the county board of elections. 11091

(2) "County-operated municipal court" and "legislative 11092
authority" have the same meanings as in section 1901.03 of the 11093
Revised Code. 11094

(3) "Health care coverage" has the same meaning as in section 11095
1901.111 of the Revised Code. 11096

Sec. 305.28. If a board of county commissioners by resolution 11097
elects to participate in a criminal justice regional information 11098

system as provided in section 2949.093 of the Revised Code, the 11099
board also shall create in its county treasury a criminal justice 11100
regional information fund. All money deposited into the fund shall 11101
be used only as provided in that section. 11102

Sec. 306.331. Notwithstanding section 306.33 of the Revised 11103
Code, the board of trustees of any regional transit authority 11104
created by one county and two municipal corporations, with the 11105
county having a population of at least five hundred thousand 11106
according to the most recent federal census, shall be appointed 11107
and governed as provided in this section. 11108

The board of trustees of such a regional transit authority 11109
shall consist of nine members, six of whom shall be appointed by 11110
the board of county commissioners, two of whom shall be appointed 11111
by the most populous municipal corporation that is included in the 11112
regional transit authority, and one of whom shall be appointed by 11113
the second most populous municipal corporation in the county, 11114
regardless of whether the second most populous municipal 11115
corporation in the county is a member of the regional transit 11116
authority. A trustee appointed under this section shall serve at 11117
the pleasure of the appointing authority. 11118

The trustees of any authority first appointed under this 11119
section shall serve staggered terms. Thereafter each successor 11120
shall serve a term of three years, except that any person 11121
appointed to fill a vacancy shall be appointed to only the 11122
unexpired term. The resolutions or ordinances creating the 11123
regional transit authority may determine whether an appointed 11124
trustee is eligible for reappointment. 11125

A majority of the board of trustees constitutes a quorum, the 11126
affirmative vote of which is necessary for any action taken by the 11127
authority. No vacancy in the board shall impair the rights of a 11128

quorum to exercise all rights and perform all the duties of the 11129
authority. 11130

Each member of the board of trustees, before entering upon 11131
the trustee's official duties, shall take and subscribe to an oath 11132
or affirmation that the trustee will honestly, faithfully, and 11133
impartially perform the duties of office and that the trustee will 11134
not be personally interested directly or indirectly in any 11135
contract let by the regional transit authority. 11136

After each member of the board has taken the oath as 11137
prescribed by this section, the board shall meet and organize by 11138
electing one of its members as president and another as 11139
vice-president, who shall hold their respective offices until the 11140
next annual meeting of the board as provided in its bylaws. At 11141
each annual meeting thereafter, the board shall elect from its 11142
membership a president and a vice-president who shall serve for a 11143
term of one year. The board shall hold regular and special 11144
meetings in a time, place, and manner established in its bylaws, 11145
provided that all meetings shall be open to the public except 11146
executive sessions as set forth in section 122.22 of the Revised 11147
Code. 11148

The board shall appoint and fix the compensation of a 11149
secretary-treasurer, who shall be the fiscal officer. The 11150
secretary-treasurer shall not be a member of the board and shall 11151
serve at the pleasure of the board. Each member of the board of 11152
trustees is entitled to receive from the regional transit 11153
authority reimbursement for reasonable expenses in the performance 11154
of the trustee's duties. 11155

Sec. 307.37. (A) As used in division (B)(3) of this section, 11156
"proposed new construction" means a proposal to erect, construct, 11157
repair, alter, redevelop, or maintain a single-family, two-family, 11158
or three-family dwelling or any structure that is regulated by the 11159

Ohio building code. 11160

(B)(1)(a) The board of county commissioners may adopt local 11161
residential building regulations governing residential buildings 11162
as defined in section 3781.06 of the Revised Code, to be enforced 11163
within the unincorporated area of the county or within districts 11164
the board establishes in any part of the unincorporated area. No 11165
local residential building regulation shall differ from the state 11166
residential building code the board of building standards 11167
establishes pursuant to Chapter 3781. of the Revised Code unless 11168
the regulation addresses subject matter not addressed by the state 11169
residential building code or is adopted pursuant to section 11170
3781.01 of the Revised Code. 11171

(b) The board of county commissioners may, by resolution, 11172
adopt, administer, and enforce within the unincorporated area of 11173
the county, or within districts the board establishes in the 11174
unincorporated area, an existing structures code pertaining to the 11175
repair and continued maintenance of structures and the premises of 11176
those structures provided that the existing structures code 11177
governs subject matter not addressed by, and is not in conflict 11178
with, the state residential building code adopted pursuant to 11179
Chapter 3781. of the Revised Code. The board may adopt by 11180
~~incorporation~~ incorporation by reference a model or standard code 11181
prepared and promulgated by the state, any agency of this state, 11182
or any private organization that publishes a recognized or 11183
standard existing structures code. 11184

(c) The board shall assign the duties of administering and 11185
enforcing any local residential building regulations or existing 11186
structures code to a county officer or employee who is trained and 11187
qualified for those duties and shall establish by resolution the 11188
minimum qualifications necessary to perform those duties. 11189

(2) The board may adopt regulations for participation in the 11190
national flood insurance program established in the "Flood 11191

Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, 11192
as amended, and regulations adopted for the purposes of section 11193
1506.04 or 1506.07 of the Revised Code governing the prohibition, 11194
location, erection, construction, redevelopment, or floodproofing 11195
of new buildings or structures, substantial improvements to 11196
existing buildings or structures, or other development in 11197
unincorporated territory within flood hazard areas identified 11198
under the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 11199
42 U.S.C.A. 4002, as amended, or within Lake Erie coastal erosion 11200
areas identified under section 1506.06 of the Revised Code, 11201
including, but not limited to, residential, commercial, 11202
institutional, or industrial buildings or structures or other 11203
permanent structures, as defined in section 1506.01 of the Revised 11204
Code. Rules adopted under division (B)(2) of this section shall 11205
not conflict with the state residential and nonresidential 11206
building codes adopted pursuant to section 3781.10 of the Revised 11207
Code. 11208

(3)(a) A board may adopt regulations that provide for a 11209
review of the specific effects of a proposed new construction on 11210
existing surface or subsurface drainage. The regulations may 11211
require reasonable drainage mitigation and reasonable alteration 11212
of a proposed new construction before a building permit is issued 11213
in order to prevent or correct any adverse effects that the 11214
proposed new construction may have on existing surface or 11215
subsurface drainage. The regulations shall not be inconsistent 11216
with, more stringent than, or broader in scope than standards 11217
adopted by the natural resource conservation service in the United 11218
States department of agriculture concerning drainage or rules 11219
adopted by the environmental protection agency for reducing, 11220
controlling, or mitigating storm water runoff from construction 11221
sites, where applicable. The regulations shall allow a person who 11222
is registered under Chapter 4703. or 4733. of the Revised Code to 11223
prepare and submit relevant plans and other documents for review, 11224

provided that the person is authorized to prepare the plans and 11225
other documents pursuant to the person's registration. 11226

(b) If regulations are adopted under division (B)(3) of this 11227
section, the board shall specify in the regulations a procedure 11228
for the review of the specific effects of a proposed new 11229
construction on existing surface or subsurface drainage. The 11230
procedure shall include at a minimum all of the following: 11231

(i) A meeting at which the proposed new construction shall be 11232
examined for those specific effects. The meeting shall be held 11233
within thirty days after an application for a building permit is 11234
filed or a review is requested unless the applicant agrees in 11235
writing to extend that time period or to postpone the meeting to 11236
another date, time, or place. The meeting shall be scheduled 11237
within five days after an application for a building permit is 11238
filed or a review is requested. 11239

(ii) Written notice of the date, time, and place of that 11240
meeting, sent by regular mail to the applicant. The written notice 11241
shall be mailed at least seven days before the scheduled meeting 11242
date. 11243

(iii) Completion of the review by the board of county 11244
commissioners not later than thirty days after the application for 11245
a building permit is filed or a review is requested unless the 11246
applicant has agreed in writing to extend that time period or 11247
postpone the meeting to a later time, in which case the review 11248
shall be completed not later than two days after the date of the 11249
meeting. A complete review shall include the issuance of any order 11250
of the board of county commissioners regarding necessary 11251
reasonable drainage mitigation and necessary reasonable 11252
alterations to the proposed new construction to prevent or correct 11253
any adverse effects on existing surface or subsurface drainage so 11254
long as those alterations comply with the state residential and 11255
nonresidential building codes adopted pursuant to section 3781.10 11256

of the Revised Code. If the review is not completed within the 11257
thirty-day period or an extended or postponed period that the 11258
applicant has agreed to, the proposed new construction shall be 11259
deemed to have no adverse effects on existing surface or 11260
subsurface drainage, and those effects shall not be a valid basis 11261
for the denial of a building permit. 11262

(iv) A written statement, provided to the applicant at the 11263
meeting or in an order for alterations to a proposed new 11264
construction, informing the applicant of the right to seek 11265
appellate review of the denial of a building permit under division 11266
(B)(3)(b)(iii) of this section by filing a petition in accordance 11267
with Chapter 2506. of the Revised Code. 11268

(c) The regulations may authorize the board, after obtaining 11269
the advice of the county engineer, to enter into an agreement with 11270
the county engineer or another qualified person or entity to carry 11271
out any necessary inspections and make evaluations about what, if 11272
any, alterations are necessary to prevent or correct any adverse 11273
effects that a proposed new construction may have on existing 11274
surface or subsurface drainage. 11275

(d) Regulations adopted pursuant to division (B)(3) of this 11276
section shall not apply to any property that a platting authority 11277
has approved under section 711.05, 711.09, or 711.10 of the 11278
Revised Code and shall not govern the same subject matter as the 11279
state residential or nonresidential building codes adopted 11280
pursuant to section 3781.10 of the Revised Code. 11281

(e) As used in division (B)(3) of this section, "subsurface 11282
drainage" does not include a household sewage treatment system as 11283
defined in section 3709.091 of the Revised Code. 11284

(C)(1) Any regulation, code, or amendment may be adopted 11285
under this section only after a public hearing at not fewer than 11286
two regular or special sessions of the board. The board shall 11287

cause notice of any public hearing to be published in a newspaper 11288
of general circulation in the county once a week for the two 11289
consecutive weeks immediately preceding the hearing, except that 11290
if the board posts the hearing notice on the board's internet site 11291
on the world wide web, the board need publish only one notice of 11292
the hearing in a newspaper of general circulation if that 11293
newspaper notice includes the board's internet site and a 11294
statement that the notice is also posted on the internet site. Any 11295
notice of a public hearing shall include the time, date, and place 11296
of the hearing. 11297

(2) Any proposed regulation, code, or amendment shall be made 11298
available to the public at the board office. The regulations or 11299
amendments shall take effect on the thirty-first day following the 11300
date of their adoption. 11301

(D)(1) No person shall violate any regulation, code, or 11302
amendment the board adopts under sections 307.37 to 307.40 of the 11303
Revised Code. 11304

(2) Each day during which an illegal location, erection, 11305
construction, floodproofing, repair, alteration, development, 11306
redevelopment, or maintenance continues may be considered a 11307
separate offense. 11308

(E) Regulations or amendments the board adopts pursuant to 11309
this section, with the exception of an existing structures code, 11310
do not affect buildings or structures that exist or on which 11311
construction has begun on or before the date the board adopts the 11312
regulation or amendment. 11313

(F)(1) The board may create a building department and employ 11314
the personnel it determines necessary to administer and enforce 11315
any local residential building regulations or existing structures 11316
code the board adopts pursuant to this section. The building 11317
department may enforce the state residential and nonresidential 11318

building codes adopted pursuant to Chapter 3781. of the Revised 11319
Code if the building department is certified pursuant to section 11320
3781.10 of the Revised Code to enforce those codes. 11321

(2) The board may direct the building department, upon 11322
certification, to exercise enforcement authority and to accept and 11323
approve plans pursuant to sections 3781.03 and 3791.04 of the 11324
Revised Code for the class of building for which the department 11325
and personnel are certified. 11326

Sec. 307.676. (A) As used in this section: 11327

(1) "Food and beverages" means any raw, cooked, or processed 11328
edible substance used or intended for use in whole or in part for 11329
human consumption, including ice, water, spirituous liquors, wine, 11330
mixed beverages, beer, soft drinks, soda, and other beverages. 11331

(2) "Convention facilities authority" has the same meaning as 11332
in section 351.01 of the Revised Code. 11333

(3) "Convention center" has the same meaning as in section 11334
307.695 of the Revised Code. 11335

(B) The legislative authority of a county with a population 11336
of one million two hundred thousand or more according to the most 11337
recent federal decennial census or the most recent annual 11338
population estimate published or released by the United States 11339
census bureau at the time the resolution is adopted placing the 11340
levy on the ballot, may, by resolution adopted on or before July 11341
1, 2008, by a majority of the members of the legislative authority 11342
and with the subsequent approval of a majority of the electors of 11343
the county voting upon it, levy a tax of not more than two per 11344
cent on every retail sale in the county of food and beverages to 11345
be consumed on the premises where sold to pay the expenses of 11346
administering the tax and to provide revenues for paying the 11347
direct and indirect costs of constructing, improving, expanding, 11348

equipping, financing, or operating a convention center. The 11349
resolution shall direct the board of elections to submit the 11350
question of levying the tax to the electors of the county at the 11351
next primary or general election in the county occurring not less 11352
than seventy-five days after the resolution is certified to the 11353
board of elections. The legislative authority shall establish all 11354
rules necessary to provide for the administration and allocation 11355
of the tax. The rules may prescribe the time for payment of the 11356
tax and may provide for imposition of a penalty, interest, or both 11357
for late payments, but any such penalty shall not exceed ten per 11358
cent of the amount of tax due and the rate at which interest 11359
accrues shall not exceed the rate per annum required under section 11360
5703.47 of the Revised Code. 11361

(C) A tax levied under this section shall remain in effect 11362
for the period of time specified in the resolution or ordinance 11363
levying the tax, but not for a longer period than forty years. 11364

(D) A tax levied under this section is in addition to any 11365
other tax levied under Chapter 307., 4301., 4305., 5739., 5741., 11366
or any other chapter of the Revised Code. "Price," as defined in 11367
sections 5739.01 and 5741.01 of the Revised Code, does not include 11368
any tax levied under this section and any tax levied under this 11369
section does not include any tax imposed under Chapter 5739. or 11370
5741. of the Revised Code. 11371

(E) Any amount collected from a tax levied under this section 11372
may be contributed to a convention facilities authority created 11373
before July 1, 2005, but no amount collected from a tax levied 11374
under this section may be contributed to a convention facilities 11375
authority, corporation, or other entity created after July 1, 11376
2005, unless the mayor of the municipal corporation in which the 11377
convention center is to be operated by that convention facilities 11378
authority, corporation, or other entity has consented to the 11379
creation of that convention facilities authority, corporation, or 11380

| | |
|--|-------|
| <u>entity.</u> | 11381 |
| <u>(F) The levy of any taxes under Chapter 5739. of the Revised</u> | 11382 |
| <u>Code on the same transactions subject to a tax under this section</u> | 11383 |
| <u>does not prevent the levy of a tax under this section.</u> | 11384 |
| Sec. 307.695. (A) As used in this section, "convention | 11385 |
| center" means any structure expressly designed and constructed for | 11386 |
| the purposes of presenting conventions, public meetings, and | 11387 |
| exhibitions and includes parking facilities that serve the center | 11388 |
| and any personal property used in connection with any such | 11389 |
| structure or facilities. | 11390 |
| (B) A board of county commissioners may enter into an | 11391 |
| agreement with a convention and visitors' bureau operating in the | 11392 |
| county under which: | 11393 |
| (1) The bureau agrees to construct and equip a convention | 11394 |
| center in the county and to pledge and contribute from the tax | 11395 |
| revenues received by it under division (A) of section 5739.09 of | 11396 |
| the Revised Code, not more than such portion thereof that it is | 11397 |
| authorized to pledge and contribute for the purpose described in | 11398 |
| division (C) of this section; and | 11399 |
| (2) The board agrees to levy a tax under division (C) of | 11400 |
| section 5739.09 of the Revised Code and pledge and contribute the | 11401 |
| revenues therefrom for the purpose described in division (C) of | 11402 |
| this section. | 11403 |
| (C) The purpose of the pledges and contributions described in | 11404 |
| divisions (B)(1) and (2) of this section is payment of principal, | 11405 |
| interest, and premium, if any, on bonds and notes issued by or for | 11406 |
| the benefit of the bureau to finance the construction and | 11407 |
| equipping of a convention center. The pledges and contributions | 11408 |
| provided for in the agreement shall be for the period stated in | 11409 |
| the agreement, but not to exceed thirty years. Revenues determined | 11410 |

from time to time by the board to be needed to cover the real and 11411
actual costs of administering the tax imposed by division (C) of 11412
section 5739.09 of the Revised Code may not be pledged or 11413
contributed. The agreement shall provide that any such bonds and 11414
notes shall be secured by a trust agreement between the bureau or 11415
other issuer acting for the benefit of the bureau and a corporate 11416
trustee that is a trust company or bank having the powers of a 11417
trust company within or without the state, and the trust agreement 11418
shall pledge or assign to the retirement of the bonds or notes, 11419
all moneys paid by the county under this section. A tax the 11420
revenues from which are pledged under an agreement entered into by 11421
a board of county commissioners under this section shall not be 11422
subject to diminution by initiative or referendum, or diminution 11423
by statute, unless provision is made therein for an adequate 11424
substitute therefor reasonably satisfactory to the trustee under 11425
the trust agreement that secures the bonds and notes. 11426

(D) A pledge of money by a county under this section shall 11427
not be indebtedness of the county for purposes of Chapter 133. of 11428
the Revised Code. 11429

(E) If the terms of the agreement so provide, the board of 11430
county commissioners may acquire and lease real property to the 11431
convention bureau as the site of the convention center. The lease 11432
shall be for a term not to exceed thirty years and shall be on 11433
such terms as are set forth in the agreement. The purchase and 11434
lease are not subject to the limitations of sections 307.02 and 11435
307.09 of the Revised Code. 11436

(F) In addition to the authority granted to a board of county 11437
commissioners under divisions (B) to (E) of this section, a board 11438
of county commissioners in a county with a population of one 11439
million two hundred thousand or more may establish and provide 11440
local funding options for constructing and equipping a convention 11441
center. 11442

Sec. 307.86. Anything to be purchased, leased, leased with an option or agreement to purchase, or constructed, including, but not limited to, any product, structure, construction, reconstruction, improvement, maintenance, repair, or service, except the services of an accountant, architect, attorney at law, physician, professional engineer, construction project manager, consultant, surveyor, or appraiser, by or on behalf of the county or contracting authority, as defined in section 307.92 of the Revised Code, at a cost in excess of twenty-five thousand dollars, except as otherwise provided in division (D) of section 713.23 and in sections 125.04, 125.60 to 125.6012, 307.022, 307.041, 307.861, 339.05, 340.03, 340.033, 4115.31 to 4115.35, 5119.16, 5513.01, 5543.19, 5713.01, and 6137.05 of the Revised Code, shall be obtained through competitive bidding. However, competitive bidding is not required when any of the following applies:

(A) The board of county commissioners, by a unanimous vote of its members, makes a determination that a real and present emergency exists, and that determination and the reasons for it are entered in the minutes of the proceedings of the board, when either of the following applies:

(1) The estimated cost is less than fifty thousand dollars.

(2) There is actual physical disaster to structures, radio communications equipment, or computers.

For purposes of this division, "unanimous vote" means all three members of a board of county commissioners when all three members are present, or two members of the board if only two members, constituting a quorum, are present.

Whenever a contract of purchase, lease, or construction is exempted from competitive bidding under division (A)(1) of this section because the estimated cost is less than fifty thousand dollars, but the estimated cost is twenty-five thousand dollars or

more, the county or contracting authority shall solicit informal 11474
estimates from no fewer than three persons who could perform the 11475
contract, before awarding the contract. With regard to each such 11476
contract, the county or contracting authority shall maintain a 11477
record of such estimates, including the name of each person from 11478
whom an estimate is solicited. The county or contracting authority 11479
shall maintain the record for the longer of at least one year 11480
after the contract is awarded or the amount of time the federal 11481
government requires. 11482

(B)(1) The purchase consists of supplies or a replacement or 11483
supplemental part or parts for a product or equipment owned or 11484
leased by the county, and the only source of supply for the 11485
supplies, part, or parts is limited to a single supplier. 11486

(2) The purchase consists of services related to information 11487
technology, such as programming services, that are proprietary or 11488
limited to a single source. 11489

(C) The purchase is from the federal government, the state, 11490
another county or contracting authority of another county, or a 11491
board of education, township, or municipal corporation. 11492

(D) The purchase is made by a county department of job and 11493
family services under section 329.04 of the Revised Code and 11494
consists of family services duties or workforce development 11495
activities or is made by a county board of mental retardation and 11496
developmental disabilities under section 5126.05 of the Revised 11497
Code and consists of program services, such as direct and 11498
ancillary client services, child care, case management services, 11499
residential services, and family resource services. 11500

(E) The purchase consists of criminal justice services, 11501
social services programs, family services, or workforce 11502
development activities by the board of county commissioners from 11503
nonprofit corporations or associations under programs funded by 11504

the federal government or by state grants. 11505

(F) The purchase consists of any form of an insurance policy 11506
or contract authorized to be issued under Title XXXIX of the 11507
Revised Code or any form of health care plan authorized to be 11508
issued under Chapter 1751. of the Revised Code, or any combination 11509
of such policies, contracts, or plans that the contracting 11510
authority is authorized to purchase, and the contracting authority 11511
does all of the following: 11512

(1) Determines that compliance with the requirements of this 11513
section would increase, rather than decrease, the cost of the 11514
purchase; 11515

(2) Employs a competent consultant to assist the contracting 11516
authority in procuring appropriate coverages at the best and 11517
lowest prices; 11518

(3) Requests issuers of the policies, contracts, or plans to 11519
submit proposals to the contracting authority, in a form 11520
prescribed by the contracting authority, setting forth the 11521
coverage and cost of the policies, contracts, or plans as the 11522
contracting authority desires to purchase; 11523

(4) Negotiates with the issuers for the purpose of purchasing 11524
the policies, contracts, or plans at the best and lowest price 11525
reasonably possible. 11526

(G) The purchase consists of computer hardware, software, or 11527
consulting services that are necessary to implement a computerized 11528
case management automation project administered by the Ohio 11529
prosecuting attorneys association and funded by a grant from the 11530
federal government. 11531

(H) Child care services are purchased for provision to county 11532
employees. 11533

(I)(1) Property, including land, buildings, and other real 11534

| | |
|--|-------|
| property, is leased for offices, storage, parking, or other | 11535 |
| purposes, and all of the following apply: | 11536 |
| (a) The contracting authority is authorized by the Revised | 11537 |
| Code to lease the property. | 11538 |
| (b) The contracting authority develops requests for proposals | 11539 |
| for leasing the property, specifying the criteria that will be | 11540 |
| considered prior to leasing the property, including the desired | 11541 |
| size and geographic location of the property. | 11542 |
| (c) The contracting authority receives responses from | 11543 |
| prospective lessors with property meeting the criteria specified | 11544 |
| in the requests for proposals by giving notice in a manner | 11545 |
| substantially similar to the procedures established for giving | 11546 |
| notice under section 307.87 of the Revised Code. | 11547 |
| (d) The contracting authority negotiates with the prospective | 11548 |
| lessors to obtain a lease at the best and lowest price reasonably | 11549 |
| possible considering the fair market value of the property and any | 11550 |
| relocation and operational costs that may be incurred during the | 11551 |
| period the lease is in effect. | 11552 |
| (2) The contracting authority may use the services of a real | 11553 |
| estate appraiser to obtain advice, consultations, or other | 11554 |
| recommendations regarding the lease of property under this | 11555 |
| division. | 11556 |
| (J) The purchase is made pursuant to section 5139.34 or | 11557 |
| sections 5139.41 to 5139.46 of the Revised Code and is of programs | 11558 |
| or services that provide case management, treatment, or prevention | 11559 |
| services to any felony or misdemeanor delinquent, unruly youth, | 11560 |
| or status offender under the supervision of the juvenile court, | 11561 |
| including, but not limited to, community residential care, day | 11562 |
| treatment, services to children in their home, or electronic | 11563 |
| monitoring. | 11564 |
| (K) The purchase is made by a public children services agency | 11565 |

pursuant to section 307.92 or 5153.16 of the Revised Code and 11566
consists of family services, programs, or ancillary services that 11567
provide case management, prevention, or treatment services for 11568
children at risk of being or alleged to be abused, neglected, or 11569
dependent children. 11570

(L) The purchase is to obtain the services of emergency 11571
medical service organizations under a contract made by the board 11572
of county commissioners pursuant to section 307.05 of the Revised 11573
Code with a joint emergency medical services district. 11574

Any issuer of policies, contracts, or plans listed in 11575
division (F) of this section and any prospective lessor under 11576
division (I) of this section may have the issuer's or prospective 11577
lessor's name and address, or the name and address of an agent, 11578
placed on a special notification list to be kept by the 11579
contracting authority, by sending the contracting authority that 11580
name and address. The contracting authority shall send notice to 11581
all persons listed on the special notification list. Notices shall 11582
state the deadline and place for submitting proposals. The 11583
contracting authority shall mail the notices at least six weeks 11584
prior to the deadline set by the contracting authority for 11585
submitting proposals. Every five years the contracting authority 11586
may review this list and remove any person from the list after 11587
mailing the person notification of that action. 11588

Any contracting authority that negotiates a contract under 11589
division (F) of this section shall request proposals and 11590
renegotiate with issuers in accordance with that division at least 11591
every three years from the date of the signing of such a contract. 11592

Any consultant employed pursuant to division (F) of this 11593
section and any real estate appraiser employed pursuant to 11594
division (I) of this section shall disclose any fees or 11595
compensation received from any source in connection with that 11596
employment. 11597

Sec. 307.88. (A) Bids submitted pursuant to sections 307.86 11598
to 307.92 of the Revised Code shall be in a form prescribed by the 11599
contracting authority and filed in a sealed envelope at the time 11600
and place mentioned in the ~~advertisement~~ notice. The bids received 11601
shall be opened and tabulated at the time stated in the notice. 11602
Each bid shall contain the full name of each person submitting the 11603
bid. ~~Except as otherwise provided in division (B) of this section,~~ 11604
~~if~~ If the bid is in excess of ~~ten~~ twenty-five thousand dollars and 11605
for a contract for the construction, demolition, alteration, 11606
repair, or reconstruction of an improvement, it shall meet the 11607
requirements of section 153.54 of the Revised Code. If the bid is 11608
in excess of ~~ten~~ twenty-five thousand dollars and for any other 11609
contract authorized by sections 307.86 to 307.92 of the Revised 11610
Code, it shall be accompanied by a bond or certified check, 11611
cashier's check, or money order on a solvent bank or savings and 11612
loan association in a reasonable amount stated in the 11613
~~advertisement~~ notice but not to exceed five per cent of the bid, 11614
conditioned that ~~he shall~~ the bidder, if ~~his~~ the bidder's bid is 11615
accepted, shall execute a contract in conformity to the invitation 11616
and ~~his~~ the bid. 11617

(B) The board of county commissioners ~~may~~, by a unanimous 11618
vote of the entire board, may permit a contracting authority to 11619
exempt a bid from any or all of the requirements of section 153.54 11620
of the Revised Code if the estimated cost is ~~less than~~ twenty-five 11621
thousand dollars or less. If the board exempts a bid from any but 11622
not all of ~~these~~ those requirements, the bid notice published in 11623
the newspaper pursuant to section 307.87 of the Revised Code shall 11624
state the specific bid guaranty requirements that apply. If the 11625
board exempts a bid from all requirements of section 153.54 of the 11626
Revised Code, the notice shall state that none of the requirements 11627
of that section apply. 11628

Sec. 317.08. (A) Except as provided in divisions (C) and (D) 11629
of this section, the county recorder shall keep six separate sets 11630
of records as follows: 11631

(1) A record of deeds, in which shall be recorded all deeds 11632
and other instruments of writing for the absolute and 11633
unconditional sale or conveyance of lands, tenements, and 11634
hereditaments; all notices as provided in sections 5301.47 to 11635
5301.56 of the Revised Code; all judgments or decrees in actions 11636
brought under section 5303.01 of the Revised Code; all 11637
declarations and bylaws, and all amendments to declarations and 11638
bylaws, as provided in Chapter 5311. of the Revised Code; 11639
affidavits as provided in section 5301.252 of the Revised Code; 11640
all certificates as provided in section 5311.17 of the Revised 11641
Code; all articles dedicating archaeological preserves accepted by 11642
the director of the Ohio historical society under section 149.52 11643
of the Revised Code; all articles dedicating nature preserves 11644
accepted by the director of natural resources under section 11645
1517.05 of the Revised Code; all agreements for the registration 11646
of lands as archaeological or historic landmarks under section 11647
149.51 or 149.55 of the Revised Code; all conveyances of 11648
conservation easements and agricultural easements under section 11649
5301.68 of the Revised Code; all instruments extinguishing 11650
agricultural easements under section 901.21 or 5301.691 of the 11651
Revised Code or pursuant to terms of such an easement granted to a 11652
charitable organization under section 5301.68 of the Revised Code; 11653
all instruments or orders described in division (B)(1)(c)(ii) of 11654
section 5301.56 of the Revised Code; all no further action letters 11655
issued under section 122.654 or 3746.11 of the Revised Code; all 11656
covenants not to sue issued under section 3746.12 of the Revised 11657
Code, including all covenants not to sue issued pursuant to 11658
section 122.654 of the Revised Code; any restrictions on the use 11659
of property contained in a no further action letter issued under 11660

section 122.654 of the Revised Code, any restrictions on the use 11661
of property identified pursuant to division (C)(3)(a) of section 11662
3746.10 of the Revised Code, and any restrictions on the use of 11663
property contained in a deed or other instrument as provided in 11664
division (E) or (F) of section 3737.882 of the Revised Code; any 11665
easement executed or granted under section 3734.22, 3734.24, 11666
3734.25, or 3734.26 of the Revised Code; any environmental 11667
covenant entered into in accordance with sections 5301.80 to 11668
5301.92 of the Revised Code; all memoranda of trust, as described 11669
in division (A) of section 5301.255 of the Revised Code, that 11670
describe specific real property; and all agreements entered into 11671
under division (A) of section 1521.26 of the Revised Code; 11672

(2) A record of mortgages, in which shall be recorded all of 11673
the following: 11674

(a) All mortgages, including amendments, supplements, 11675
modifications, and extensions of mortgages, or other instruments 11676
of writing by which lands, tenements, or hereditaments are or may 11677
be mortgaged or otherwise conditionally sold, conveyed, affected, 11678
or encumbered; 11679

(b) All executory installment contracts for the sale of land 11680
executed after September 29, 1961, that by their terms are not 11681
required to be fully performed by one or more of the parties to 11682
them within one year of the date of the contracts; 11683

(c) All options to purchase real estate, including 11684
supplements, modifications, and amendments of the options, but no 11685
option of that nature shall be recorded if it does not state a 11686
specific day and year of expiration of its validity; 11687

(d) Any tax certificate sold under section 5721.33 of the 11688
Revised Code, or memorandum of it, that is presented for filing of 11689
record. 11690

(3) A record of powers of attorney, including all memoranda 11691

of trust, as described in division (A) of section 5301.255 of the Revised Code, that do not describe specific real property;

(4) A record of plats, in which shall be recorded all plats and maps of town lots, of the subdivision of town lots, and of other divisions or surveys of lands, any center line survey of a highway located within the county, the plat of which shall be furnished by the director of transportation or county engineer, and all drawings and amendments to drawings, as provided in Chapter 5311. of the Revised Code;

(5) A record of leases, in which shall be recorded all leases, memoranda of leases, and supplements, modifications, and amendments of leases and memoranda of leases;

(6) A record of declarations executed pursuant to section 2133.02 of the Revised Code and durable powers of attorney for health care executed pursuant to section 1337.12 of the Revised Code.

(B) All instruments or memoranda of instruments entitled to record shall be recorded in the proper record in the order in which they are presented for record. The recorder may index, keep, and record in one volume unemployment compensation liens, internal revenue tax liens and other liens in favor of the United States as described in division (A) of section 317.09 of the Revised Code, personal tax liens, mechanic's liens, agricultural product liens, notices of liens, certificates of satisfaction or partial release of estate tax liens, discharges of recognizances, excise and franchise tax liens on corporations, broker's liens, and liens provided for in sections 1513.33, 1513.37, 3752.13, ~~5111.021~~ 5111.022, and 5311.18 of the Revised Code.

The recording of an option to purchase real estate, including any supplement, modification, and amendment of the option, under this section shall serve as notice to any purchaser of an interest

in the real estate covered by the option only during the period of 11723
the validity of the option as stated in the option. 11724

(C) In lieu of keeping the six separate sets of records 11725
required in divisions (A)(1) to (6) of this section and the 11726
records required in division (D) of this section, a county 11727
recorder may record all the instruments required to be recorded by 11728
this section in two separate sets of record books. One set shall 11729
be called the "official records" and shall contain the instruments 11730
listed in divisions (A)(1), (2), (3), (5), and (6) and (D) of this 11731
section. The second set of records shall contain the instruments 11732
listed in division (A)(4) of this section. 11733

(D) Except as provided in division (C) of this section, the 11734
county recorder shall keep a separate set of records containing 11735
all corrupt activity lien notices filed with the recorder pursuant 11736
to section 2923.36 of the Revised Code and a separate set of 11737
records containing all medicaid fraud lien notices filed with the 11738
recorder pursuant to section 2933.75 of the Revised Code. 11739

Sec. 317.36. (A) The county recorder shall collect the low- 11740
and moderate-income housing trust fund fee as specified in 11741
sections 317.32, 1563.42, 1702.59, 2505.13, 4141.23, 4509.60, 11742
~~5111.021~~ 5111.022, 5310.15, 5719.07, 5727.56, 5733.18, 5733.22, 11743
6101.09, and 6115.09 of the Revised Code. The amount of any 11744
housing trust fund fee the recorder is authorized to collect is 11745
equal to the amount of any base fee the recorder is authorized to 11746
collect for services. The housing trust fund fee shall be 11747
collected in addition to the base fee. 11748

(B) The recorder shall certify the amounts collected as 11749
housing trust fund fees pursuant to division (A) of this section 11750
into the county treasury as housing trust fund fees to be paid to 11751
the treasurer of state pursuant to section 319.63 of the Revised 11752
Code. 11753

Sec. 319.20. After complying with sections 319.202, 315.251, 11754
and 319.203 of the Revised Code, and on application and 11755
presentation of title, with the affidavits required by law, or the 11756
proper order of a court, bearing the last known address of the 11757
grantee, or of any one of the grantees named in the title, and a 11758
reference to the volume and page of the recording of the next 11759
preceding recorded instrument by or through which the grantor 11760
claims title, the county auditor shall transfer any land or town 11761
lot or part thereof, minerals therein, or mineral rights thereto, 11762
charged with taxes on the tax list, from the name in which it 11763
stands into the name of the owner, when rendered necessary by a 11764
conveyance, partition, devise, descent, or otherwise. If by reason 11765
of the conveyance or otherwise, a part only of a tract or lot, 11766
minerals therein, or mineral rights thereto, as charged in the tax 11767
list, is to be transferred, the auditor shall determine the tax 11768
value of the part of a tract or lot of real estate, minerals 11769
therein, or mineral rights thereto, so transferred, and the value 11770
of the remaining part compared with the value of the whole. 11771

Whenever a part only of a tract or lot of real estate has 11772
been transferred by the auditor and ~~such~~ the tract or lot bears 11773
unpaid taxes, penalties, interest, or special assessments, the 11774
unpaid taxes, penalties, interest, or special assessments shall 11775
immediately be apportioned, upon demand or request by the 11776
transferee or remaining owner, in the following manner: 11777

(A) The auditor shall allocate to the part so transferred, 11778
and to the remaining part, amounts of any current or delinquent 11779
taxes, interest, or penalties that have accrued against the parcel 11780
as a whole, proportionate to their respective values. 11781

(B) The lien of taxes, penalties, interest, and special 11782
assessments, as levied against the original tract, shall extend to 11783
the part so transferred and the part remaining only to the extent 11784

of the amounts so allocated to the respective parts. 11785

This section does not change the total amount of taxes, 11786
special assessments, or other charges as originally levied, or the 11787
total amount of the balance due. The auditor shall certify such 11788
apportionments to the county treasurer. 11789

Whenever the state acquires an entire parcel or a part only 11790
of a parcel of real property in fee simple, the county auditor, 11791
upon application of the grantor or property owner or the state, 11792
which application shall contain a description of the property as 11793
it appears on the tax list and the date of transfer of ownership, 11794
shall prepare an estimate of the taxes that are a lien on ~~said the~~ 11795
property, but have not been determined, assessed, and levied for 11796
the year in which the property was acquired. The county auditor 11797
shall thereupon apportion ~~such the~~ estimated taxes proportionately 11798
between the grantor and the state for the period of the lien year 11799
that each had or shall have had ownership or possession of the 11800
property, whichever is earlier. The county treasurer shall accept 11801
payment from the state for estimated taxes at the time that the 11802
real property is acquired. If the state has paid in full in the 11803
year in which the property is acquired that proportion of the 11804
estimated taxes that the tax commissioner determines are not 11805
subject to remission by the county auditor for such year under 11806
division (C) of section 5713.08 of the Revised Code, the estimated 11807
taxes paid shall be considered the tax liability on the exempted 11808
property for that year. 11809

Section 319.42 of the Revised Code applies to the 11810
apportionment of special assessments. 11811

Complaint against such values as determined by the auditor or 11812
the allocation of assessments by the certifying authority may be 11813
filed by the transferee or the remaining owner, and if filed, 11814
proceedings including appeals shall be had in the manner and 11815
within the time provided by sections 5717.01 to 5717.06 and 11816

5715.19 to 5715.22 of the Revised Code, for complaints against 11817
valuation or assessment of real property. 11818

The auditor shall endorse on the deed or other evidences of 11819
title presented to the auditor that the proper transfer of the 11820
real estate described in ~~such~~ the deed has been made in the 11821
auditor's office or that it is not entered for taxation, and sign 11822
the auditor's name to ~~such~~ the deed. The address of the grantee, 11823
or any one of the grantees, set forth in the deed or other 11824
evidences of title shall be entered by the auditor on the transfer 11825
sheets and on the general tax list of real property prepared 11826
pursuant to section 319.28 of the Revised Code. 11827

Sec. 319.302. (A)(1) Real property that is not intended 11828
primarily for use in a business activity shall qualify for a 11829
partial exemption from real property taxation. For purposes of 11830
this partial exemption, "business activity" includes all uses of 11831
real property, except farming; leasing property for farming; 11832
occupying or holding property improved with single-family, 11833
two-family, or three-family dwellings; leasing property improved 11834
with single-family, two-family, or three-family dwellings; or 11835
holding vacant land that the county auditor determines will be 11836
used for farming or to develop single-family, two-family, or 11837
three-family dwellings. For purposes of this partial exemption, 11838
"farming" does not include land used for the commercial production 11839
of timber that is receiving the tax benefit under section 5713.23 11840
or 5713.31 of the Revised Code and all improvements connected with 11841
such commercial production of timber. 11842

(2) Each year, the county auditor shall review each parcel of 11843
real property to determine whether it qualifies for the partial 11844
exemption provided for by this section as of the first day of 11845
January of the current tax year. 11846

(B) After complying with section 319.301 of the Revised Code, 11847

the county auditor shall reduce the remaining sums to be levied 11848
against each parcel of real property that is listed on the general 11849
tax list and duplicate of real and public utility property for the 11850
current tax year and that qualifies for partial exemption under 11851
division (A) of this section, and against each manufactured and 11852
mobile home that is taxed pursuant to division (D)(2) of section 11853
4503.06 of the Revised Code and that is on the manufactured home 11854
tax list for the current tax year, by ten per cent, to provide a 11855
partial exemption for that parcel or home. Except as otherwise 11856
provided in sections 323.152, 323.158, 505.06, and 715.263 of the 11857
Revised Code, the amount of the taxes remaining after any such 11858
reduction shall be the real and public utility property taxes 11859
charged and payable on each parcel of real property, including 11860
property that does not qualify for partial exemption under 11861
division (A) of this section, and the manufactured home tax 11862
charged and payable, ~~on each property~~ manufactured or mobile home, 11863
and shall be the amounts certified to the county treasurer for 11864
collection. Upon receipt of the tax duplicate, the treasurer shall 11865
certify to the tax commissioner the total amount by which taxes 11866
were reduced under this section, as shown on the duplicate. Such 11867
reduction shall not directly or indirectly affect the 11868
determination of the principal amount of notes that may be issued 11869
in anticipation of any tax levies or the amount of bonds or notes 11870
for any planned improvements. If after application of sections 11871
5705.31 and 5705.32 of the Revised Code and other applicable 11872
provisions of law, including divisions (F) and (I) of section 11873
321.24 of the Revised Code, there would be insufficient funds for 11874
payment of debt charges on bonds or notes payable from taxes 11875
reduced by this section, the reduction of taxes provided for in 11876
this section shall be adjusted to the extent necessary to provide 11877
funds from such taxes. 11878

(C) The tax commissioner may adopt rules governing the 11879
administration of the partial exemption provided for by this 11880

section. 11881

(D) The determination of whether property qualifies for 11882
partial exemption under division (A) of this section is solely for 11883
the purpose of allowing the partial exemption under division (B) 11884
of this section. 11885

Sec. 321.24. (A) On or before the fifteenth day of February, 11886
in each year, the county treasurer shall settle with the county 11887
auditor for all taxes and assessments that the treasurer has 11888
collected on the general duplicate of real and public utility 11889
property at the time of making the settlement. 11890

(B) On or before the thirtieth day of June, in each year, the 11891
treasurer shall settle with the auditor for all advance payments 11892
of general personal and classified property taxes that the 11893
treasurer has received at the time of making the settlement. 11894

(C) On or before the tenth day of August, in each year, the 11895
treasurer shall settle with the auditor for all taxes and 11896
assessments that the treasurer has collected on the general 11897
duplicates of real and public utility property at the time of 11898
making such settlement, not included in the preceding February 11899
settlement. 11900

(D) On or before the thirty-first day of October, in each 11901
year, the treasurer shall settle with the auditor for all taxes 11902
that the treasurer has collected on the general personal and 11903
classified property duplicates, and for all advance payments of 11904
general personal and classified property taxes, not included in 11905
the preceding June settlement, that the treasurer has received at 11906
the time of making such settlement. 11907

(E) In the event the time for the payment of taxes is 11908
extended, pursuant to section 323.17 of the Revised Code, the date 11909
on or before which settlement for the taxes so extended must be 11910

made, as herein prescribed, shall be deemed to be extended for a 11911
like period of time. At each such settlement, the auditor shall 11912
allow to the treasurer, on the moneys received or collected and 11913
accounted for by the treasurer, the treasurer's fees, at the rate 11914
or percentage allowed by law, at a full settlement of the 11915
treasurer. 11916

(F) Within thirty days after the day of each settlement of 11917
taxes required under divisions (A) and (C) of this section, the 11918
treasurer shall certify to the tax commissioner any adjustments 11919
~~which~~ that have been made to the amount certified previously 11920
pursuant to section 319.302 of the Revised Code and that the 11921
settlement has been completed. Upon receipt of such certification, 11922
the commissioner shall provide for payment to the county treasurer 11923
from the general revenue fund of an amount equal to one-half of 11924
the amount certified by the treasurer in the preceding tax year 11925
under section 319.302 of the Revised Code, less one-half of the 11926
amount computed for all taxing districts in that county for the 11927
current fiscal year under section 5703.80 of the Revised Code for 11928
crediting to the property tax administration fund. Such payment 11929
shall be credited upon receipt to the county's undivided income 11930
tax fund, and the county auditor shall transfer to the county 11931
general fund from the amount thereof the total amount of all fees 11932
and charges which the auditor and treasurer would have been 11933
authorized to receive had such section not been in effect and that 11934
amount had been levied and collected as taxes. The county auditor 11935
shall distribute the amount remaining among the various taxing 11936
districts in the county as if it had been levied, collected, and 11937
settled as real property taxes. The amount distributed to each 11938
taxing district shall be reduced by the total of the amounts 11939
computed for the district under ~~divisions (A), (B), and (C) of~~ 11940
section 5703.80 of the Revised Code, but the reduction shall not 11941
exceed the amount that otherwise would be distributed to the 11942
taxing district under this division. The tax commissioner shall 11943

make available to taxing districts such information as is 11944
sufficient for a taxing district to be able to determine the 11945
amount of the reduction in its distribution under this section. 11946

(G)(1) Within thirty days after the day of the settlement 11947
required in division (D) of this section, the county treasurer 11948
shall notify the tax commissioner that the settlement has been 11949
completed. Upon receipt of that notification, the commissioner 11950
shall provide for payment to the county treasurer from the general 11951
revenue fund of an amount equal to the amount certified under 11952
former section 319.311 of the Revised Code and paid in the state's 11953
fiscal year 2003 multiplied by the percentage specified in 11954
division (G)(2) of this section. The payment shall be credited 11955
upon receipt to the county's undivided income tax fund, and the 11956
county auditor shall distribute the amount thereof among the 11957
various taxing districts of the county as if it had been levied, 11958
collected, and settled as personal property taxes. The amount 11959
received by a taxing district under this division shall be 11960
apportioned among its funds in the same proportion as the current 11961
year's personal property taxes are apportioned. 11962

(2) Payments required under division (G)(1) of this section 11963
shall be made at the following percentages of the amount certified 11964
under former section 319.311 of the Revised Code and paid under 11965
division (G)(1) of this section in the state's fiscal year 2003: 11966

(a) In fiscal year 2004, ninety per cent; 11967

(b) In fiscal year 2005, eighty per cent; 11968

(c) In fiscal year 2006, ~~seventy~~ sixty-four per cent; 11969

(d) In fiscal year 2007, ~~sixty~~ forty per cent; 11970

(e) In fiscal year 2008, ~~fifty~~ thirty-two per cent; 11971

(f) In fiscal year 2009, ~~forty~~ sixteen per cent; 11972

~~(g) In fiscal year 2010, thirty per cent;~~ 11973

~~(h) In fiscal year 2011, twenty per cent;~~ 11974

~~(i) In fiscal year 2012, ten per cent.~~ 11975

After fiscal year ~~2012~~ 2009, no payments shall be made under 11976
division (G)(1) of this section. 11977

(H)(1) On or before the fifteenth day of April each year, the 11978
county treasurer shall settle with the county auditor for all 11979
manufactured home taxes that the county treasurer has collected on 11980
the manufactured home tax duplicate at the time of making the 11981
settlement. 11982

(2) On or before the fifteenth day of September each year, 11983
the county treasurer shall settle with the county auditor for all 11984
remaining manufactured home taxes that the county treasurer has 11985
collected on the manufactured home tax duplicate at the time of 11986
making the settlement. 11987

(3) If the time for payment of such taxes is extended under 11988
section 4503.06 of the Revised Code, the time for making the 11989
settlement as prescribed by divisions (H)(1) and (2) of this 11990
section is extended for a like period of time. 11991

(I) Within thirty days after the day of each settlement of 11992
taxes required under division (H) of this section, the county 11993
treasurer shall certify to the tax commissioner any adjustments 11994
that have been made to the amount certified previously pursuant to 11995
section 319.302 of the Revised Code and that the settlement has 11996
been completed. Upon receipt of such certification, the 11997
commissioner shall provide for payment to the county treasurer 11998
from the general revenue fund of an amount equal to one-half of 11999
the amount certified by the treasurer in the current tax year 12000
under section 319.302 of the Revised Code. Such payment shall be 12001
credited upon receipt to the county's undivided income tax fund, 12002
and the county auditor shall transfer to the county general fund 12003
from the amount thereof the total amount of all fees and charges 12004

that the auditor and treasurer would have been authorized to 12005
receive had such section not been in effect and that amount had 12006
been levied and collected as taxes. The county auditor shall 12007
distribute the amount remaining among the various taxing districts 12008
in the county as if it had been levied, collected, and settled as 12009
manufactured home taxes. 12010

Sec. 323.01. Except as otherwise provided, as used in Chapter 12011
323. of the Revised Code: 12012

(A) "Subdivision" means any county, township, school 12013
district, or municipal corporation. 12014

(B) "Municipal corporation" includes charter municipalities. 12015

(C) "Taxes" means the total amount of all charges against an 12016
entry appearing on a tax list and the duplicate thereof that was 12017
prepared and certified in accordance with section 319.28 of the 12018
Revised Code, including taxes levied against real estate; taxes on 12019
property whose value is certified pursuant to section 5727.23 of 12020
the Revised Code; recoupment charges applied pursuant to section 12021
5713.35 of the Revised Code; all assessments; penalties and 12022
interest charged pursuant to section 323.121 of the Revised Code; 12023
charges added pursuant to section 319.35 of the Revised Code; and 12024
all of such charges which remain unpaid from any previous tax 12025
year. 12026

(D) "Current taxes" means all taxes charged against an entry 12027
on the general tax list and duplicate of real and public utility 12028
property that have not appeared on such list and duplicate for any 12029
prior tax year and any penalty thereon charged by division (A) of 12030
section 323.121 of the Revised Code. Current taxes, whether or not 12031
they have been certified delinquent, become delinquent taxes if 12032
they remain unpaid after the last day prescribed for payment of 12033
the second installment of current taxes without penalty. 12034

| | |
|--|--|
| (E) "Delinquent taxes" means: | 12035 |
| (1) Any taxes charged against an entry on the general tax list and duplicate of real and public utility property that were charged against an entry on such list and duplicate for a prior tax year and any penalties and interest charged against such taxes. | 12036 12037 12038 12039 12040 |
| (2) Any current taxes charged on the general tax list and duplicate of real and public utility property that remain unpaid after the last day prescribed for payment of the second installment of such taxes without penalty, whether or not they have been certified delinquent, and any penalties and interest charged against such taxes. | 12041 12042 12043 12044 12045 12046 |
| (F) "Current tax year" means, with respect to particular taxes, the calendar year in which the first installment of taxes is due prior to any extension granted under section 323.17 of the Revised Code. | 12047 12048 12049 12050 |
| (G) "Liquidated claim" means: | 12051 |
| (1) Any sum of money due and payable, upon a written contractual obligation executed between the subdivision and the taxpayer, but excluding any amount due on general and special assessment bonds and notes; | 12052 12053 12054 12055 |
| (2) Any sum of money due and payable, for disability financial assistance or disability medical assistance provided under Chapter 5115. of the Revised Code that is furnished to or in behalf of a subdivision, provided that such claim is recognized by a resolution or ordinance of the legislative body of such subdivision; | 12056 12057 12058 12059 12060 12061 |
| (3) Any sum of money advanced and paid to or received and used by a subdivision, pursuant to a resolution or ordinance of such subdivision or its predecessor in interest, and the moral obligation to repay which sum, when in funds, shall be recognized | 12062 12063 12064 12065 |

by resolution or ordinance by the subdivision. 12066

Sec. 323.152. In addition to the reduction in taxes required 12067
under section 319.302 of the Revised Code, taxes shall be reduced 12068
as provided in divisions (A) and (B) of this section. 12069

(A)(1) Division (A) of this section applies to any of the 12070
following: 12071

(a) A person who is permanently and totally disabled; 12072

(b) A person who is sixty-five years of age or older; 12073

(c) A person who is the surviving spouse of a deceased person 12074
who was permanently and totally disabled or sixty-five years of 12075
age or older and who applied and qualified for a reduction in 12076
taxes under this division in the year of death, provided the 12077
surviving spouse is at least fifty-nine but not sixty-five or more 12078
years of age on the date the deceased spouse dies. 12079

(2) Real property taxes on a homestead owned and occupied, or 12080
a homestead in a housing cooperative occupied, by a person to whom 12081
division (A) of this section applies shall be reduced for each 12082
year for which the owner obtains a certificate of reduction from 12083
the county auditor under section 323.154 of the Revised Code or 12084
for which the occupant obtains a certificate of reduction in 12085
accordance with section 323.159 of the Revised Code. The reduction 12086
shall equal the amount obtained by multiplying the tax rate for 12087
the tax year for which the certificate is issued by the reduction 12088
in taxable value shown in the following schedule: 12089

| | | Reduce Taxable Value | 12090 |
|--|----------------------------------|----------------------|-------|
| Total Income | | by the Lesser of: | 12091 |
| \$11,900 or less | \$5,000 or seventy-five per cent | | 12092 |
| More than \$11,900 but not more than \$17,500 | \$3,000 or sixty per cent | | 12093 |
| More than \$17,500 but not | \$1,000 or twenty-five per cent | | 12094 |

more than \$23,000

More than \$23,000 -0- 12095

(3) Each calendar year, the tax commissioner shall adjust the 12096
foregoing schedule by completing the following calculations in 12097
September of each year: 12098

(a) Determine the percentage increase in the gross domestic 12099
product deflator determined by the bureau of economic analysis of 12100
the United States department of commerce from the first day of 12101
January of the preceding calendar year to the last day of December 12102
of the preceding calendar year; 12103

(b) Multiply that percentage increase by each of the total 12104
income amounts, and by each dollar amount by which taxable value 12105
is reduced, for the current tax year; 12106

(c) Add the resulting product to each of the total income 12107
amounts, and to each of the dollar amounts by which taxable value 12108
is reduced, for the current tax year; 12109

(d)(i) Except as provided in division (A)(3)(d)(ii) of this 12110
section, round the resulting sum to the nearest multiple of one 12111
hundred dollars; 12112

(ii) If rounding the resulting sum to the nearest multiple of 12113
one hundred dollars under division (A)(3)(d)(i) of this section 12114
does not increase the dollar amounts by which taxable value is 12115
reduced, the resulting sum instead shall be rounded to the nearest 12116
multiple of ten dollars. 12117

The commissioner shall certify the amounts resulting from the 12118
adjustment to each county auditor not later than the first day of 12119
December each year. The certified amounts apply to the following 12120
tax year. The commissioner shall not make the adjustment in any 12121
calendar year in which the amounts resulting from the adjustment 12122
would be less than the total income amounts, or less than the 12123
dollar amounts by which taxable value is reduced, for the current 12124

tax year. 12125

(B) ~~Real~~ To provide a partial exemption, real property taxes 12126
on any homestead, and manufactured home taxes on any manufactured 12127
or mobile home on which a manufactured home tax is assessed 12128
pursuant to division (D)(2) of section 4503.06 of the Revised 12129
Code, shall be reduced for each year for which the owner obtains a 12130
certificate of reduction from the county auditor under section 12131
323.154 of the Revised Code. The amount of the reduction shall 12132
equal ~~one-fourth~~ two and one-half per cent of the amount ~~by which~~ 12133
~~the~~ of taxes ~~charged and payable to be levied~~ on the homestead or 12134
the manufactured or mobile home ~~are reduced for such year under~~ 12135
after applying section ~~319.302~~ 319.301 of the Revised Code. 12136

(C) The reductions granted by this section do not apply to 12137
special assessments or respread of assessments levied against the 12138
homestead, and if there is a transfer of ownership subsequent to 12139
the filing of an application for a reduction in taxes, such 12140
reductions are not forfeited for such year by virtue of such 12141
transfer. 12142

(D) The reductions in taxable value referred to in this 12143
section shall be applied solely as a factor for the purpose of 12144
computing the reduction of taxes under this section and shall not 12145
affect the total value of property in any subdivision or taxing 12146
district as listed and assessed for taxation on the tax lists and 12147
duplicates, or any direct or indirect limitations on indebtedness 12148
of a subdivision or taxing district. If after application of 12149
sections 5705.31 and 5705.32 of the Revised Code, including the 12150
allocation of all levies within the ten-mill limitation to debt 12151
charges to the extent therein provided, there would be 12152
insufficient funds for payment of debt charges not provided for by 12153
levies in excess of the ten-mill limitation, the reduction of 12154
taxes provided for in sections 323.151 to 323.159 of the Revised 12155
Code shall be proportionately adjusted to the extent necessary to 12156

provide such funds from levies within the ten-mill limitation. 12157

(E) No reduction shall be made on the taxes due on the 12158
homestead of any person convicted of violating division (C) or (D) 12159
of section 323.153 of the Revised Code for a period of three years 12160
following the conviction. 12161

Sec. 325.31. (A) On the first business day of each month, and 12162
at the end of the officer's term of office, each officer named in 12163
section 325.27 of the Revised Code shall pay into the county 12164
treasury, to the credit of the general county fund, on the warrant 12165
of the county auditor, all fees, costs, penalties, percentages, 12166
allowances, and perquisites collected by the officer's office 12167
during the preceding month or part thereof for official services, 12168
except the fees allowed the county auditor by division (B) of 12169
section 319.54 of the Revised Code, which shall be paid into the 12170
county treasury to the credit of the real estate assessment fund 12171
hereby created. 12172

(B) Moneys to the credit of the real estate assessment fund 12173
may be expended, upon appropriation by the board of county 12174
commissioners, for the purpose of defraying one or more of the 12175
following: 12176

(1) The cost incurred by the county auditor in assessing real 12177
estate pursuant to Chapter 5713. of the Revised Code and 12178
manufactured and mobile homes pursuant to Chapter 4503. of the 12179
Revised Code; 12180

(2) At the county auditor's discretion, costs and expenses 12181
incurred by the county auditor in preparing the list of real and 12182
public utility property, in administering laws related to the 12183
taxation of real property and the levying of special assessments 12184
on real property, including administering reductions under 12185
Chapters 319. and 323. and section 4503.065 of the Revised Code, 12186
and to support assessments of real property in any administrative 12187

| | |
|---|-------|
| or judicial proceeding; | 12188 |
| (3) At the county auditor's discretion, the expenses incurred | 12189 |
| by the county board of revision under Chapter 5715. of the Revised | 12190 |
| Code; | 12191 |
| (4) At the county auditor's discretion, the expenses incurred | 12192 |
| by the county auditor for geographic information systems, mapping | 12193 |
| programs, and technological advances in those or similar systems | 12194 |
| or programs; | 12195 |
| (5) At the county auditor's discretion, expenses incurred by | 12196 |
| the county auditor in compiling the general tax list of tangible | 12197 |
| personal property and administering tangible personal property | 12198 |
| taxes under Chapters 5711. and 5719. of the Revised Code; | 12199 |
| (6) At the county auditor's discretion, costs, expenses, and | 12200 |
| fees incurred by the county auditor in the administration of | 12201 |
| estate taxes under Chapter 5731. of the Revised Code <u>and the</u> | 12202 |
| <u>amounts incurred under section 5731.41 of the Revised Code.</u> | 12203 |
| Any expenditures made from the real estate assessment fund | 12204 |
| shall comply with rules that the tax commissioner adopts under | 12205 |
| division (0) of section 5703.05 of the Revised Code. Those rules | 12206 |
| shall include a requirement that a copy of any appraisal plans, | 12207 |
| progress of work reports, contracts, or other documents required | 12208 |
| to be filed with the tax commissioner shall be filed also with the | 12209 |
| board of county commissioners. | 12210 |
| The board of county commissioners shall not transfer moneys | 12211 |
| required to be deposited in the real estate assessment fund to any | 12212 |
| other fund. Following an assessment of real property pursuant to | 12213 |
| Chapter 5713. of the Revised Code, or an assessment of a | 12214 |
| manufactured or mobile home pursuant to Chapter 4503. of the | 12215 |
| Revised Code, any moneys not expended for the purpose of defraying | 12216 |
| the cost incurred in assessing real estate or manufactured or | 12217 |
| mobile homes or for the purpose of defraying the expenses | 12218 |

described in divisions (B)(2), (3), (4), (5), and (6) of this 12219
section, and thereby remaining to the credit of the real estate 12220
assessment fund, shall be apportioned ratably and distributed to 12221
those taxing authorities that contributed to the fund. However, no 12222
such distribution shall be made if the amount of such unexpended 12223
moneys remaining to the credit of the real estate assessment fund 12224
does not exceed five thousand dollars. 12225

(C) None of the officers named in section 325.27 of the 12226
Revised Code shall collect any fees from the county. Each of such 12227
officers shall, at the end of each calendar year, make and file a 12228
sworn statement with the board of county commissioners of all such 12229
fees, costs, penalties, percentages, allowances, and perquisites 12230
which have been due in the officer's office and unpaid for more 12231
than one year prior to the date such statement is required to be 12232
made. 12233

Sec. 329.04. (A) The county department of job and family 12234
services shall have, exercise, and perform the following powers 12235
and duties: 12236

(1) Perform any duties assigned by the state department of 12237
job and family services regarding the provision of public family 12238
services, including the provision of the following services to 12239
prevent or reduce economic or personal dependency and to 12240
strengthen family life: 12241

(a) Services authorized by a Title IV-A program, as defined 12242
in section 5101.80 of the Revised Code; 12243

(b) Social services authorized by Title XX of the "Social 12244
Security Act" and provided for by section 5101.46 or 5101.461 of 12245
the Revised Code; 12246

(c) If the county department is designated as the child 12247
support enforcement agency, services authorized by Title IV-D of 12248

the "Social Security Act" and provided for by Chapter 3125. of the 12249
Revised Code. The county department may perform the services 12250
itself or contract with other government entities, and, pursuant 12251
to division (C) of section 2301.35 and section 2301.42 of the 12252
Revised Code, private entities, to perform the Title IV-D 12253
services. 12254

(d) Duties assigned under section 5111.98 of the Revised 12255
Code. 12256

(2) Administer disability financial assistance, as required 12257
by the state department of job and family services under section 12258
5115.03 of the Revised Code; 12259

~~(3) Administer disability medical assistance, as required by~~ 12260
~~the state department of job and family services under section~~ 12261
~~5115.13 of the Revised Code;~~ 12262

~~(4)~~ Administer burials insofar as the administration of 12263
burials was, prior to September 12, 1947, imposed upon the board 12264
of county commissioners and if otherwise required by state law; 12265

~~(5)~~(4) Cooperate with state and federal authorities in any 12266
matter relating to family services and to act as the agent of such 12267
authorities; 12268

~~(6)~~(5) Submit an annual account of its work and expenses to 12269
the board of county commissioners and to the state department of 12270
job and family services at the close of each fiscal year; 12271

~~(7)~~(6) Exercise any powers and duties relating to family 12272
services duties or workforce development activities imposed upon 12273
the county department of job and family services by law, by 12274
resolution of the board of county commissioners, or by order of 12275
the governor, when authorized by law, to meet emergencies during 12276
war or peace; 12277

~~(8)~~(7) Determine the eligibility for medical assistance of 12278

recipients of aid under Title XVI of the "Social Security Act"; 12279

~~(9)~~(8) If assigned by the state director of job and family 12280
services under section 5101.515 of the Revised Code, determine 12281
applicants' eligibility for health assistance under the children's 12282
health insurance program part II; 12283

~~(10)~~(9) Enter into a plan of cooperation with the board of 12284
county commissioners under section 307.983, consult with the board 12285
in the development of the transportation work plan developed under 12286
section 307.985, establish with the board procedures under section 12287
307.986 for providing services to children whose families relocate 12288
frequently, and comply with the contracts the board enters into 12289
under sections 307.981 and 307.982 of the Revised Code that affect 12290
the county department; 12291

~~(11)~~(10) For the purpose of complying with a fiscal agreement 12292
the board of county commissioners enters into under section 307.98 12293
of the Revised Code, exercise the powers and perform the duties 12294
the fiscal agreement assigns to the county department; 12295

~~(12)~~(11) If the county department is designated as the 12296
workforce development agency, provide the workforce development 12297
activities specified in the contract required by section 330.05 of 12298
the Revised Code. 12299

(B) The powers and duties of a county department of job and 12300
family services are, and shall be exercised and performed, under 12301
the control and direction of the board of county commissioners. 12302
The board may assign to the county department any power or duty of 12303
the board regarding family services duties and workforce 12304
development activities. If the new power or duty necessitates the 12305
state department of job and family services changing its federal 12306
cost allocation plan, the county department may not implement the 12307
power or duty unless the United States department of health and 12308
human services approves the changes. 12309

Sec. 329.051. The county department of job and family 12310
services shall make voter registration applications as prescribed 12311
by the secretary of state under section 3503.10 of the Revised 12312
Code available to persons who are applying for, receiving 12313
assistance from, or participating in any of the following: 12314

(A) The disability financial assistance program established 12315
under Chapter 5115. of the Revised Code; 12316

~~(B) The disability medical assistance program established 12317
under Chapter 5115. of the Revised Code; 12318~~

~~(C)~~ The medical assistance program established under Chapter 12319
5111. of the Revised Code; 12320

~~(D)~~(C) The Ohio works first program established under Chapter 12321
5107. of the Revised Code; 12322

~~(E)~~(D) The prevention, retention, and contingency program 12323
established under Chapter 5108. of the Revised Code. 12324

Sec. 339.72. (A) Each board of county commissioners shall 12325
provide for the county to be served by a tuberculosis control unit 12326
by designating a county tuberculosis control unit or by entering 12327
into an agreement with one or more boards of county commissioners 12328
of other counties under which the boards jointly designate a 12329
district tuberculosis control unit. The entity designated as the 12330
county or district tuberculosis control unit may be any of the 12331
following: 12332

(1) A communicable disease control program operated by a 12333
board of health of a city or general health district pursuant to 12334
section 3709.22 of the Revised Code; 12335

~~(2) A tuberculosis program operated by a county that receives 12336
funds pursuant to section 339.77 of the Revised Code; 12337~~

~~(3)~~ A tuberculosis clinic established by a board of county 12338

commissioners pursuant to section 339.76 of the Revised Code; 12339

~~(4)~~(3) A hospital that provides tuberculosis clinic services 12340
under a contract with a board of county commissioners pursuant to 12341
section 339.75 of the Revised Code. 12342

(B) The entity designated under division (A) of this section 12343
as the tuberculosis control unit shall accept that designation and 12344
fulfill its duties as the tuberculosis control unit specified 12345
under sections 339.71 to 339.89 of the Revised Code. 12346

Sec. 339.88. The expenses incurred for detention under 12347
section 339.86 or 339.87 of the Revised Code shall be paid by the 12348
individual detained or if the individual is indigent, by the board 12349
of county commissioners of the county from which the individual 12350
was removed. ~~The board of county commissioners may apply to the 12351
director of health for reimbursement under section 339.77 of the 12352
Revised Code for expenses of detaining indigent individuals with 12353
tuberculosis.~~ 12354

Sec. 340.03. (A) Subject to rules issued by the director of 12355
mental health after consultation with relevant constituencies as 12356
required by division (A)(11) of section 5119.06 of the Revised 12357
Code, with regard to mental health services, the board of alcohol, 12358
drug addiction, and mental health services shall: 12359

(1) Serve as the community mental health planning agency for 12360
the county or counties under its jurisdiction, and in so doing it 12361
shall: 12362

(a) Evaluate the need for facilities and community mental 12363
health services; 12364

(b) In cooperation with other local and regional planning and 12365
funding bodies and with relevant ethnic organizations, assess the 12366
community mental health needs, set priorities, and develop plans 12367
for the operation of facilities and community mental health 12368

services; 12369

(c) In accordance with guidelines issued by the director of 12370
mental health after consultation with board representatives, 12371
develop and submit to the department of mental health, no later 12372
than six months prior to the conclusion of the fiscal year in 12373
which the board's current plan is scheduled to expire, a community 12374
mental health plan listing community mental health needs, 12375
including the needs of all residents of the district now residing 12376
in state mental institutions and severely mentally disabled 12377
adults, children, and adolescents; all children subject to a 12378
determination made pursuant to section 121.38 of the Revised Code; 12379
and all the facilities and community mental health services that 12380
are or will be in operation or provided during the period for 12381
which the plan will be in operation in the service district to 12382
meet such needs. 12383

The plan shall include, but not be limited to, a statement of 12384
which of the services listed in section 340.09 of the Revised Code 12385
the board intends to provide or purchase, an explanation of how 12386
the board intends to make any payments that it may be required to 12387
pay under section 5119.62 of the Revised Code, a statement of the 12388
inpatient and community-based services the board proposes that the 12389
department operate, an assessment of the number and types of 12390
residential facilities needed, and such other information as the 12391
department requests, and a budget for moneys the board expects to 12392
receive. The board shall also submit an allocation request for 12393
state and federal funds. Within sixty days after the department's 12394
determination that the plan and allocation request are complete, 12395
the department shall approve or disapprove the plan and request, 12396
in whole or in part, according to the criteria developed pursuant 12397
to section 5119.61 of the Revised Code. The department's statement 12398
of approval or disapproval shall specify the inpatient and the 12399
community-based services that the department will operate for the 12400

board. Eligibility for financial support shall be contingent upon 12401
an approved plan or relevant part of a plan. 12402

If the director disapproves all or part of any plan, the 12403
director shall inform the board of the reasons for the disapproval 12404
and of the criteria that must be met before the plan may be 12405
approved. The director shall provide the board an opportunity to 12406
present its case on behalf of the plan. The director shall give 12407
the board a reasonable time in which to meet the criteria, and 12408
shall offer the board technical assistance to help it meet the 12409
criteria. 12410

If the approval of a plan remains in dispute thirty days 12411
prior to the conclusion of the fiscal year in which the board's 12412
current plan is scheduled to expire, the board or the director may 12413
request that the dispute be submitted to a mutually agreed upon 12414
third-party mediator with the cost to be shared by the board and 12415
the department. The mediator shall issue to the board and the 12416
department recommendations for resolution of the dispute. Prior to 12417
the conclusion of the fiscal year in which the current plan is 12418
scheduled to expire, the director, taking into consideration the 12419
recommendations of the mediator, shall make a final determination 12420
and approve or disapprove the plan, in whole or in part. 12421

If a board determines that it is necessary to amend a plan or 12422
an allocation request that has been approved under division 12423
(A)(1)(c) of this section, the board shall submit a proposed 12424
amendment to the director. The director may approve or disapprove 12425
all or part of the amendment. If the director does not approve all 12426
or part of the amendment within thirty days after it is submitted, 12427
the amendment or part of it shall be considered to have been 12428
approved. The director shall inform the board of the reasons for 12429
disapproval of all or part of an amendment and of the criteria 12430
that must be met before the amendment may be approved. The 12431
director shall provide the board an opportunity to present its 12432

case on behalf of the amendment. The director shall give the board 12433
a reasonable time in which to meet the criteria, and shall offer 12434
the board technical assistance to help it meet the criteria. 12435

The board shall implement the plan approved by the 12436
department. 12437

(d) Receive, compile, and transmit to the department of 12438
mental health applications for state reimbursement; 12439

(e) Promote, arrange, and implement working agreements with 12440
social agencies, both public and private, and with judicial 12441
agencies. 12442

(2) Investigate, or request another agency to investigate, 12443
any complaint alleging abuse or neglect of any person receiving 12444
services from a community mental health agency as defined in 12445
section 5122.01 of the Revised Code, or from a residential 12446
facility licensed under section 5119.22 of the Revised Code. If 12447
the investigation substantiates the charge of abuse or neglect, 12448
the board shall take whatever action it determines is necessary to 12449
correct the situation, including notification of the appropriate 12450
authorities. Upon request, the board shall provide information 12451
about such investigations to the department. 12452

(3) For the purpose of section 5119.611 of the Revised Code, 12453
cooperate with the director of mental health in visiting and 12454
evaluating whether the services of a community mental health 12455
agency satisfy the certification standards established by rules 12456
adopted under that section; 12457

(4) In accordance with criteria established under division 12458
(G) of section 5119.61 of the Revised Code, review and evaluate 12459
the quality, effectiveness, and efficiency of services provided 12460
through its community mental health plan and submit its findings 12461
and recommendations to the department of mental health; 12462

(5) In accordance with section 5119.22 of the Revised Code, 12463

review applications for residential facility licenses and 12464
recommend to the department of mental health approval or 12465
disapproval of applications; 12466

(6) Audit, in accordance with rules adopted by the auditor of 12467
state pursuant to section 117.20 of the Revised Code, at least 12468
annually all programs and services provided under contract with 12469
the board. In so doing, the board may contract for or employ the 12470
services of private auditors. A copy of the fiscal audit report 12471
shall be provided to the director of mental health, the auditor of 12472
state, and the county auditor of each county in the board's 12473
district. 12474

(7) Recruit and promote local financial support for mental 12475
health programs from private and public sources; 12476

(8)(a) Enter into contracts with public and private 12477
facilities for the operation of facility services included in the 12478
board's community mental health plan and enter into contracts with 12479
public and private community mental health agencies for the 12480
provision of community mental health services listed in section 12481
340.09 of the Revised Code and included in the board's community 12482
mental health plan. Contracts with community mental health 12483
agencies are subject to section 5119.611 of the Revised Code. 12484
Section 307.86 of the Revised Code does not apply to contracts 12485
entered into under this division. In contracting with a community 12486
mental health agency, a board shall consider the cost 12487
effectiveness of services provided by that agency and the quality 12488
and continuity of care, and may review cost elements, including 12489
salary costs, of the services to be provided. A utilization review 12490
process shall be established as part of the contract for services 12491
entered into between a board and a community mental health agency. 12492
The board may establish this process in a way that is most 12493
effective and efficient in meeting local needs. In the case of a 12494
contract with a community mental health facility, as defined in 12495

section ~~5111.022~~ 5111.023 of the Revised Code, to provide services 12496
listed in division (B) of that section, the contract shall provide 12497
for the facility to be paid in accordance with the contract 12498
entered into between the departments of job and family services 12499
and mental health under section 5111.91 of the Revised Code and 12500
any rules adopted under division (A) of section 5119.61 of the 12501
Revised Code. 12502

If either the board or a facility or community mental health 12503
agency with which the board contracts under division (A)(8)(a) of 12504
this section proposes not to renew the contract or proposes 12505
substantial changes in contract terms, the other party shall be 12506
given written notice at least one hundred twenty days before the 12507
expiration date of the contract. During the first sixty days of 12508
this one hundred twenty-day period, both parties shall attempt to 12509
resolve any dispute through good faith collaboration and 12510
negotiation in order to continue to provide services to persons in 12511
need. If the dispute has not been resolved sixty days before the 12512
expiration date of the contract, either party may notify the 12513
department of mental health of the unresolved dispute. The 12514
director may require both parties to submit the dispute to a third 12515
party with the cost to be shared by the board and the facility or 12516
community mental health agency. The third party shall issue to the 12517
board, the facility or agency, and the department recommendations 12518
on how the dispute may be resolved twenty days prior to the 12519
expiration date of the contract, unless both parties agree to a 12520
time extension. The director shall adopt rules establishing the 12521
procedures of this dispute resolution process. 12522

(b) With the prior approval of the director of mental health, 12523
a board may operate a facility or provide a community mental 12524
health service as follows, if there is no other qualified private 12525
or public facility or community mental health agency that is 12526
immediately available and willing to operate such a facility or 12527

provide the service: 12528

(i) In an emergency situation, any board may operate a 12529
facility or provide a community mental health service in order to 12530
provide essential services for the duration of the emergency; 12531

(ii) In a service district with a population of at least one 12532
hundred thousand but less than five hundred thousand, a board may 12533
operate a facility or provide a community mental health service 12534
for no longer than one year; 12535

(iii) In a service district with a population of less than 12536
one hundred thousand, a board may operate a facility or provide a 12537
community mental health service for no longer than one year, 12538
except that such a board may operate a facility or provide a 12539
community mental health service for more than one year with the 12540
prior approval of the director and the prior approval of the board 12541
of county commissioners, or of a majority of the boards of county 12542
commissioners if the district is a joint-county district. 12543

The director shall not give a board approval to operate a 12544
facility or provide a community mental health service under 12545
division (A)(8)(b)(ii) or (iii) of this section unless the 12546
director determines that it is not feasible to have the department 12547
operate the facility or provide the service. 12548

The director shall not give a board approval to operate a 12549
facility or provide a community mental health service under 12550
division (A)(8)(b)(iii) of this section unless the director 12551
determines that the board will provide greater administrative 12552
efficiency and more or better services than would be available if 12553
the board contracted with a private or public facility or 12554
community mental health agency. 12555

The director shall not give a board approval to operate a 12556
facility previously operated by a person or other government 12557
entity unless the board has established to the director's 12558

satisfaction that the person or other government entity cannot 12559
effectively operate the facility or that the person or other 12560
government entity has requested the board to take over operation 12561
of the facility. The director shall not give a board approval to 12562
provide a community mental health service previously provided by a 12563
community mental health agency unless the board has established to 12564
the director's satisfaction that the agency cannot effectively 12565
provide the service or that the agency has requested the board 12566
take over providing the service. 12567

The director shall review and evaluate a board's operation of 12568
a facility and provision of community mental health service under 12569
division (A)(8)(b) of this section. 12570

Nothing in division (A)(8)(b) of this section authorizes a 12571
board to administer or direct the daily operation of any facility 12572
or community mental health agency, but a facility or agency may 12573
contract with a board to receive administrative services or staff 12574
direction from the board under the direction of the governing body 12575
of the facility or agency. 12576

(9) Approve fee schedules and related charges or adopt a unit 12577
cost schedule or other methods of payment for contract services 12578
provided by community mental health agencies in accordance with 12579
guidelines issued by the department as necessary to comply with 12580
state and federal laws pertaining to financial assistance; 12581

(10) Submit to the director and the county commissioners of 12582
the county or counties served by the board, and make available to 12583
the public, an annual report of the programs under the 12584
jurisdiction of the board, including a fiscal accounting; 12585

(11) Establish, to the extent resources are available, a 12586
community support system, which provides for treatment, support, 12587
and rehabilitation services and opportunities. The essential 12588
elements of the system include, but are not limited to, the 12589

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| following components in accordance with section 5119.06 of the Revised Code: | 12590 12591 |
| (a) To locate persons in need of mental health services to inform them of available services and benefits mechanisms; | 12592 12593 |
| (b) Assistance for clients to obtain services necessary to meet basic human needs for food, clothing, shelter, medical care, personal safety, and income; | 12594 12595 12596 |
| (c) Mental health care, including, but not limited to, outpatient, partial hospitalization, and, where appropriate, inpatient care; | 12597 12598 12599 |
| (d) Emergency services and crisis intervention; | 12600 |
| (e) Assistance for clients to obtain vocational services and opportunities for jobs; | 12601 12602 |
| (f) The provision of services designed to develop social, community, and personal living skills; | 12603 12604 |
| (g) Access to a wide range of housing and the provision of residential treatment and support; | 12605 12606 |
| (h) Support, assistance, consultation, and education for families, friends, consumers of mental health services, and others; | 12607 12608 12609 |
| (i) Recognition and encouragement of families, friends, neighborhood networks, especially networks that include racial and ethnic minorities, churches, community organizations, and meaningful employment as natural supports for consumers of mental health services; | 12610 12611 12612 12613 12614 |
| (j) Grievance procedures and protection of the rights of consumers of mental health services; | 12615 12616 |
| (k) Case management, which includes continual individualized assistance and advocacy to ensure that needed services are offered and procured. | 12617 12618 12619 |

(12) Designate the treatment program, agency, or facility for 12620
each person involuntarily committed to the board pursuant to 12621
Chapter 5122. of the Revised Code and authorize payment for such 12622
treatment. The board shall provide the least restrictive and most 12623
appropriate alternative that is available for any person 12624
involuntarily committed to it and shall assure that the services 12625
listed in section 340.09 of the Revised Code are available to 12626
severely mentally disabled persons residing within its service 12627
district. The board shall establish the procedure for authorizing 12628
payment for services, which may include prior authorization in 12629
appropriate circumstances. The board may provide for services 12630
directly to a severely mentally disabled person when life or 12631
safety is endangered and when no community mental health agency is 12632
available to provide the service. 12633

(13) Establish a method for evaluating referrals for 12634
involuntary commitment and affidavits filed pursuant to section 12635
5122.11 of the Revised Code in order to assist the probate 12636
division of the court of common pleas in determining whether there 12637
is probable cause that a respondent is subject to involuntary 12638
hospitalization and what alternative treatment is available and 12639
appropriate, if any; 12640

(14) Ensure that apartments or rooms built, subsidized, 12641
renovated, rented, owned, or leased by the board or a community 12642
mental health agency have been approved as meeting minimum fire 12643
safety standards and that persons residing in the rooms or 12644
apartments are receiving appropriate and necessary services, 12645
including culturally relevant services, from a community mental 12646
health agency. This division does not apply to residential 12647
facilities licensed pursuant to section 5119.22 of the Revised 12648
Code. 12649

(15) Establish a mechanism for involvement of consumer 12650
recommendation and advice on matters pertaining to mental health 12651

services in the alcohol, drug addiction, and mental health service 12652
district; 12653

(16) Perform the duties under section 3722.18 of the Revised 12654
Code required by rules adopted under section 5119.61 of the 12655
Revised Code regarding referrals by the board or mental health 12656
agencies under contract with the board of individuals with mental 12657
illness or severe mental disability to adult care facilities and 12658
effective arrangements for ongoing mental health services for the 12659
individuals. The board is accountable in the manner specified in 12660
the rules for ensuring that the ongoing mental health services are 12661
effectively arranged for the individuals. 12662

(B) The board shall establish such rules, operating 12663
procedures, standards, and bylaws, and perform such other duties 12664
as may be necessary or proper to carry out the purposes of this 12665
chapter. 12666

(C) A board of alcohol, drug addiction, and mental health 12667
services may receive by gift, grant, devise, or bequest any 12668
moneys, lands, or property for the benefit of the purposes for 12669
which the board is established, and may hold and apply it 12670
according to the terms of the gift, grant, or bequest. All money 12671
received, including accrued interest, by gift, grant, or bequest 12672
shall be deposited in the treasury of the county, the treasurer of 12673
which is custodian of the alcohol, drug addiction, and mental 12674
health services funds to the credit of the board and shall be 12675
available for use by the board for purposes stated by the donor or 12676
grantor. 12677

(D) No board member or employee of a board of alcohol, drug 12678
addiction, and mental health services shall be liable for injury 12679
or damages caused by any action or inaction taken within the scope 12680
of the board member's official duties or the employee's 12681
employment, whether or not such action or inaction is expressly 12682
authorized by this section, section 340.033, or any other section 12683

of the Revised Code, unless such action or inaction constitutes 12684
willful or wanton misconduct. Chapter 2744. of the Revised Code 12685
applies to any action or inaction by a board member or employee of 12686
a board taken within the scope of the board member's official 12687
duties or employee's employment. For the purposes of this 12688
division, the conduct of a board member or employee shall not be 12689
considered willful or wanton misconduct if the board member or 12690
employee acted in good faith and in a manner that the board member 12691
or employee reasonably believed was in or was not opposed to the 12692
best interests of the board and, with respect to any criminal 12693
action or proceeding, had no reasonable cause to believe the 12694
conduct was unlawful. 12695

(E) The meetings held by any committee established by a board 12696
of alcohol, drug addiction, and mental health services shall be 12697
considered to be meetings of a public body subject to section 12698
121.22 of the Revised Code. 12699

Sec. 340.16. Not later than ninety days after ~~the effective~~ 12700
~~date of this section~~ September 5, 2001, the department of mental 12701
health and the department of job and family services shall adopt 12702
rules that establish requirements and procedures for prior 12703
notification and service coordination between public children 12704
services agencies and boards of alcohol, drug addiction, and 12705
mental health services when a public children services agency 12706
refers a child in its custody to a board for services funded by 12707
the board. The rules shall be adopted in accordance with Chapter 12708
119. of the Revised Code. 12709

The department of mental health and department of job and 12710
family services shall collaborate in formulating a plan that 12711
delineates the funding responsibilities of public children 12712
services agencies and boards of alcohol, drug addiction, and 12713
mental health services for services provided under section 12714

~~5111.022~~ 5111.023 of the Revised Code to children in the custody 12715
of public children services agencies. The departments shall 12716
complete the plan not later than ninety days after ~~the effective~~ 12717
~~date of this section~~ September 5, 2001. 12718

Sec. 341.192. (A) As used in this section: 12719

(1) "Medical assistance program" has the same meaning as in 12720
section 2913.40 of the Revised Code. 12721

(2) "Medical provider" means a physician, hospital, 12722
laboratory, pharmacy, or other health care provider that is not 12723
employed by or under contract to a county or the department of 12724
rehabilitation and correction to provide medical services to 12725
persons confined in the county jail or a state correctional 12726
institution. 12727

(3) "Necessary care" means medical care of a nonelective 12728
nature that cannot be postponed until after the period of 12729
confinement of a person who is confined in a county jail or a 12730
state correctional institution or is in the custody of a law 12731
enforcement officer without endangering the life or health of the 12732
person. 12733

(B) If a physician employed by or under contract to a county 12734
or the department of rehabilitation and correction to provide 12735
medical services to persons confined in the county jail or state 12736
correctional institution determines that a person who is confined 12737
in the county jail or a state correctional institution or who is 12738
in the custody of a law enforcement officer prior to the person's 12739
confinement in the county jail or a state correctional institution 12740
requires necessary care that the physician cannot provide, the 12741
necessary care shall be provided by a medical provider. The county 12742
or the department of rehabilitation and correction shall pay a 12743
medical provider for necessary care an amount not exceeding the 12744
authorized reimbursement rate for the same service established by 12745

the department of job and family services under the medical 12746
assistance program. 12747

Sec. 351.01. As used in this chapter: 12748

(A) "Convention facilities authority" means a body corporate 12749
and politic created pursuant to section 351.02 of the Revised 12750
Code. 12751

(B) "Governmental agency" means a department, division, or 12752
other unit of the state government or of a municipal corporation, 12753
county, township, or other political subdivision of the state; any 12754
state university or college, as defined in section 3345.12 of the 12755
Revised Code, community college, state community college, 12756
university branch, or technical college; any other public 12757
corporation or agency having the power to acquire, construct, or 12758
operate facilities; the United States or any agency thereof; and 12759
any agency, commission, or authority established pursuant to an 12760
interstate compact or agreement. 12761

(C) "Person" means any individual, firm, partnership, 12762
association, or corporation, or any combination of them. 12763

(D) "Facility" or "facilities" means any convention, 12764
entertainment, or sports facility, or combination of them, located 12765
within the territory of the convention facilities authority, 12766
together with all parking facilities, walkways, and other 12767
auxiliary facilities, real and personal property, property rights, 12768
easements and interests that may be appropriate for, or used in 12769
connection with, the operation of the facility. 12770

(E) "Cost" means the cost of acquisition of all land, 12771
rights-of-way, property rights, easements, franchise rights, and 12772
interests required for such acquisition; the cost of demolishing 12773
or removing any buildings or structures on land so acquired, 12774
including the cost of acquiring any lands to which such buildings 12775

or structures may be moved; the cost of acquiring or constructing 12776
and equipping a principal office of the convention facilities 12777
authority; the cost of diverting highways, interchange of 12778
highways, access roads to private property, including the cost of 12779
land or easements for such access roads; the cost of public 12780
utility and common carrier relocation or duplication; the cost of 12781
all machinery, furnishings, and equipment; financing charges; 12782
interest prior to and during construction and for no more than 12783
eighteen months after completion of construction; expenses of 12784
research and development with respect to facilities; legal 12785
expenses; expenses of obtaining plans, specifications, engineering 12786
surveys, studies, and estimates of cost and revenues; working 12787
capital; expenses necessary or incident to determining the 12788
feasibility or practicability of acquiring or constructing such 12789
facility; administrative expense; and such other expenses as may 12790
be necessary or incident to the acquisition or construction of the 12791
facility, the financing of such acquisition or construction, 12792
including the amount authorized in the resolution of the 12793
convention facilities authority providing for the issuance of 12794
convention facilities authority revenue bonds to be paid into any 12795
special funds from the proceeds of such bonds, the cost of issuing 12796
the bonds, and the financing of the placing of such facility in 12797
operation. Any obligation, cost, or expense incurred by any 12798
governmental agency or person for surveys, borings, preparation of 12799
plans and specifications, and other engineering services, or any 12800
other cost described above, in connection with the acquisition or 12801
construction of a facility may be regarded as part of the cost of 12802
such facility and may be reimbursed out of the proceeds of 12803
convention facilities authority revenue bonds as authorized by 12804
this chapter. 12805

(F) "Owner" includes a person having any title or interest in 12806
any property, rights, easements, or interests authorized to be 12807
acquired by Chapter 351. of the Revised Code. 12808

(G) "Revenues" means all rentals and other charges received 12809
by the convention facilities authority for the use or services of 12810
any facility, the sale of any merchandise, or the operation of any 12811
concessions; any gift or grant received with respect to any 12812
facility, any moneys received with respect to the lease, sublease, 12813
sale, including installment sale or conditional sale, or other 12814
disposition of a facility or part thereof; moneys received in 12815
repayment of and for interest on any loans made by the authority 12816
to a person or governmental agency, whether from the United States 12817
or any department, administration, or agency thereof, or 12818
otherwise; proceeds of convention facilities authority revenue 12819
bonds to the extent the use thereof for payment of principal or of 12820
premium, if any, or interest on the bonds is authorized by the 12821
authority; proceeds from any insurance, appropriation, or guaranty 12822
pertaining to a facility or property mortgaged to secure bonds or 12823
pertaining to the financing of the facility; income and profit 12824
from the investment of the proceeds of convention facilities 12825
authority revenue bonds or of any revenues; contributions of the 12826
proceeds of a tax levied pursuant to division (A)(3) of section 12827
5739.09 of the Revised Code; and moneys transmitted to the 12828
authority pursuant to division (B) of section 5739.211 and 12829
division (B) of section 5741.031 of the Revised Code. 12830

(H) "Public roads" includes all public highways, roads, and 12831
streets in the state, whether maintained by the state, county, 12832
city, township, or other political subdivision. 12833

(I) "Construction," unless the context indicates a different 12834
meaning or intent, includes, but is not limited to, 12835
reconstruction, enlargement, improvement, or providing fixtures, 12836
furnishings, and equipment. 12837

(J) "Convention facilities authority revenue bonds" or 12838
"revenue bonds," unless the context indicates a different meaning 12839
or intent, includes convention facilities authority revenue notes, 12840

convention facilities authority revenue renewal notes, and 12841
convention facilities authority revenue refunding bonds. 12842

(K) "Convention facilities authority tax anticipation bonds" 12843
or "tax anticipation bonds," unless the context indicates a 12844
different meaning, includes convention facilities authority tax 12845
anticipation bonds, tax anticipation notes, tax anticipation 12846
renewal notes, and tax anticipation refunding bonds. 12847

(L) "Bonds and notes" means convention facilities authority 12848
revenue bonds and convention facilities authority tax anticipation 12849
bonds. 12850

(M) "Territory of the authority" means all of the area of the 12851
county creating the convention facilities authority. 12852

(N) "Excise taxes" means ~~either or both~~ any of the taxes 12853
levied pursuant to division (B) or (C) of section 351.021 of the 12854
Revised Code. "Excise taxes" does not include taxes levied 12855
pursuant to section 4301.424, 5743.026, or 5743.324 of the Revised 12856
Code. 12857

(O) "Transaction" means the charge by a hotel for each 12858
occupancy by transient guests of a room or suite of rooms used in 12859
a hotel as a single unit for any period of twenty-four hours or 12860
less. 12861

(P) "Hotel" and "transient guests" have the same meanings as 12862
in section 5739.01 of the Revised Code. 12863

(Q) "Sports facility" means a facility intended to house 12864
major league professional athletic teams. 12865

(R) "Constructing" or "construction" includes providing 12866
fixtures, furnishings, and equipment. 12867

Sec. 351.021. (A) The resolution of the county commissioners 12868
creating a convention facilities authority, or any amendment or 12869
supplement to that resolution, may authorize the authority to levy 12870

one or both of the excise taxes authorized by division (B) of this section to pay the cost of one or more facilities; to pay principal, interest, and premium on convention facilities authority tax anticipation bonds issued to pay those costs; to pay the operating costs of the authority; to pay operating and maintenance costs of those facilities; and to pay the costs of administering the excise tax.

(B) The board of directors of a convention facilities authority that has been authorized pursuant to resolution adopted, amended, or supplemented by the board of county commissioners pursuant to division (A) of this section may levy, by resolution adopted on or before December 31, 1988, either or both of the following:

(1) Within the territory of the authority, an additional excise tax not to exceed four per cent on each transaction. The excise tax authorized by division (B)(1) of this section shall be in addition to any excise tax levied pursuant to section 5739.08 or 5739.09 of the Revised Code, or division (B)(2) of this section.

(2) Within that portion of any municipal corporation that is located within the territory of the authority or within the boundaries of any township that is located within the territory of the authority, which municipal corporation or township is levying any portion of the excise tax authorized by division (A) of section 5739.08 of the Revised Code, and with the approval, by ordinance or resolution, of the legislative authority of that municipal corporation or township, an additional excise tax not to exceed nine-tenths of one per cent on each transaction. The excise tax authorized by division (B)(2) of this section may be levied only if, on the effective date of the levy specified in the resolution making the levy, the amount being levied pursuant to division (A) of section 5739.08 of the Revised Code by each

municipal corporation or township in which the tax authorized by 12903
division (B)(2) of this section will be levied, when added to the 12904
amount levied under division (B)(2) of this section, does not 12905
exceed three per cent on each transaction. The excise tax 12906
authorized by division (B)(2) of this section shall be in addition 12907
to any excise tax that is levied pursuant to section 5739.08 or 12908
5739.09 of the Revised Code, or division (B)(1) of this section. 12909

(C)(1) The board of directors of a convention facilities 12910
authority that is located in an eligible Appalachian county; that 12911
has been authorized pursuant to resolution adopted, amended, or 12912
supplemented by the board of county commissioners pursuant to 12913
division (A) of this section; and that is not levying a tax under 12914
division (B)(1) or (2) of this section may levy within the 12915
territory of the authority, by resolution adopted on or before 12916
December 31, 2005, an additional excise tax not to exceed three 12917
per cent on each transaction. The excise tax authorized under 12918
division (C) of this section shall be in addition to any excise 12919
tax levied pursuant to section 5739.08 or 5739.09 of the Revised 12920
Code. 12921

(2) As used in division (C)(1) of this section, "eligible 12922
Appalachian county" means a county in this state designated as 12923
being in the "Appalachian region" under the "Appalachian Regional 12924
Development Act of 1965," 79 Stat. 4, 40 U.S.C. App. 403, and 12925
having a population less than eighty thousand according to the 12926
most recent federal decennial census. 12927

(D) The authority shall provide for the administration and 12928
allocation of ~~the an~~ excise ~~taxes~~ tax levied pursuant to division 12929
(B) or (C) of this section. All receipts arising from those excise 12930
taxes shall be expended for the purposes provided in, and in 12931
accordance with this section and section 351.141 of the Revised 12932
Code. An excise tax levied under division (B) or (C) of this 12933
section shall remain in effect at the rate at which it is levied 12934

for at least the duration of the period for which the receipts 12935
from the tax have been anticipated and pledged pursuant to section 12936
351.141 of the Revised Code. 12937

~~(D)~~(E) Except as provided in division (B)(2) of this section, 12938
the levy of an excise tax on each transaction pursuant to sections 12939
5739.08 and 5739.09 of the Revised Code does not prevent a 12940
convention facilities authority from levying ~~the an~~ excise ~~taxes~~ 12941
tax pursuant to division (B) or (C) of this section. 12942

Sec. 351.06. A facility to be constructed pursuant to this 12943
chapter is a public improvement and a convention facilities 12944
authority is a public authority for purposes of section 4115.03 of 12945
the Revised Code. All contractors and subcontractors working on 12946
such facilities are subject to and shall comply with sections 12947
4115.03 to 4115.16 of the Revised Code. A convention facilities 12948
authority is a contracting authority for purposes of sections 12949
307.86 to 307.91 of the Revised Code. 12950

No convention facilities authority shall construct a facility 12951
under this chapter unless the plans for the facility provide for 12952
parking and transportation determined by the board of county 12953
commissioners as adequate to serve that facility. 12954

A convention facilities authority may do all of the 12955
following: 12956

(A) Adopt bylaws for the regulation of its affairs and the 12957
conduct of its business; 12958

(B) Adopt an official seal; 12959

(C) Maintain a principal office within its territory; 12960

(D) Acquire, purchase, construct, reconstruct, enlarge, 12961
furnish, equip, maintain, repair, sell, exchange, lease or rent 12962
to, lease or rent from, operate, or contract for the operation by 12963
others of, facilities within its territory, and make charges for 12964

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| the use of the facilities; | 12965 |
| (E) Make available the use or services of any facility to persons or governmental agencies on such terms and conditions as the authority shall determine; | 12966 12967 12968 |
| (F) By resolution of its board of directors, issue convention facilities authority revenue bonds beyond the limit of bonded indebtedness provided by law, payable solely from revenues as provided in section 351.14 of the Revised Code, unless the bonds are refunded by refunding bonds, for the purpose of providing funds to pay the costs of any facility or facilities or parts of any facility or facilities, and, if moneys raised by taxation are not obligated or pledged for the payment of those revenue bonds, to pay the costs of any facility or facilities or parts of any facility or facilities pursuant to Section 13 of Article VIII, Ohio Constitution, and in order to create or preserve jobs and employment opportunities and improve the economic welfare of the people of the state; | 12969 12970 12971 12972 12973 12974 12975 12976 12977 12978 12979 12980 12981 |
| (G) Maintain such funds as it determines necessary; | 12982 |
| (H) Direct its agents or employees, when properly identified in writing and after at least five days' written notice, to enter upon lands within its territory in order to make surveys and examinations preliminary to location and construction of facilities, or other work for the purposes of the convention facilities authority, without liability of the authority or its agents or employees except for actual damage done; | 12983 12984 12985 12986 12987 12988 12989 |
| (I) Promote, advertise, and publicize the authority and its facilities; | 12990 12991 |
| (J)(1) Adopt rules, not in conflict with general law, governing the use of its property, grounds, buildings, equipment, and facilities, and the conduct of its employees and the public, in order to promote the public safety and convenience in and about | 12992 12993 12994 12995 |

its facilities and grounds, and to maintain order. Any such rule 12996
shall be posted at a prominent place in each of the buildings or 12997
facilities to which it applies. 12998

(2) No person shall violate any lawful rule adopted and 12999
posted as provided in this division. 13000

(K) Acquire by gift or purchase, hold, lease, and dispose of 13001
real and personal property and interests in the property in the 13002
exercise of its powers and the performance of its duties under 13003
this chapter; 13004

(L) Acquire, in the name of the authority, by purchase or 13005
otherwise, on such terms and in such manner as the authority finds 13006
proper, or by the exercise of the right of appropriation in the 13007
manner provided by section 351.22 of the Revised Code, such public 13008
or private lands, including public parks, playgrounds, or 13009
reservations, or parts thereof or rights therein, rights-of-way, 13010
rights, franchises, easements, and interests as it finds necessary 13011
or proper for carrying out this chapter, and compensation shall be 13012
paid for public or private lands so taken; 13013

(M) Make and enter into all contracts and agreements and 13014
execute all instruments necessary or incidental to the performance 13015
of its duties and the execution of its powers under this chapter 13016
provided that no construction contract or contract for the 13017
purchase of goods or services shall be approved or entered into by 13018
the authority prior to the adoption and implementation of a policy 13019
on the set aside of contracts for bidding by or award to minority 13020
business enterprises, as defined in division (E)(1) of section 13021
122.71 of the Revised Code; 13022

(N) Employ managers, superintendents, and other employees and 13023
retain or contract with consulting engineers, financial 13024
consultants, accounting experts, architects, attorneys, and such 13025
other consultants and independent contractors as are necessary in 13026

its judgment to carry out this chapter, and fix their 13027
compensation. All expenses of doing so shall be payable solely 13028
from the proceeds of convention facilities authority bonds and 13029
notes issued under this chapter, or from excise taxes and 13030
revenues. 13031

(O) Receive and accept from any governmental agency grants 13032
for or in aid of the purposes of the authority, and receive and 13033
accept aid or contributions from any source of money, property, 13034
labor, or other things of value, to be held, used, and applied 13035
only for the purposes for which such grants and contributions are 13036
made; 13037

(P) Engage in research and development with respect to 13038
facilities; 13039

(Q) Purchase fire and extended coverage and liability 13040
insurance for any facility and for the offices of the authority, 13041
insurance protecting the authority and its officers and employees 13042
against liability for damage to property or injury to or death of 13043
persons arising from its operations, and any other insurance the 13044
authority may agree to provide under any resolution authorizing 13045
its convention facilities authority revenue bonds or in any trust 13046
agreement securing the same; 13047

(R) Charge, alter, and collect rentals and other charges for 13048
the use or services of any facility as provided in section 351.09 13049
of the Revised Code; 13050

(S) If a tax proposed under section 5739.026 of the Revised 13051
Code is disapproved by the electors, request the board of county 13052
commissioners to dissolve the authority pursuant to section 351.03 13053
of the Revised Code; 13054

(T) By resolution of its board of directors, levy ~~one or both~~ 13055
any of the excise taxes authorized by division (B) or (C) of 13056
section 351.021 of the Revised Code if authorized by the county 13057

commissioners, and issue convention facilities authority tax 13058
anticipation bonds beyond any limit of bonded indebtedness 13059
provided by law, payable solely from excise taxes levied pursuant 13060
to division (B) or (C) of section 351.021 of the Revised Code and 13061
revenues as provided in section 351.141 of the Revised Code. 13062

(U) Do all acts necessary or proper to carry out the powers 13063
expressly granted in this chapter. 13064

Sec. 351.141. A convention facilities authority that levies 13065
~~one or both~~ any of the excise taxes authorized by division (B) or 13066
(C) of section 351.021 of the Revised Code or that receives 13067
contributions pursuant to division (A)(3) of section 5739.09 of 13068
the Revised Code, by resolution may anticipate the proceeds of the 13069
levy and issue convention facilities authority tax anticipation 13070
bonds, and notes anticipating the proceeds or the bonds, in the 13071
principal amount that, in the opinion of the authority, are 13072
necessary for the purpose of paying the cost of one or more 13073
facilities or parts of one or more facilities, and as able, with 13074
the interest on them, be paid over the term of the issue, or in 13075
the case of notes anticipating bonds over the term of the bonds, 13076
by the estimated amount of the excise taxes or contributions 13077
anticipated thereby. The excise taxes or contributions are 13078
determined by the general assembly to satisfy any applicable 13079
requirement of Section 11 of Article XII, Ohio Constitution. An 13080
authority, at any time, may issue renewal tax anticipation notes, 13081
issue tax anticipation bonds to pay such notes, and, whenever it 13082
considers refunding expedient, refund any tax anticipation bonds 13083
by the issuance of tax anticipation refunding bonds whether the 13084
bonds to be refunded have or have not matured, and issue tax 13085
anticipation bonds partly to refund bonds then outstanding and 13086
partly for any other authorized purpose. The refunding bonds shall 13087
be sold and the proceeds needed for such purpose applied in the 13088
manner provided in the bond proceedings to the purchase, 13089

redemption, or payment of the bonds to be refunded. 13090

Every issue of outstanding tax anticipation bonds shall be 13091
payable out of the proceeds of the excise taxes or contributions 13092
anticipated and other revenues of the authority that are pledged 13093
for such payment. The pledge shall be valid and binding from the 13094
time the pledge is made, and the anticipated excise taxes, 13095
contributions, and revenues so pledged and thereafter received by 13096
the authority immediately shall be subject to the lien of that 13097
pledge without any physical delivery of those excise taxes, 13098
contributions, and revenues or further act. The lien of any pledge 13099
is valid and binding as against all parties having claims of any 13100
kind in tort, contract, or otherwise against the authority, 13101
whether or not such parties have notice of the lien. Neither the 13102
resolution nor any trust agreement by which a pledge is created 13103
need be filed or recorded except in the authority's records. 13104

Whether or not the bonds or notes are of such form and 13105
character as to be negotiable instruments under Title XIII of the 13106
Revised Code, the bonds or notes shall have all the qualities and 13107
incidents of negotiable instruments, subject only to their 13108
provisions for registration, if any. 13109

The tax anticipation bonds shall bear such date or dates, and 13110
shall mature at such time or times, in the case of any such notes 13111
or any renewals of such notes not exceeding twenty years from the 13112
date of issue of such original notes and in the case of any such 13113
bonds or any refunding bonds not exceeding forty years from the 13114
date of the original issue of notes or bonds for the purpose, and 13115
shall be executed in the manner that the resolution authorizing 13116
the bonds may provide. The tax anticipation bonds shall bear 13117
interest at such rates, or at variable rate or rates changing from 13118
time to time, in accordance with provisions provided in the 13119
authorizing resolution, be in such denominations and form, either 13120
coupon or registered, carry such registration privileges, be 13121

payable in such medium of payment and at such place or places, and 13122
be subject to such terms of redemption, as the authority may 13123
authorize or provide. The tax anticipation bonds may be sold at 13124
public or private sale, and at, or at not less than the price or 13125
prices as the authority determines. If any officer whose signature 13126
or a facsimile of whose signature appears on any bonds or coupons 13127
ceases to be such officer before delivery of the bonds, the 13128
signature or facsimile shall nevertheless be sufficient for all 13129
purposes as if the officer had remained in office until delivery 13130
of the bonds, and in case the seal of the authority has been 13131
changed after a facsimile has been imprinted on the bonds, the 13132
facsimile seal will continue to be sufficient for all purposes. 13133

Any resolution or resolutions authorizing any tax 13134
anticipation bonds or any issue of tax anticipation bonds may 13135
contain provisions, subject to any agreements with bondholders as 13136
may then exist, which provisions shall be a part of the contract 13137
with the holders of the bonds, as to the pledging of any or all of 13138
the authority's anticipated excise taxes, contributions, and 13139
revenues to secure the payment of the bonds or of any issue of the 13140
bonds; the use and disposition of revenues of the authority; the 13141
crediting of the proceeds of the sale of bonds to and among the 13142
funds referred to or provided for in the resolution; limitations 13143
on the purpose to which the proceeds of sale of the bonds may be 13144
applied and the pledging of portions of such proceeds to secure 13145
the payment of the bonds or of any issue of the bonds; as to notes 13146
issued in anticipation of the issuance of bonds, the agreement of 13147
the authority to do all things necessary for the authorization, 13148
issuance, and sale of such bonds in such amounts as may be 13149
necessary for the timely retirement of such notes; limitations on 13150
the issuance of additional bonds; the terms upon which additional 13151
bonds may be issued and secured; the refunding of outstanding 13152
bonds; the procedure, if any, by which the terms of any contract 13153
with bondholders may be amended, the amount of bonds the holders 13154

of which must consent thereto, and the manner in which such 13155
consent may be given; securing any bonds by a trust agreement in 13156
accordance with section 351.16 of the Revised Code; any other 13157
matters, of like or different character, that in any way affect 13158
the security or protection of the bonds. The excise taxes 13159
anticipated by the bonds, including bonds anticipated by notes, 13160
shall not be subject to diminution by initiative or referendum or 13161
by law while the bonds or notes remain outstanding in accordance 13162
with their terms, unless provision is made by law or by the 13163
authority for an adequate substitute therefor reasonably 13164
satisfactory to the trustee, if a trust agreement secures the 13165
bonds. 13166

Neither the members of the board of directors of the 13167
authority nor any person executing the bonds shall be liable 13168
personally on the bonds or be subject to any personal liability or 13169
accountability by reason of the issuance thereof. 13170

Sec. 351.16. In the discretion of the convention facilities 13171
authority, any convention facilities authority bonds and notes 13172
issued under this chapter may be secured by a trust agreement 13173
between the authority and a corporate trustee, which trustee may 13174
be any trust company or bank having the powers of a trust company 13175
within or without the state. 13176

Any such trust agreement for convention facility authority 13177
revenue bonds may pledge or assign revenues of the convention 13178
facilities authority to be received and may convey or mortgage any 13179
facility or any part of any facility. Any such trust agreement for 13180
convention facility authority tax anticipation bonds may pledge or 13181
assign ~~one or both~~ any of the excise taxes authorized by division 13182
(B) or (C) of section 351.021 of the Revised Code and revenues of 13183
the convention facilities authority to be received and may convey 13184
or mortgage any facility or any part of any facility. Any such 13185

trust agreement or any resolution providing for the issuance of 13186
such bonds or notes may contain such provisions for protecting and 13187
enforcing the rights and remedies of the bondholders or 13188
noteholders as are reasonable and proper and not in violation of 13189
law, including covenants setting forth the duties of the authority 13190
in relation to the acquisition of property, the construction, 13191
improvement, maintenance, repair, operation, and insurance of the 13192
facility in connection with which such bonds or notes are 13193
authorized, the rentals or other charges to be imposed for the use 13194
or services of any facility, the custody, safeguarding, and 13195
application of all moneys, and provisions for the employment of 13196
consulting engineers in connection with the construction or 13197
operation of such facility. Any bank or trust company incorporated 13198
under the laws of this state that may act as depository of the 13199
proceeds of bonds or notes or of revenues may furnish such 13200
indemnifying bonds or may pledge such securities as are required 13201
by the authority. Any such trust agreement may set forth the 13202
rights and remedies of the bondholders and noteholders and of the 13203
trustee, and may restrict the individual right of action by 13204
bondholders and noteholders as is customary in trust agreements or 13205
trust indentures securing similar bonds. Such trust agreement may 13206
contain such other provisions as the authority determines 13207
reasonable and proper for the security of the bondholders or 13208
noteholders. All expenses incurred in carrying out the provisions 13209
of any such trust agreement may be treated as a part of the cost 13210
of the operation of the facility. Any such trust agreement or 13211
resolution authorizing the issuance of convention facilities 13212
authority bonds or notes may provide the method whereby the 13213
general administrative expenses of the authority shall be 13214
allocated among facilities acquired or constructed by it as a 13215
factor of the operation expenses of such facility. 13216

Sec. 718.09. (A) This section applies to either of the 13217

following: 13218

(1) A municipal corporation that shares the same territory as 13219
a city, local, or exempted village school district, to the extent 13220
that not more than five per cent of the territory of the municipal 13221
corporation is located outside the school district and not more 13222
than five per cent of the territory of the school district is 13223
located outside the municipal corporation; 13224

(2) A municipal corporation that shares the same territory as 13225
a city, local, or exempted village school district, to the extent 13226
that not more than five per cent of the territory of the municipal 13227
corporation is located outside the school district, more than five 13228
per cent but not more than ten per cent of the territory of the 13229
school district is located outside the municipal corporation, and 13230
that portion of the territory of the school district that is 13231
located outside the municipal corporation is located entirely 13232
within another municipal corporation having a population of four 13233
hundred thousand or more according to the federal decennial census 13234
most recently completed before the agreement is entered into under 13235
division (B) of this section. 13236

(B) ~~Before January 1, 2001, the~~ The legislative authority of 13237
a municipal corporation to which this section applies may propose 13238
to the electors an income tax, one of the purposes of which shall 13239
be to provide financial assistance to the school district through 13240
payment to the district of not less than twenty-five per cent of 13241
the revenue generated by the tax, except that the legislative 13242
authority may not propose to levy the income tax on the incomes of 13243
nonresident individuals. Prior to proposing the tax, the 13244
legislative authority shall negotiate and enter into a written 13245
agreement with the board of education of the school district 13246
specifying the tax rate, the percentage of tax revenue to be paid 13247
to the school district, the purpose for which the school district 13248

will use the money, the first year the tax will be levied, the 13249
date of the special election on the question of the tax, and the 13250
method and schedule by which the municipal corporation will make 13251
payments to the school district. The special election shall be 13252
held ~~before January 1, 2001,~~ on a day specified in division (D) of 13253
section 3501.01 of the Revised Code, except that the special 13254
election may not be held on the day for holding a primary election 13255
as authorized by the municipal corporation's charter unless the 13256
municipal corporation is to have a primary election on that day. 13257

After the legislative authority and board of education have 13258
entered into the agreement, the legislative authority shall 13259
provide for levying the tax by ordinance. The ordinance shall 13260
state the tax rate, the percentage of tax revenue to be paid to 13261
the school district, the purpose for which the municipal 13262
corporation will use its share of the tax revenue, the first year 13263
the tax will be levied, and that the question of the income tax 13264
will be submitted to the electors of the municipal corporation. 13265
The legislative authority also shall adopt a resolution specifying 13266
the regular or special election date the election will be held and 13267
directing the board of elections to conduct the election. At least 13268
seventy-five days before the date of the election, the legislative 13269
authority shall file certified copies of the ordinance and 13270
resolution with the board of elections. 13271

(C) The board of elections shall make the necessary 13272
arrangements for the submission of the question to the electors of 13273
the municipal corporation, and shall conduct the election in the 13274
same manner as any other municipal income tax election. Notice of 13275
the election shall be published in a newspaper of general 13276
circulation in the municipal corporation once a week for four 13277
consecutive weeks prior to the election, and shall include 13278
statements of the rate and municipal corporation and school 13279
district purposes of the income tax, the percentage of tax revenue 13280

that will be paid to the school district, and the first year the tax will be levied. The ballot shall be in the following form:

"Shall the ordinance providing for a per cent levy on income for (brief description of the municipal corporation and school district purposes of the levy, including a statement of the percentage of tax revenue that will be paid to the school district) be passed? The income tax, if approved, will not be levied on the incomes of individuals who do not reside in (the name of the municipal corporation).

| | |
|--|------------------------|
| | For the income tax |
| | Against the income tax |

"

(D) If the question is approved by a majority of the electors, the municipal corporation shall impose the income tax beginning in the year specified in the ordinance. The proceeds of the levy may be used only for the specified purposes, including payment of the specified percentage to the school district.

Sec. 718.10. (A) This section applies to a group of two or more municipal corporations that, taken together, share the same territory as a single city, local, or exempted village school district, to the extent that not more than five per cent of the territory of the municipal corporations as a group is located outside the school district and not more than five per cent of the territory of the school district is located outside the municipal corporations as a group.

(B) ~~Before January 1, 2001, the~~ The legislative authorities of the municipal corporations in a group of municipal corporations to which this section applies each may propose to the electors an income tax, to be levied in concert with income taxes in the other

municipal corporations of the group, except that a legislative 13311
authority may not propose to levy the income tax on the incomes of 13312
individuals who do not reside in the municipal corporation. One of 13313
the purposes of such a tax shall be to provide financial 13314
assistance to the school district through payment to the district 13315
of not less than twenty-five per cent of the revenue generated by 13316
the tax. Prior to proposing the taxes, the legislative authorities 13317
shall negotiate and enter into a written agreement with each other 13318
and with the board of education of the school district specifying 13319
the tax rate, the percentage of the tax revenue to be paid to the 13320
school district, the first year the tax will be levied, and the 13321
date of the election on the question of the tax, all of which 13322
shall be the same for each municipal corporation. The agreement 13323
also shall state the purpose for which the school district will 13324
use the money, and specify the method and schedule by which each 13325
municipal corporation will make payments to the school district. 13326
The special election shall be held ~~before January 1, 2001,~~ on a 13327
day specified in division (D) of section 3501.01 of the Revised 13328
Code, including a day on which all of the municipal corporations 13329
are to have a primary election. 13330

After the legislative authorities and board of education have 13331
entered into the agreement, each legislative authority shall 13332
provide for levying its tax by ordinance. Each ordinance shall 13333
state the rate of the tax, the percentage of tax revenue to be 13334
paid to the school district, the purpose for which the municipal 13335
corporation will use its share of the tax revenue, and the first 13336
year the tax will be levied. Each ordinance also shall state that 13337
the question of the income tax will be submitted to the electors 13338
of the municipal corporation on the same date as the submission of 13339
questions of an identical tax to the electors of each of the other 13340
municipal corporations in the group, and that unless the electors 13341
of all of the municipal corporations in the group approve the tax 13342
in their respective municipal corporations, none of the municipal 13343

corporations in the group shall levy the tax. Each legislative 13344
authority also shall adopt a resolution specifying the regular or 13345
special election date the election will be held and directing the 13346
board of elections to conduct the election. At least seventy-five 13347
days before the date of the election, each legislative authority 13348
shall file certified copies of the ordinance and resolution with 13349
the board of elections. 13350

(C) For each of the municipal corporations, the board of 13351
elections shall make the necessary arrangements for the submission 13352
of the question to the electors, and shall conduct the election in 13353
the same manner as any other municipal income tax election. For 13354
each of the municipal corporations, notice of the election shall 13355
be published in a newspaper of general circulation in the 13356
municipal corporation once a week for four consecutive weeks prior 13357
to the election. The notice shall include a statement of the rate 13358
and municipal corporation and school district purposes of the 13359
income tax, the percentage of tax revenue that will be paid to the 13360
school district, and the first year the tax will be levied, and an 13361
explanation that the tax will not be levied unless an identical 13362
tax is approved by the electors of each of the other municipal 13363
corporations in the group. The ballot shall be in the following 13364
form: 13365

"Shall the ordinance providing for a ... per cent levy on 13366
income for (brief description of the municipal corporation and 13367
school district purposes of the levy, including a statement of the 13368
percentage of income tax revenue that will be paid to the school 13369
district) be passed? The income tax, if approved, will not be 13370
levied on the incomes of individuals who do not reside in (the 13371
name of the municipal corporation). In order for the income tax to 13372
be levied, the voters of (the other municipal corporations in the 13373
group), which are also in the (name of the school district) school 13374
district, must approve an identical income tax and agree to pay 13375

the same percentage of the tax revenue to the school district. 13376

13377

| | |
|--|------------------------|
| | For the income tax |
| | Against the income tax |

13378

"

13379

13380

(D) If the question is approved by a majority of the electors 13381
 and identical taxes are approved by a majority of the electors in 13382
 each of the other municipal corporations in the group, the 13383
 municipal corporation shall impose the tax beginning in the year 13384
 specified in the ordinance. The proceeds of the levy may be used 13385
 only for the specified purposes, including payment of the 13386
 specified percentage to the school district. 13387

Sec. 731.14. All contracts made by the legislative authority 13388
 of a village shall be executed in the name of the village and 13389
 signed on its behalf by the mayor and clerk. Except where the 13390
 contract is for equipment, services, materials, or supplies to be 13391
 purchased under division (D) of section 713.23 or section 125.04 13392
 or 5513.01 of the Revised Code ~~or~~, available from a qualified 13393
 nonprofit agency pursuant to sections 4115.31 to 4115.35 of the 13394
 Revised Code, or required to be purchased from a qualified 13395
nonprofit agency under sections 125.60 to 125.6012 of the Revised 13396
Code, when any expenditure, other than the compensation of persons 13397
 employed in the village, exceeds twenty-five thousand dollars, 13398
 such contracts shall be in writing and made with the lowest and 13399
 best bidder after advertising for not less than two nor more than 13400
 four consecutive weeks in a newspaper of general circulation 13401
 within the village. The bids shall be opened and shall be publicly 13402
 read by the clerk of the village or a person designated by the 13403
 clerk at the time, date, and place specified in the advertisement 13404
 to bidders or specifications. The time, date, and place of bid 13405
 openings may be extended to a later date by the legislative 13406

authority of the village, provided that written or oral notice of 13407
the change shall be given to all persons who have received or 13408
requested specifications no later than ninety-six hours prior to 13409
the original time and date fixed for the opening. This section 13410
does not apply to those villages that have provided for the 13411
appointment of a village administrator under section 735.271 of 13412
the Revised Code. 13413

Sec. 731.141. In those villages that have established the 13414
position of village administrator, as provided by section 735.271 13415
of the Revised Code, the village administrator shall make 13416
contracts, purchase supplies and materials, and provide labor for 13417
any work under the administrator's supervision involving not more 13418
than twenty-five thousand dollars. When an expenditure, other than 13419
the compensation of persons employed by the village, exceeds 13420
twenty-five thousand dollars, the expenditure shall first be 13421
authorized and directed by ordinance of the legislative authority 13422
of the village. When so authorized and directed, except where the 13423
contract is for equipment, services, materials, or supplies to be 13424
purchased under division (D) of section 713.23 or section 125.04 13425
or 5513.01 of the Revised Code ~~or~~, available from a qualified 13426
nonprofit agency pursuant to sections 4115.31 to 4115.35 of the 13427
Revised Code, or required to be purchased from a qualified 13428
nonprofit agency under sections 125.60 to 125.6012 of the Revised 13429
Code, the village administrator shall make a written contract with 13430
the lowest and best bidder after advertisement for not less than 13431
two nor more than four consecutive weeks in a newspaper of general 13432
circulation within the village. The bids shall be opened and shall 13433
be publicly read by the village administrator or a person 13434
designated by the village administrator at the time, date, and 13435
place as specified in the advertisement to bidders or 13436
specifications. The time, date, and place of bid openings may be 13437
extended to a later date by the village administrator, provided 13438

that written or oral notice of the change shall be given to all 13439
persons who have received or requested specifications no later 13440
than ninety-six hours prior to the original time and date fixed 13441
for the opening. All contracts shall be executed in the name of 13442
the village and signed on its behalf by the village administrator 13443
and the clerk. 13444

The legislative authority of a village may provide, by 13445
ordinance, for central purchasing for all offices, departments, 13446
divisions, boards, and commissions of the village, under the 13447
direction of the village administrator, who shall make contracts, 13448
purchase supplies or materials, and provide labor for any work of 13449
the village in the manner provided by this section. 13450

Sec. 742.59. The board of trustees of the Ohio police and 13451
fire pension fund shall be the trustee of the funds created as 13452
follows: 13453

(A) The "police officers' contribution fund" is the fund in 13454
which shall be credited the contributions deducted from the 13455
salaries of members of police departments and paid into the Ohio 13456
police and fire pension fund, as provided by section 742.31 of the 13457
Revised Code, and that percentage of the employers' accrued 13458
liability that is attributable to deductions previously made from 13459
the salaries of members of the police department who are still in 13460
the active service at the time that portion of the employers' 13461
accrued liability is paid. The accumulated contributions of a 13462
member of a police department shall be transferred at the member's 13463
retirement from the police officers' contribution fund to the 13464
police officers' pension reserve fund. 13465

(B) The "firefighters' contribution fund" is the fund in 13466
which shall be credited contributions deducted from the salaries 13467
of members of fire departments and paid into the Ohio police and 13468
fire pension fund, as provided by section 742.31 of the Revised 13469

Code, and that percentage of the employers' accrued liability that 13470
is attributable to deductions previously made from the salaries of 13471
members of the fire department who are still in the active service 13472
at the time that portion of the employers' accrued liability is 13473
paid. The accumulated contributions of a member of a fire 13474
department shall be transferred at the member's retirement from 13475
the firefighters' contribution fund to the firefighters' pension 13476
reserve fund. 13477

(C) The "police officer employers' contribution fund" is the 13478
fund to which the following shall be credited: 13479

(1) The police officer employers' contribution, as provided 13480
by section 742.33 of the Revised Code, ~~and that;~~ 13481

(2) The percentage of the employers' accrued liability that 13482
is attributable to the employers' liability for prior service of 13483
members of the police department who are still in the active 13484
service at the time that portion of the employers' accrued 13485
liability is paid, ~~and that portion of the state contribution~~ 13486
~~allocated to such fund, as provided by section 742.36 of the~~ 13487
~~Revised Code, shall be credited, and in which shall be~~ 13488
~~accumulated.~~ 13489

In the police officer employers' contribution fund shall 13490
accumulate the reserves held in trust for the payment of all 13491
pensions or other benefits provided by sections 742.01 to 742.61 13492
of the Revised Code to members of a police department retiring in 13493
the future or their qualified beneficiaries and from which the 13494
reserves for such pensions and other benefits shall be transferred 13495
to the police officers' pension reserve fund. 13496

(D) The "firefighter employers' contribution fund" is the 13497
fund to which the following shall be credited: 13498

(1) The firefighter employers' contribution, as provided in 13499
section 742.34 of the Revised Code, ~~and that;~~ 13500

(2) The percentage of the employers' accrued liability that 13501
is attributable to the employers' liability for prior service for 13502
members of the fire department who are still in the active service 13503
at the time that portion of the employers' accrued liability is 13504
paid, ~~and that portion of the state contribution allocated to such~~ 13505
~~fund, as provided by section 742.36 of the Revised Code, shall be~~ 13506
~~credited, and in which shall be accumulated.~~ 13507

In the firefighter employers' contribution fund shall 13508
accumulate the reserves held in trust for the payment of all 13509
pensions and other benefits provided by sections 742.01 to 742.61 13510
of the Revised Code to members of a fire department retiring in 13511
the future or their qualified beneficiaries and from which the 13512
reserves for such pensions and other benefits shall be transferred 13513
to the firefighters' pension reserve fund. 13514

(E) The "police officers' pension reserve fund" is the fund 13515
from which shall be paid all pensions and other benefits for which 13516
reserves have been transferred from the police officers' 13517
contribution fund and the police officer employers' contribution 13518
fund, and to which shall be credited that percentage of the 13519
employers' accrued liability that is attributable to the total of 13520
deductions previously made from the salaries of members of the 13521
police department who are retired and are receiving pensions or 13522
other benefits, or whose beneficiaries are receiving benefits, at 13523
the time that portion of the employers' accrued liability is paid, 13524
and that percentage of the employers' accrued liability that is 13525
attributable to prior service of members of the police department 13526
who are retired and are receiving pensions or other benefits, or 13527
whose beneficiaries are receiving benefits, at the time that 13528
portion of the employers' accrued liability is paid. 13529

(F) The "firefighters' pension reserve fund" is the fund from 13530
which shall be paid all pensions and other benefits for which 13531
reserves have been transferred from the firefighters' contribution 13532

fund and the firefighter employers' contribution fund, and to 13533
which shall be credited that percentage of the employers' accrued 13534
liability that is attributable to the total of deductions 13535
previously made from the salaries of members of the fire 13536
department who are retired and are receiving pensions or other 13537
benefits, or whose beneficiaries are receiving benefits, at the 13538
time that portion of the employers' accrued liability is paid, and 13539
that percentage of the employers' accrued liability that is 13540
attributable to prior service of members of the fire department 13541
who are retired and are receiving pensions or other benefits, or 13542
whose beneficiaries are receiving benefits, at the time that 13543
portion of the employers' accrued liability is paid. 13544

(G) The "guarantee fund" is the fund from which interest is 13545
transferred and credited on the amounts in the funds described in 13546
divisions (C), (D), (E), and (F) of this section, and is a 13547
contingent fund from which the special requirements of said funds 13548
may be paid by transfer from this fund. All income derived from 13549
the investment of funds by the board of trustees of the Ohio 13550
police and fire pension fund as trustee under section 742.11 of 13551
the Revised Code, together with all gifts and bequests or the 13552
income therefrom, shall be paid into this fund. 13553

Any deficit occurring in any other fund that will not be 13554
covered by payments to that fund, as otherwise provided by 13555
sections 742.01 to 742.61 of the Revised Code, shall be paid by 13556
transfers of amounts from the guarantee fund to such fund or 13557
funds. Should the amount in the guarantee fund be insufficient at 13558
any time to meet the amounts payable therefrom, the amount of such 13559
deficiency, with regular interest, shall be paid by an additional 13560
employer rate of current contribution as determined by the actuary 13561
and shall be approved by the board of trustees of the Ohio police 13562
and fire pension fund, and the amount of such additional employer 13563
contribution shall be credited to the guarantee fund. 13564

The board may accept gifts and bequests. Any funds that may
come into the possession of the board in this manner, or any other
funds whose disposition is not otherwise provided for, shall be
credited to the guarantee fund.

(H) The "expense fund" is the fund from which shall be paid
the expenses for the administration and management of the Ohio
police and fire pension fund, as provided by sections 742.01 to
742.61 of the Revised Code, and to which shall be credited from
the guarantee fund an amount sufficient to pay the expenses of
operation.

Sec. 901.43. (A) The director of agriculture may authorize
any department of agriculture laboratory to perform a laboratory
service for any person, organization, political subdivision, state
agency, federal agency, or other entity, whether public or
private. The director shall adopt and enforce rules to provide for
the rendering of a laboratory service.

(B) The director may charge a reasonable fee for the
performance of a laboratory service, except when the service is
performed on an official sample taken by the director acting
pursuant to Title IX, Chapter 3715., or Chapter 3717. of the
Revised Code; by a board of health acting as the licensor of
retail food establishments or food service operations under
Chapter 3717. of the Revised Code; or by the director of health
acting as the licensor of food service operations under Chapter
3717. of the Revised Code. The director of agriculture shall adopt
rules specifying what constitutes an official sample.

The director shall publish a list of laboratory services
offered, together with the fee for each service.

(C) The director may enter into a contract with any person,
organization, political subdivision, state agency, federal agency,
or other entity for the provision of a laboratory service.

(D)(1) The director may adopt rules establishing standards 13596
for accreditation of laboratories and laboratory services and in 13597
doing so may adopt by reference existing or recognized standards 13598
or practices. 13599

(2) The director may inspect and accredit laboratories and 13600
laboratory services, and may charge a reasonable fee for the 13601
inspections and accreditation. 13602

(E)(1) ~~All~~ There is hereby created in the state treasury the 13603
animal health and food safety fund. Moneys from the following 13604
sources shall be deposited into the state treasury to the credit 13605
of the fund: all moneys collected by the director under this 13606
section that are from fees generated by a laboratory service 13607
performed by the department and related to the diseases of 13608
animals, ~~and~~ all moneys so collected that are from fees generated 13609
for the inspection and accreditation of laboratories and 13610
laboratory services related to the diseases of animals, ~~shall be~~ 13611
~~deposited in the animal industry laboratory fund, which is hereby~~ 13612
~~created in the state treasury. The director shall use the moneys~~ 13613
~~in the animal industry laboratory fund to pay the expenses~~ 13614
~~necessary to operate the animal industry laboratory, including the~~ 13615
~~purchase of supplies and equipment.~~ 13616

~~(2) All~~ all moneys collected by the director under this 13617
section that are from fees generated by a laboratory service 13618
performed by the consumer analytical laboratory, and all moneys so 13619
collected that are from fees generated for the inspection and 13620
accreditation of laboratories and laboratory services not related 13621
to weights and measures ~~or the diseases of animals, shall be~~ 13622
~~deposited in the laboratory services fund, which is hereby created~~ 13623
~~in the state treasury. The~~ director may use the moneys held in the 13624
fund ~~may be used~~ to pay the expenses necessary to operate the 13625
animal industry laboratory and the consumer analytical laboratory, 13626
including the purchase of supplies and equipment. 13627

+3)+(2) All moneys collected by the director under this 13628
section that are from fees generated by a laboratory service 13629
performed by the weights and measures laboratory, and all moneys 13630
so collected that are from fees generated for the inspection and 13631
accreditation of laboratories and laboratory services related to 13632
weights and measures, shall be deposited in the state treasury to 13633
the credit of the weights and measures laboratory fund, which is 13634
hereby created in the state treasury. The moneys held in the fund 13635
may be used to pay the expenses necessary to operate the division 13636
of weights and measures, including the purchase of supplies and 13637
equipment. 13638

Sec. 901.44. There is hereby created in the state treasury 13639
the laboratory and administrative support fund. The department of 13640
agriculture shall deposit the following moneys received by the 13641
department to the credit of the fund: payment for the rental of 13642
the department's auditoriums by outside parties and reimbursement 13643
for related utility expenses, laboratory fees that are not 13644
designated for deposit into another fund, and other miscellaneous 13645
moneys that are not designated for deposit into another fund. The 13646
department may use moneys in the fund to pay costs associated with 13647
any program of the department as the director of agriculture sees 13648
fit. 13649

Sec. 903.05. (A) Each application for a permit to install or 13650
permit to operate a concentrated animal feeding facility that is 13651
submitted by an applicant who has not operated a concentrated 13652
animal feeding facility in this state for at least two of the five 13653
years immediately preceding the submission of the application 13654
shall be accompanied by all of the following: 13655

(1) A listing of all ~~concentrated~~ animal feeding facilities 13656
that the owner or operator of the proposed new or modified 13657
concentrated animal feeding facility has operated or is operating 13658

in this state; 13659

(2) A listing of the ~~concentrated~~ animal feeding facilities 13660
that the owner or operator has operated or is operating elsewhere 13661
in the United States and that are regulated under the Federal 13662
Water Pollution Control Act together with a listing of the 13663
~~concentrated~~ animal feeding facilities that the owner or operator 13664
has operated or is operating outside the United States; 13665

(3) A listing of all administrative enforcement orders issued 13666
to the owner or operator, all civil actions in which the owner or 13667
operator was determined by the trier of fact to be liable in 13668
damages or was the subject of injunctive relief or another type of 13669
civil relief, and all criminal actions in which the owner or 13670
operator pleaded guilty or was convicted, during the five years 13671
immediately preceding the submission of the application, in 13672
connection with any violation of the federal Water Pollution 13673
Control Act, the "Safe Drinking Water Act," as defined in section 13674
6109.01 of the Revised Code, or any other applicable state laws 13675
pertaining to environmental protection that was alleged to have 13676
occurred or to be occurring at any ~~concentrated~~ animal feeding 13677
facility that the owner or operator has operated or is operating 13678
in the United States or with any violation of the environmental 13679
laws of another country that was alleged to have occurred or to be 13680
occurring at any ~~concentrated~~ animal feeding facility that the 13681
owner or operator has operated or is operating outside the United 13682
States. 13683

The lists of ~~concentrated~~ animal feeding facilities operated 13684
by the owner or operator within or outside this state or outside 13685
the United States shall include, respectively, all such facilities 13686
operated by the owner or operator during the five-year period 13687
immediately preceding the submission of the application. 13688

(B) If the applicant for a permit to install or permit to 13689
operate has been involved in any prior activity involving the 13690

operation of a ~~concentrated~~ an animal feeding facility, the 13691
director of agriculture may deny the application if the director 13692
finds from the application, the information submitted under 13693
divisions (A)(1) to (3) of this section, pertinent information 13694
submitted to the director, and other pertinent information 13695
obtained by the director at the director's discretion that the 13696
applicant and persons associated with the applicant, in the 13697
operation of ~~concentrated~~ animal feeding facilities, have a 13698
history of substantial noncompliance with the Federal Water 13699
Pollution Control Act, the "Safe Drinking Water Act," as defined 13700
in section 6109.01 of the Revised Code, any other applicable state 13701
laws pertaining to environmental protection, or the environmental 13702
laws of another country that indicates that the applicant lacks 13703
sufficient reliability, expertise, and competence to operate the 13704
proposed new or modified concentrated animal feeding facility in 13705
substantial compliance with this chapter and rules adopted under 13706
it. 13707

(C) A person who seeks to acquire a concentrated animal 13708
feeding facility that has been issued an installation permit that 13709
has been transferred from the director of environmental protection 13710
to the director of agriculture, a permit to install, or a permit 13711
to operate shall submit to the director the information specified 13712
in divisions (A)(1) to (3) of this section prior to the transfer 13713
of the permit. The permit shall not be transferred as otherwise 13714
provided in division (I) of section 903.09 of the Revised Code if 13715
the director finds from the information submitted under divisions 13716
(A)(1) to (3) of this section, pertinent information submitted to 13717
the director, and other pertinent information obtained by the 13718
director at the director's discretion that the person, in the 13719
operation of ~~concentrated~~ animal feeding facilities, has a history 13720
of substantial noncompliance with the Federal Water Pollution 13721
Control Act, the "Safe Drinking Water Act," as defined in section 13722
6109.01 of the Revised Code, any other applicable state laws 13723

pertaining to environmental protection, or the environmental laws 13724
of another country that indicates that the person lacks sufficient 13725
reliability, expertise, and competence to operate the concentrated 13726
animal feeding facility in substantial compliance with this 13727
chapter and rules adopted under it. 13728

Sec. 905.32. (A) No person shall manufacture or distribute in 13729
this state any type of fertilizer until a license to manufacture 13730
or distribute has been obtained by the manufacturer or distributor 13731
from the department of agriculture upon payment of a five dollar 13732
fee: 13733

(1) For each fixed (permanent) location at which fertilizer 13734
is manufactured in this state; 13735

(2) For each mobile unit used to manufacture fertilizer in 13736
this state; 13737

(3) For each location out of the state from which fertilizer 13738
is distributed in this state to nonlicensees. 13739

All licenses ~~expire on the thirtieth day of June of each~~ 13740
shall be valid for one year beginning on the first day of December 13741
of a calendar year through the thirtieth day of November of the 13742
following calendar year. A renewal application for a license shall 13743
be submitted ~~no earlier than the first day of June each year and~~ 13744
no later than the thirtieth day of ~~June~~ November each year. A 13745
person who submits a renewal application for a license after the 13746
thirtieth day of ~~June~~ November shall include with the application 13747
a late filing fee of ten dollars. 13748

(B) An application for license shall include: 13749

(1) The name and address of the licensee; 13750

(2) The name and address of each bulk distribution point in 13751
the state, not licensed for fertilizer manufacture and 13752
distribution. 13753

The name and address shown on the license shall be shown on 13754
all labels, pertinent invoices, and bulk storage for fertilizers 13755
distributed by the licensee in this state. 13756

(C) The licensee shall inform the director of agriculture in 13757
writing of additional distribution points established during the 13758
period of the license. 13759

Sec. 905.33. (A) Except as provided in division (C) of this 13760
section, no person shall distribute in this state a specialty 13761
fertilizer until it is registered by the manufacturer or 13762
distributor with the department of agriculture. An application, in 13763
duplicate, for each brand and product name of each grade of 13764
specialty fertilizer shall be made on a form furnished by the 13765
director of agriculture and shall be accompanied with a fee of 13766
fifty dollars for each brand and product name of each grade. 13767
Labels for each brand and product name of each grade shall 13768
accompany the application. Upon the approval of an application by 13769
the director, a copy of the registration shall be furnished the 13770
applicant. All registrations ~~expire on the thirtieth day of June~~ 13771
of each shall be valid for one year beginning on the first day of 13772
December of a calendar year through the thirtieth day of November 13773
of the following calendar year. 13774

(B) An application for registration shall include the 13775
following: 13776

(1) Name and address of the manufacturer or distributor; 13777

(2) The brand and product name; 13778

(3) The grade; 13779

(4) The guaranteed analysis; 13780

(5) The package sizes for persons that package fertilizers 13781
only in containers of ten pounds or less. 13782

(C)(1) No person who engages in the business of applying 13783

custom mixed fertilizer to lawns, golf courses, recreation areas, 13784
or other real property that is not used for agricultural 13785
production shall be required to register the custom mixed 13786
fertilizer as a specialty fertilizer in accordance with division 13787
(A) of this section if the fertilizer ingredients of the custom 13788
mixed fertilizer are registered as specialty fertilizers and the 13789
inspection fee described in division (A) of section 905.36 of the 13790
Revised Code is paid. 13791

(2) No person who engages in the business of blending custom 13792
mixed fertilizer for use on lawns, golf courses, recreation areas, 13793
or other real property that is not used for agricultural 13794
production shall be required to register the custom mixed 13795
fertilizer as a specialty fertilizer in accordance with division 13796
(A) of this section if the facility holds a nonagricultural 13797
production custom mixed fertilizer blender license issued under 13798
section 905.331 of the Revised Code. 13799

(D) A person who engages in the business of applying or 13800
blending custom mixed fertilizer as described in division (C) of 13801
this section shall maintain an original or a copy of an invoice or 13802
document of sale for all fertilizer the person applies or 13803
distributes for one year following the date of the application or 13804
distribution, and, upon the director's request, shall furnish the 13805
director with the invoice or document of sale for the director's 13806
review. 13807

Sec. 905.331. No person who engages in the business of 13808
blending a custom mixed fertilizer for use on lawns, golf courses, 13809
recreation areas, or other real property that is not used for 13810
agricultural production shall fail to register a specialty 13811
fertilizer in accordance with division (A) of section 905.33 of 13812
the Revised Code unless the person has obtained a an annual 13813
nonagricultural production custom mixed fertilizer blender license 13814

from the director of agriculture. 13815

A license issued under this section shall be valid from the 13816
first day of December of a calendar year through the thirtieth day 13817
of November of the following calendar year. A renewal application 13818
for a nonagricultural production custom mixed fertilizer blender 13819
license shall be submitted to the director ~~no earlier than the~~ 13820
~~first day of June each year and~~ no later than the thirtieth day of 13821
~~June~~ November each year and shall include the name and address of 13822
the applicant and of the premises where the blending occurs and a 13823
one-hundred-dollar fee. A person who submits a renewal application 13824
for a license after the thirtieth day of ~~June~~ November shall 13825
include with the application a late filing fee of ten dollars. All 13826
nonagricultural production custom mixed fertilizer blender 13827
licenses expire on the thirtieth day of ~~June~~ of November each 13828
year. 13829

A person holding a nonagricultural production custom mixed 13830
fertilizer blender license shall pay the inspection fees described 13831
in division (A) of section 905.36 of the Revised Code for each 13832
product being blended. 13833

Sec. 905.36. (A) A licensee or registrant, except registrants 13834
who package specialty fertilizers only in containers of ten pounds 13835
or less, shall pay the director of agriculture for all fertilizers 13836
distributed in this state an inspection fee at the rate of ~~twelve~~ 13837
twenty-five cents per ton or ~~thirteen~~ twenty-eight cents per 13838
metric ton. Licensees and registrants shall specify on an invoice 13839
whether the per ton inspection fee has been paid or whether 13840
payment of the fee is the responsibility of the purchaser of the 13841
fertilizer. The payment of this inspection fee by a licensee or 13842
registrant shall exempt all other persons from the payment of this 13843
fee. 13844

(B) Every licensee or registrant shall file a ~~semiannual~~ 13845

~~statement with the director an annual tonnage report that includes~~ 13846
the number of net tons or metric tons of fertilizer distributed to 13847
nonlicensees or nonregistrants in this state by grade; packaged; 13848
bulk, dry or liquid; ~~within thirty days after the thirtieth day of~~ 13849
~~June, and within thirty days after the thirty first day of~~ 13850
~~December, respectively, of.~~ The report shall be filed on or before 13851
the thirtieth day of November of each calendar year and shall 13852
include data from the period beginning on the first day of 13853
November of the year preceding the year in which the report is due 13854
through the thirty-first day of October of the year in which the 13855
report is due. The licensee or registrant, except registrants who 13856
package specialty fertilizers only in containers of ten pounds or 13857
less, shall include with this statement the inspection fee at the 13858
rate stated in division (A) of this section. For a tonnage report 13859
that is not filed or payment of inspection fees that is not made 13860
~~within ten days after due date~~ on or before the thirtieth day of 13861
November of the applicable calendar year, a penalty of fifty 13862
dollars or ten per cent of the amount due, whichever is greater, 13863
shall be assessed against the licensee or registrant. The amount 13864
of fees due, plus penalty, shall constitute a debt and become the 13865
basis of a judgment against the licensee or registrant. For 13866
tonnage reports found to be incorrect, a penalty of fifteen per 13867
cent of the amount due shall be assessed against the licensee or 13868
registrant and shall constitute a debt and become the basis of a 13869
judgment against the licensee or registrant. 13870

(C) No information furnished under this section shall be 13871
disclosed by any employee of the department of agriculture in such 13872
a way as to divulge the operation of any person required to make 13873
such a report. The filing by a licensee or registrant of a sales 13874
volume tonnage statement required by division (B) of this section 13875
thereby grants permission to the director to verify the same with 13876
the records of the licensee or registrant. 13877

Sec. 905.37. (A) The director of agriculture ~~shall~~ may 13878
distribute annual statements of fertilizer sales by grades of 13879
materials and mixed fertilizer by counties, in a manner prescribed 13880
by the director. 13881

(B) The director ~~shall~~ may publish ~~at least~~ annually a report 13882
of the analysis of fertilizers inspected. 13883

(C) The director may distribute a state fertilizer usage 13884
report by grade of materials and mixed fertilizers for each month. 13885

Sec. 905.38. The commercial feed, fertilizer, seed, and lime 13886
inspection and laboratory fund is hereby created in the state 13887
treasury. All moneys collected by the director of agriculture 13888
under sections 905.31 to 905.50 of the Revised Code, shall be 13889
deposited into the fund. Moneys credited to the fund under this 13890
section and sections 905.66, 907.16, and 923.46 of the Revised 13891
Code shall be used for administering and enforcing this chapter 13892
and ~~Chapter~~ Chapters 907. and 923. of the Revised Code and rules 13893
adopted under them. 13894

Sec. 905.381. The director of agriculture shall keep accurate 13895
accounts of all receipts and disbursements from the commercial 13896
feed, fertilizer, seed, and lime inspection and laboratory fund, 13897
and shall prepare, and provide upon request, an annual report 13898
classifying the receipts and disbursements as pertaining to either 13899
feed, fertilizer, seed, or lime. 13900

Sec. 905.50. If the director of agriculture has taken an 13901
official sample of a fertilizer or mixed fertilizer and determined 13902
that it constitutes mislabeled fertilizer pursuant to rules 13903
adopted under section 905.40 of the Revised Code, the person who 13904
labeled the fertilizer or mixed fertilizer shall pay a penalty to 13905
the consumer of the mislabeled fertilizer or, if the consumer 13906

cannot be determined with reasonable diligence or is not 13907
available, to the director for deposit into the commercial feed, 13908
fertilizer, seed, and lime inspection and laboratory fund created 13909
under section 905.38 of the Revised Code. The amount of the 13910
penalty shall be calculated in accordance with either division (A) 13911
or (B) of this section, whichever method of calculation yields the 13912
largest amount. 13913

(A)(1) A penalty required to be paid under this section may 13914
be calculated as follows: 13915

(a) Five dollars for each percentage point of total nitrogen 13916
or phosphorus in the fertilizer that is below the percentage of 13917
nitrogen or phosphorus guaranteed on the label, multiplied by the 13918
number of tons of mislabeled fertilizer that have been sold to the 13919
consumer; 13920

(b) Three dollars for each percentage point of potash in the 13921
fertilizer that is below the percentage of potash guaranteed on 13922
the label, multiplied by the number of tons of mislabeled 13923
fertilizer that have been sold to the consumer. 13924

(2) In the case of a fertilizer that contains a quantity of 13925
nitrogen, phosphorus, or potash that is more than five percentage 13926
points below the percentages guaranteed on the label, the 13927
penalties calculated under division (A)(1) of this section shall 13928
be tripled. 13929

(3) No penalty calculated under division (A) of this section 13930
shall be less than twenty-five dollars. 13931

(B) A penalty required to be paid under this section may be 13932
calculated by multiplying the market value of one unit of the 13933
mislabeled fertilizer by the number of units of the mislabeled 13934
fertilizer that have been sold to the consumer. 13935

(C) Upon making a determination under this section that a 13936
person has mislabeled fertilizer or mixed fertilizer, the director 13937

shall determine the parties to whom the penalty imposed by this 13938
section is required to be paid and, in accordance with division 13939
(A) or (B) of this section, as applicable, shall calculate the 13940
amount of the penalty required to be paid to each such party. 13941
After completing those determinations and calculations, the 13942
director shall issue to the person who allegedly mislabeled the 13943
fertilizer or mixed fertilizer a notice of violation. The notice 13944
shall be accompanied by an order requiring, and specifying the 13945
manner of, payment of the penalty imposed by this section to the 13946
parties in the amounts set forth in the determinations and 13947
calculations required by this division. The order shall be issued 13948
in accordance with Chapter 119. of the Revised Code. 13949

No person shall violate a term or condition of an order 13950
issued under this division. 13951

Sec. 905.501. (A) As used in this section, ~~"political:~~ 13952

(1) "Political subdivision" means a county, township, or 13953
municipal corporation and any other body corporate and politic 13954
that is responsible for government activities in a geographic area 13955
smaller than that of the state. 13956

(2) "Local legislation" includes, but is not limited to, an 13957
ordinance, resolution, regulation, rule, motion, or amendment that 13958
is enacted or adopted by a political subdivision. 13959

(B)(1) No political subdivision shall regulate the 13960
registration, packaging, labeling, sale, storage, distribution, 13961
use, or application of fertilizer, or require a person licensed or 13962
registered under sections 905.31 to 905.99 of the Revised Code to 13963
obtain a license or permit to operate in a manner described in 13964
those sections, or to satisfy any other condition except as 13965
provided by a statute or rule of this state or of the United 13966
States. 13967

(2) No political subdivision shall enact, adopt, or continue in effect local legislation relating to the registration, packaging, labeling, sale, storage, distribution, use, or application of fertilizers. 13968
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Sec. 905.66. All moneys collected by the director of agriculture under sections 905.51 to 905.65 of the Revised Code shall be deposited into the commercial feed, fertilizer, seed, and lime inspection and laboratory fund created under section 905.38 of the Revised Code. 13972
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The director shall prepare and provide a report concerning the fund in accordance with section 905.381 of the Revised Code. 13977
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Sec. 907.111. (A) The department of agriculture has sole and exclusive authority to regulate the registration, labeling, sale, storage, transportation, distribution, notification of use, use, and planting of seed within the state. The regulation of seed is a matter of general statewide interest that requires uniform statewide regulation, and this chapter and rules adopted under it constitute a comprehensive plan with respect to all aspects of the regulation of seed within this state. 13979
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(B) No political subdivision shall do any of the following: 13987

(1) Regulate the registration, labeling, sale, storage, transportation, distribution, notification of use, use, or planting of seed; 13988
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(2) Require a person who has been issued a permit or license under this chapter to obtain a permit or license to operate in a manner described in this chapter or to satisfy any other condition except as provided by a statute or rule of this state or of the United States; 13991
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(3) Require a person who has registered a legume innoculant under this chapter to register that innoculant in a manner 13996
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described in this chapter or to satisfy any other condition except 13998
as provided by a statute or rule of this state or of the United 13999
States. 14000

(C) No political subdivision shall enact, adopt, or continue 14001
in effect local legislation relating to the permitting or 14002
licensure of any person who is required to obtain a permit or 14003
license under this chapter or to the registration, labeling, sale, 14004
storage, transportation, distribution, notification of use, use, 14005
or planting of seed. 14006

(D) As used in this section, "political subdivision" and 14007
"local legislation" have the same meanings as in section 905.501 14008
of the Revised Code. 14009

Sec. 907.16. All money collected by the director of 14010
agriculture under sections 907.01 to 907.17 of the Revised Code 14011
shall be deposited into the treasury of the state to the credit of 14012
the commercial feed, fertilizer, seed, and lime inspection and 14013
laboratory fund, which is hereby created in the state treasury. 14014
~~Money credited to the fund shall be used to administer and enforce~~ 14015
~~those sections and rules adopted under them~~ section 905.38 of the 14016
Revised Code. 14017

Sec. 913.02. No person, firm, or corporation shall engage in 14018
the business of operating a cannery without obtaining a license 14019
for the operation of each cannery from the director of 14020
agriculture. 14021

In order to obtain a license, an application shall be made on 14022
a form prescribed by the director and shall be accompanied by a 14023
fee of ~~one~~ two hundred dollars. The director shall thereupon cause 14024
an investigation to be made. If the applicant is supplied with the 14025
facilities necessary for complying with sections 913.01 to 913.05 14026
of the Revised Code and rules adopted under them, a license shall 14027

be issued and shall be effective until the thirtieth day of June, 14028
and shall become invalid on that date unless renewed. The fee for 14029
each renewal is ~~one~~ two hundred dollars. License fees and renewal 14030
fees shall be deposited to the credit of the food safety fund 14031
created in section 915.24 of the Revised Code. 14032

The director may suspend or revoke any license for failure to 14033
comply with sections 913.01 to 913.05 of the Revised Code, or any 14034
rule or order adopted under those sections. In such event, the 14035
cannery immediately shall cease operation. 14036

Sec. 913.23. (A) The director of agriculture may issue 14037
licenses as required by sections 913.22 to 913.28 of the Revised 14038
Code, may make the inspections and registrations required by those 14039
sections, and may prescribe the form of application to be filed 14040
under this section. 14041

(B) No person shall manufacture or bottle for sale within 14042
this state any soft drink in closed containers unless the person 14043
has a license issued by the director. Upon receipt of an 14044
application for such a license, the director shall examine the 14045
products and the place of manufacture where the business is to be 14046
conducted, to determine whether the products and place comply with 14047
sections 913.22 to 913.28 of the Revised Code. Upon finding there 14048
is compliance, and upon payment of a license fee of ~~one~~ two 14049
hundred dollars, the director shall issue a license authorizing 14050
the applicant to manufacture or bottle for sale such soft drinks, 14051
subject to sections 913.22 to 913.28 of the Revised Code. The 14052
license shall expire on the last day of March of each year unless 14053
renewed. 14054

(C) No soft drink that is manufactured or bottled out of the 14055
state shall be sold or offered for sale within this state unless 14056
the soft drink and the plant in which the soft drink is 14057
manufactured or bottled are found by the director to comply with 14058

sections 913.22 to 913.28 of the Revised Code, and ~~is~~ are 14059
registered by the director, which shall be upon a like application 14060
as provided in division (B) of this section. 14061

An annual registration fee of ~~one~~ two hundred dollars shall 14062
be paid to the director by each applicant under this division. The 14063
registration shall be renewed annually, and the registration fee 14064
paid with the application for annual renewal. 14065

Registration of out-of-state soft drink manufacturers or 14066
bottlers or syrup and extract manufacturers is not required if a 14067
reciprocal agreement is in effect whereby a soft drink 14068
manufacturer or bottler or syrup and extract manufacturer located 14069
in this state is not subject to a license or registration fee by 14070
another state or a political subdivision thereof. 14071

(D) No person, other than a manufacturer or bottler holding a 14072
soft drink plant license under this section, shall sell, offer for 14073
sale, use, or have in the person's possession with intent to sell, 14074
any soda water syrup or extract or soft drink syrup, to be used in 14075
making, drawing, or dispensing soda water or other soft drinks, 14076
without first registering the person's name and address, the name 14077
and address of the manufacturer of the syrup or extract, the 14078
number and variety of such syrups or extracts intended to be sold, 14079
and the trade name or brand of those products, with the director, 14080
together with such samples of the syrups or extracts as the 14081
director requests for analysis. The person also shall pay to the 14082
department of agriculture at the time of making registration a 14083
license fee of ~~fifty~~ one hundred dollars. No license shall be 14084
granted by the director unless the director determines that the 14085
syrup or extract is free from all harmful drugs and other 14086
ingredients that, as used, may be injurious to health. The 14087
registration shall be renewed annually upon like terms. If any 14088
manufacturer, bottler, agent, or seller is licensed or has 14089
registered the manufacturer's, bottler's, agent's, or seller's 14090

name and product as required by this section and has paid the 14091
manufacturer's, bottler's, agent's, or seller's fee, the 14092
manufacturer's, bottler's, agent's, or seller's distributor, 14093
retail agent, or retail seller using the products shall not be 14094
required to pay that fee. This section does not apply to local 14095
sellers of soft drinks as to syrups and extracts made by 14096
themselves for their own use exclusively. 14097

(E) All moneys received under sections 913.22 to 913.28 of 14098
the Revised Code shall be deposited with the treasurer of state to 14099
the credit of the food safety fund created in section 915.24 of 14100
the Revised Code. 14101

(F) The director may revoke any license or registration 14102
issued under sections 913.22 to 913.28 of the Revised Code, 14103
whenever the director determines that those sections have been 14104
violated. When a license has been revoked, the licensee shall 14105
discontinue the manufacture and sale of soft drinks or other 14106
products for which the license was issued. When a registration has 14107
been revoked, the registrant shall discontinue the sale within 14108
this state of the registrant's products until those sections have 14109
been complied with and a new license or registration has been 14110
issued. The director may suspend any such license or registration 14111
temporarily, pending compliance with such conditions required by 14112
those sections as the director prescribes. 14113

Sec. 915.02. No person, firm, or corporation shall operate a 14114
cold-storage warehouse, for hire, without a license issued by the 14115
director of agriculture. ~~Such~~ A license shall be issued only on 14116
written application stating the location of ~~such~~ the warehouse. 14117
Upon receipt of the application the director shall cause an 14118
examination to be made into the sanitary conditions of ~~such~~ the 14119
warehouse. If it is found to be in a sanitary condition and 14120
properly equipped for the purpose of cold storage, the director 14121

shall cause a license to be issued authorizing the applicant to 14122
operate a warehouse. No license shall be issued until the 14123
applicant has paid to the director the sum of ~~one~~ two hundred 14124
dollars. ~~Such~~ A license shall be valid until the last day of March 14125
of each year and becomes invalid on that date unless renewed. A 14126
license shall be required for each separate warehouse building. 14127

Sec. 915.16. The license fee for an establishment is 14128
~~twenty-five~~ fifty dollars. Any operator operating in connection 14129
with a cold-storage warehouse holding a license under section 14130
915.02 of the Revised Code is not required to secure an additional 14131
license under section 915.15 of the Revised Code so long as ~~he~~ the 14132
operator continues to be licensed as a cold-storage warehouse; but 14133
~~he~~ the operator shall comply with sections 915.14 to 915.24~~7~~, 14134
~~inclusive~~, of the Revised Code, and all rules and regulations 14135
promulgated thereunder. The license issued shall be in such form 14136
as the department of agriculture prescribes. Licenses shall be 14137
valid until the last day of November following initial issuance or 14138
renewal and shall become invalid on that date unless renewed. The 14139
original license or a certified copy thereof shall be 14140
conspicuously displayed by the operator in the establishment. 14141

Sec. 915.24. (A) There is hereby created in the state 14142
treasury the food safety fund. All of the following moneys shall 14143
be credited to the fund: 14144

(1) Bakery registration fees and fines received under 14145
sections 911.02 to 911.20 of the Revised Code; 14146

(2) Cannery license fees and renewal fees received under 14147
sections 913.01 to 913.05 of the Revised Code; 14148

(3) Moneys received under sections 913.22 to 913.28 of the 14149
Revised Code; 14150

(4) License fees, fines, and penalties recovered for the 14151

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| violation of sections 915.01 to 915.12 of the Revised Code; | 14152 |
| (5) License fees collected under sections 915.14 to 915.23 of the Revised Code; | 14153 14154 |
| (6) License fees, other fees, and fines collected by or for the director of agriculture under Chapter 3717. of the Revised Code; | 14155 14156 14157 |
| <u>(7) Fees collected under section 3715.04 of the Revised Code for the issuance of certificates of health and freesale.</u> | 14158 14159 |
| (B) The director of agriculture shall use the moneys deposited into the food safety fund to administer and enforce the laws pursuant to which the moneys were collected. | 14160 14161 14162 |
| Sec. 921.02. (A) No person shall distribute a pesticide within this state unless the pesticide is registered with the director of agriculture under this chapter. Registrations shall be issued for a period of time established by rule and shall be renewed in accordance with deadlines established by rule. Registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at that plant or warehouse as a constituent part to make a pesticide that is registered under this chapter, or if the pesticide is distributed under the provisions of an experimental use permit issued under section 921.03 of the Revised Code or an experimental use permit issued by the United States environmental protection agency. | 14163 14164 14165 14166 14167 14168 14169 14170 14171 14172 14173 14174 14175 |
| (B) The applicant for registration of a pesticide shall file a statement with the director on a form provided by the director, which shall include all of the following: | 14176 14177 14178 |
| (1) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's name; | 14179 14180 14181 |

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| (2) The brand and product name of the pesticide; | 14182 |
| (3) Any necessary information required for completion of the department of agriculture's application for registration, including the agency registration number; | 14183 14184 14185 |
| (4) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions for use and the use classification as provided for in the federal act. | 14186 14187 14188 14189 |
| (C) The director, when the director considers it necessary in the administration of this chapter, may require the submission of the complete formula of any pesticide including the active and inert ingredients. | 14190 14191 14192 14193 |
| (D) The director may require a full description of the tests made and the results thereof upon which the claims are based for any pesticide. The director shall not consider any data submitted in support of an application, without permission of the applicant, in support of any other application for registration unless the other applicant first has offered to pay reasonable compensation for producing the test data to be relied upon and the data are not protected from disclosure by section 921.04 of the Revised Code. In the case of a renewal of registration, a statement shall be required only with respect to information that is different from that furnished when the pesticide was registered or last registered. | 14194 14195 14196 14197 14198 14199 14200 14201 14202 14203 14204 14205 |
| (E) The director may require any other information to be submitted with an application. | 14206 14207 |
| Any applicant may designate any portion of the required registration information as a trade secret or confidential business information. Upon receipt of any required registration information designated as a trade secret or confidential business information, the director shall consider the designated | 14208 14209 14210 14211 14212 |

information as confidential and shall not reveal or cause to be 14213
revealed any such designated information without the consent of 14214
the applicants, except to persons directly involved in the 14215
registration process described in this section or as required by 14216
law. 14217

(F) ~~Each~~ Beginning January 1, 2007, each applicant shall pay 14218
a registration and inspection fee ~~established by rule of one~~ 14219
hundred fifty dollars for each product name and brand registered 14220
for the company whose name appears on the label. If an applicant 14221
files for a renewal of registration after the deadline established 14222
by rule, the applicant shall pay a penalty fee ~~established by rule~~ 14223
of seventy-five dollars for each product name and brand registered 14224
for the applicant. The penalty fee shall be added to the original 14225
fee and paid before the renewal registration is issued. In 14226
addition to any other remedy available under this chapter, if a 14227
pesticide that is not registered pursuant to this section is 14228
distributed within this state, the person required to register the 14229
pesticide shall do so and shall pay a penalty fee ~~established by~~ 14230
rule of seventy-five dollars for each product name and brand 14231
registered for the applicant. The penalty fee shall be added to 14232
the original fee of one hundred fifty dollars and paid before the 14233
registration is issued. 14234

(G) Provided that the state is authorized by the 14235
administrator of the United States environmental protection agency 14236
to register pesticides to meet special local needs, the director 14237
shall require the information set forth under divisions (B), (C), 14238
(D), and (E) of this section and shall register any such pesticide 14239
after determining that all of the following conditions are met: 14240

(1) Its composition is such as to warrant the proposed claims 14241
for it. 14242

(2) Its labeling and other material required to be submitted 14243
comply with the requirements of the federal act and of this 14244

chapter, and rules adopted thereunder. 14245

(3) It will perform its intended function without 14246
unreasonable adverse effects on the environment. 14247

(4) When used in accordance with widespread and commonly 14248
recognized practice, it will not generally cause unreasonable 14249
adverse effects on the environment. 14250

(5) The classification for general or restricted use is in 14251
conformity with the federal act. 14252

The director shall not make any lack of essentiality a 14253
criterion for denying the registration of any pesticide. When two 14254
pesticides meet the requirements of division (G) of this section, 14255
the director shall not register one in preference to the other. 14256

(H)(1) The director may refuse to register a pesticide if the 14257
application for registration fails to comply with this section. 14258

(2) The director may suspend or revoke a pesticide 14259
registration after a hearing in accordance with Chapter 119. of 14260
the Revised Code for a pesticide that fails to meet the claims 14261
made for it on its label. 14262

(3) The director may immediately suspend a pesticide 14263
registration, prior to a hearing, when the director believes that 14264
the pesticide poses an immediate hazard to human or animal health 14265
or a hazard to the environment. Not later than fifteen days after 14266
suspending the registration, the director shall determine whether 14267
the pesticide poses such a hazard. If the director determines that 14268
no hazard exists, the director shall lift the suspension of the 14269
registration. If the director determines that a hazard exists, the 14270
director shall revoke the registration in accordance with Chapter 14271
119. of the Revised Code. 14272

Sec. 921.16. (A) The director of agriculture shall adopt 14273
rules the director determines necessary for the effective 14274

enforcement and administration of this chapter. The rules may 14275
relate to, but are not limited to, the time, place, manner, and 14276
methods of application, materials, and amounts and concentrations 14277
of application of pesticides, may restrict or prohibit the use of 14278
pesticides in designated areas during specified periods of time, 14279
and shall encompass all reasonable factors that the director 14280
determines necessary to minimize or prevent damage to the 14281
environment. In addition, the rules shall establish the fees, 14282
deadlines, and time periods for registration, registration 14283
renewal, late registration renewal, and failure to register under 14284
section 921.02 of the Revised Code; the fees for registration, 14285
registration renewal, late registration renewal, and failure to 14286
register under section 921.02 of the Revised Code that shall apply 14287
until the fees that are established under that section take effect 14288
on January 1, 2007; and the fees, deadlines, and time periods for 14289
licensure and license renewal under sections 921.06, 921.09, 14290
921.11, and 921.13 of the Revised Code. ~~The aggregate amount of~~ 14291
~~the fees that initially are established by rule after the~~ 14292
~~effective date of this amendment shall be designed to cover, but~~ 14293
~~not exceed, the costs incurred by the department of agriculture in~~ 14294
~~administering this chapter. Thereafter, the fees shall not be~~ 14295
~~increased without the approval of the general assembly.~~ 14296

(B) The director shall adopt rules that establish a schedule 14297
of civil penalties for violations of this chapter, or any rule or 14298
order adopted or issued under it, provided that the civil penalty 14299
for a first violation shall not exceed five thousand dollars and 14300
the civil penalty for each subsequent violation shall not exceed 14301
ten thousand dollars. In determining the amount of a civil penalty 14302
for a violation, the director shall consider factors relevant to 14303
the severity of the violation, including past violations and the 14304
amount of actual or potential damage to the environment or to 14305
human beings. 14306

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| (C) The director shall adopt rules that set forth the conditions under which the director: | 14307 14308 |
| (1) Requires that notice or posting be given of a proposed application of a pesticide; | 14309 14310 |
| (2) Requires inspection, condemnation, or repair of equipment used to apply a pesticide; | 14311 14312 |
| (3) Will suspend, revoke, or refuse to issue any pesticide registration for a violation of this chapter; | 14313 14314 |
| (4) Requires safe handling, transportation, storage, display, distribution, and disposal of pesticides and their containers; | 14315 14316 |
| (5) Ensures the protection of the health and safety of agricultural workers storing, handling, or applying pesticides, and all residents of agricultural labor camps, as that term is defined in section 3733.41 of the Revised Code, who are living or working in the vicinity of pesticide-treated areas; | 14317 14318 14319 14320 14321 |
| (6) Requires a record to be kept of all pesticide applications made by each commercial applicator and by any trained serviceperson acting under the commercial applicator's direct supervision and of all restricted use pesticide applications made by each private applicator and by any immediate family member or subordinate employee of that private applicator who is acting under the private applicator's direct supervision as required under section 921.14 of the Revised Code; | 14322 14323 14324 14325 14326 14327 14328 14329 |
| (7) Determines the pesticide-use categories of diagnostic inspections that must be conducted by a commercial applicator; | 14330 14331 |
| (8) Requires a record to be kept of all diagnostic inspections conducted by each commercial applicator and by any trained service person. | 14332 14333 14334 |
| (D) The director shall prescribe standards for the licensure of applicators of pesticides consistent with those prescribed by | 14335 14336 |

the federal act and the regulations adopted under it or prescribe 14337
standards that are more restrictive than those prescribed by the 14338
federal act and the regulations adopted under it. The standards 14339
may relate to the use of a pesticide or to an individual's 14340
pesticide-use category. 14341

The director shall take into consideration standards of the 14342
United States environmental protection agency. 14343

(E) The director may adopt rules setting forth the conditions 14344
under which the director will: 14345

(1) Collect and examine samples of pesticides or devices; 14346

(2) Specify classes of devices that shall be subject to this 14347
chapter; 14348

(3) Prescribe other necessary registration information. 14349

(F) The director may adopt rules that do either or both of 14350
the following: 14351

(1) Designate, in addition to those restricted uses so 14352
classified by the administrator of the United States environmental 14353
protection agency, restricted uses of pesticides for the state or 14354
for designated areas within the state and, if the director 14355
considers it necessary, to further restrict such use; 14356

(2) Define what constitutes "acting under the instructions 14357
and control of a commercial applicator" as used in the definition 14358
of "direct supervision" in division (Q)(1) of section 921.01 of 14359
the Revised Code. In adopting a rule under division (F)(2) of this 14360
section, the director shall consider the factors associated with 14361
the use of pesticide in the various pesticide-use categories. 14362
Based on consideration of the factors, the director may define 14363
"acting under the instructions and control of a commercial 14364
applicator" to include communications between a commercial 14365
applicator and a trained serviceperson that are conducted via 14366

landline telephone or a means of wireless communication. Any rules 14367
adopted under division (F)(2) of this section shall be drafted in 14368
consultation with representatives of the pesticide industry. 14369

(G) Except as provided in division (D) of this section, the 14370
director shall not adopt any rule under this chapter that is 14371
inconsistent with the requirements of the federal act and 14372
regulations adopted thereunder. 14373

(H) The director, after notice and opportunity for hearing, 14374
may declare as a pest any form of plant or animal life, other than 14375
human beings and other than bacteria, viruses, and other 14376
microorganisms on or in living human beings or other living 14377
animals, that is injurious to health or the environment. 14378

(I) The director may make reports to the United States 14379
environmental protection agency, in the form and containing the 14380
information the agency may require. 14381

(J) The director shall adopt rules for the application, use, 14382
storage, and disposal of pesticides if, in the director's 14383
judgment, existing programs of the United States environmental 14384
protection agency necessitate such rules or pesticide labels do 14385
not sufficiently address issues or situations identified by the 14386
department of agriculture or interested state agencies. 14387

(K) The director shall adopt rules establishing all of the 14388
following: 14389

(1) Standards, requirements, and procedures for the 14390
examination and re-examination of commercial applicators and 14391
private applicators; 14392

(2) With respect to training programs that the director may 14393
require commercial applicators and private applicators to 14394
complete: 14395

(a) Standards and requirements that a training program must 14396

satisfy in order to be offered by the director or the director's representative or in order to be approved by the director if a third party wishes to offer it; 14397
14398
14399

(b) Eligibility standards and requirements that must be satisfied by third parties who wish to provide the training programs; 14400
14401
14402

(c) Procedures that third parties must follow in order to submit a proposed training program to the director for approval; 14403
14404

(d) Criteria that the director must consider when determining whether to authorize a commercial applicator or private applicator to participate in a training program instead of being required to pass a re-examination. 14405
14406
14407
14408

(3) Training requirements for a trained serviceperson. 14409

(L) The director shall adopt all rules under this chapter in accordance with Chapter 119. of the Revised Code. 14410
14411

Sec. 923.44. (A)(1) Except as otherwise provided in divisions (A)(2), (3), and (4) of this section, the first distributor of a commercial feed shall pay the director of agriculture a semiannual inspection fee at the rate of ~~ten~~ twenty-five cents per ton, with a minimum payment of ~~ten~~ twenty-five dollars, on all commercial feeds distributed by ~~him~~ the first distributor in this state. 14412
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(2) The semiannual inspection fee required under division (A)(1) of this section shall not be paid by the first distributor of a commercial feed if the distribution is made to an exempt buyer who shall be responsible for the fee. The director shall establish an exempt list consisting of those buyers who are responsible for the fee. 14419
14420
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(3) The semiannual inspection fee shall not be paid on a commercial feed if the fee has been paid by a previous 14425
14426

distributor. 14427

(4) The semiannual inspection fee shall not be paid on 14428
customer-formula feed if the fee has been paid on the commercial 14429
feeds ~~which~~ that are used as components in that customer-formula 14430
feed. 14431

(B) Each distributor or exempt buyer who is required to pay a 14432
fee under division (A)(1) or (2) of this section shall file a 14433
semiannual statement with the director that includes the number of 14434
net tons of commercial feed distributed by ~~him~~ the distributor or 14435
exempt buyer in this state, within thirty days after the thirtieth 14436
day of June and within thirty days after the thirty-first day of 14437
December, respectively, of each calendar year. 14438

The inspection fee at the rate stated in division (A)(1) of 14439
this section shall accompany the statement. For a tonnage report 14440
that is not filed or payment of inspection fees that is not made 14441
within fifteen days after the due date, a penalty of ten per cent 14442
of the amount due, with a minimum penalty of fifty dollars shall 14443
be assessed against the distributor or exempt buyer. The amount of 14444
fees due, plus penalty, shall constitute a debt and become the 14445
basis of a judgment against the distributor or exempt buyer. 14446

(C) No information furnished under this section shall be 14447
disclosed by an employee of the department of agriculture in such 14448
a way as to divulge the operation of any person required to make 14449
such a report. 14450

Sec. 923.45. The director of agriculture ~~shall~~ may publish ~~at~~ 14451
~~least~~ annually in such form as ~~he~~ the director considers proper: 14452
14453

(A) Information concerning the sale of commercial feed, 14454
including any production and use data ~~he~~ the director considers 14455
advisable, provided that the data does not disclose the operation 14456

of any manufacturer or distributor; 14457

(B) A comparison of the analyses of official samples of 14458
commercial feeds distributed in this state with the guaranteed 14459
analyses on the label. 14460

Sec. 923.46. All moneys collected by the director of 14461
agriculture under sections 923.41 to 923.55 of the Revised Code 14462
shall be deposited into the state treasury to the credit of the 14463
commercial feed, fertilizer, seed, and lime inspection and 14464
laboratory fund created in section 905.38 of the Revised Code. 14465
~~Money credited to the fund shall be used only for administering 14466
and enforcing this chapter and Chapter 905. of the Revised Code 14467
and rules adopted under them. 14468~~

The director shall prepare and provide a report concerning 14469
the fund in accordance with section 905.381 of the Revised Code. 14470

Sec. 926.01. As used in this chapter: 14471

(A) "Agricultural commodity" means barley, corn, oats, rye, 14472
grain sorghum, soybeans, wheat, sunflower, speltz, or any other 14473
agricultural crop ~~which~~ that the director of agriculture may 14474
designate by rule. "Agricultural commodity" does not mean any 14475
grain that is purchased for sale as seed. 14476

(B) "Agricultural commodity handling" or "handling" means any 14477
of the following: 14478

(1) Engaging in or participating in the business of 14479
purchasing ~~an~~ from producers agricultural ~~commodity for sale,~~ 14480
~~resale, processing, or commodities~~ for any ~~other~~ use in the 14481
~~following volumes~~: 14482

~~(a) In the case of purchases made from producers, more than 14483
excess of thirty thousand bushels annually; 14484~~

~~(b) In the case of purchases made from agricultural commodity 14485~~

| | |
|---|-------|
| handlers, more than one hundred thousand bushels annually; | 14486 |
| (c) In the case of total purchases made from producers | 14487 |
| combined with total purchases made from handlers, more than one | 14488 |
| hundred thousand bushels annually. | 14489 |
| (2) Operating a warehouse as a bailee for the receiving, | 14490 |
| storing, shipping, or conditioning of an agricultural commodity; | 14491 |
| (3) Receiving into a warehouse an agricultural commodity | 14492 |
| purchased under a delayed price agreement; | 14493 |
| (4) Providing marketing functions, including storage, delayed | 14494 |
| price marketing, deferred payment, feed agreements, or any other | 14495 |
| marketing transaction whereby control is exerted over the monetary | 14496 |
| proceeds of a producer's agricultural commodities by a person | 14497 |
| other than the producer. | 14498 |
| (C) "Agricultural commodity handler" or "handler" means any | 14499 |
| person who is engaged in the business of agricultural commodity | 14500 |
| handling. "Agricultural commodity handler" or "handler" does not | 14501 |
| include a person who does not handle agricultural commodities as a | 14502 |
| bailee and who purchases agricultural commodities in the following | 14503 |
| volumes: | 14504 |
| (1) Thirty thousand or fewer bushels annually from producers; | 14505 |
| (2) One hundred thousand or fewer bushels annually from | 14506 |
| agricultural commodity handlers. | 14507 |
| A person who does not handle agricultural commodities as a | 14508 |
| bailee and who annually purchases thirty thousand or fewer bushels | 14509 |
| of agricultural commodities from producers and one hundred | 14510 |
| thousand or fewer bushels of agricultural commodities from | 14511 |
| agricultural commodity handlers shall be considered to be an | 14512 |
| agricultural commodity handler if the combined annual volume of | 14513 |
| purchases from the producers and the agricultural commodity | 14514 |
| handlers exceeds one hundred thousand bushels. | 14515 |

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| (D) "Depositor" means: | 14516 |
| (1) Any person who delivers an agricultural commodity to a licensed handler for storage, conditioning, shipment, or sale; | 14517 14518 |
| (2) Any owner or legal holder of a ticket or receipt issued for an agricultural commodity who is a creditor of the licensed handler for the value of the agricultural commodity; | 14519 14520 14521 |
| (3) Any licensed handler storing an agricultural commodity that the licensed handler owns solely, jointly, or in common with others in a warehouse owned or controlled by the licensed handler or any other licensed handler. | 14522 14523 14524 14525 |
| (E) "Receipt" means a warehouse receipt issued by a licensed handler. | 14526 14527 |
| (F) "Nonnegotiable receipt" means a receipt on which it is stated that the agricultural commodity received will be delivered to the depositor or to the order of any other person named in the receipt. | 14528 14529 14530 14531 |
| (G) "Negotiable receipt" means a receipt on which it is stated that the agricultural commodity received will be delivered to the bearer or to the order of any person named in the receipt. | 14532 14533 14534 |
| (H) "Ticket" means a scale weight ticket, a load slip, or any evidence, other than a receipt, given to a depositor by a licensed handler upon delivery of an agricultural commodity to the handler. | 14535 14536 14537 |
| (I) "Warehouse" means any building, bin, protected enclosure, or similar premises under the control of a licensed or unlicensed handler used for receiving, storing, shipping, or handling an agricultural commodity. | 14538 14539 14540 14541 |
| (J) "Storage" means the deposit of an agricultural commodity into a warehouse either for the account of the licensed handler operating the warehouse or for the account of a depositor. | 14542 14543 14544 |
| (K) "Producer" means any person who grows an agricultural | 14545 |

commodity on land that the person owns or leases. 14546

(L) "Agent" means any person, other than a producer, who 14547
delivers an agricultural commodity to a licensed handler, either 14548
for sale or for storage, for the account of the producer. 14549

(M) "Agricultural commodity tester" or "tester" means a 14550
person who operates a moisture meter and other quality testing 14551
devices to determine the quality of an agricultural commodity. 14552

(N) "Federally licensed grain inspector" means a person who 14553
is licensed by the United States department of agriculture under 14554
the "United States Grain Standards Act," 39 Stat. 482 (1916), 7 14555
U.S.C. 71, as amended, to test and grade grain, as "grain" is 14556
defined in that act. 14557

(O) "Bailee" means a person to whom an agricultural commodity 14558
is delivered in trust for storage in a warehouse with title 14559
remaining in the name of the depositor. 14560

(P) "Bailor" means a person who delivers an agricultural 14561
commodity to a bailee in trust for storage in a warehouse with 14562
title remaining in the name of the depositor. 14563

(Q) "Bailment agreement" means a bailor-bailee agreement 14564
between a depositor and a licensed handler as stated in the terms 14565
of a receipt that is issued for an agricultural commodity in 14566
storage and subject to the requirements of this chapter governing 14567
the use of a receipt. 14568

(R) "Delayed price agreement" means a written executory 14569
contract executed by and between a licensed handler and a 14570
depositor that covers the sale and transfer of title of an 14571
agricultural commodity and states in its written terms the service 14572
charges and the method for pricing the commodity at a later date. 14573

(S) "Delayed price marketing" means the sale and transfer of 14574
title of an agricultural commodity with the price to be 14575

established at a later date according to the terms of a delayed price agreement. 14576
14577

(T) "Deferred payment" means the deferral of payment to a depositor by a licensed handler for an agricultural commodity to which the licensed handler has taken title, for the purpose of deferring income of the depositor from one tax year to another. 14578
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(U) "Feed agreement" means a written contract executed by and between a licensed handler and a producer or depositor who delivers an agricultural commodity to the licensed handler for storage whereby each of the following applies: 14582
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(1) The producer or depositor transfers title to the agricultural commodity to the licensed handler in exchange for a nominal sum; 14586
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(2) The producer, upon delivery of the agricultural commodity to the licensed handler, becomes a creditor of the licensed handler due to the lien that arises under section 926.021 of the Revised Code; 14589
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(3) All or part of the agricultural commodity is returned to the producer at a later date and used for feed purposes. 14593
14594

(V) Notwithstanding section 1.02 of the Revised Code, "and" shall not be read "or" and "or" shall not be read "and." 14595
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Sec. 927.69. To effect the purpose of sections 927.51 to 927.74 of the Revised Code, the director of agriculture or the director's authorized representative may: 14597
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14599

(A) Make reasonable inspection of any premises in this state and any property therein or thereon; 14600
14601

(B) Stop and inspect in a reasonable manner, any means of conveyance moving within this state upon probable cause to believe it contains or carries any pest, host, commodity, or other article that is subject to sections 927.51 to 927.72 of the Revised Code; 14602
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(C) Conduct inspections of agricultural products that are 14606
required by other states, the United States department of 14607
agriculture, other federal agencies, or foreign countries to 14608
determine whether the products are infested. If, upon making such 14609
an inspection, the director or the director's authorized 14610
representative determines that an agricultural product is not 14611
infested, the director or the director's authorized representative 14612
may issue a certificate, as required by other states, the United 14613
States department of agriculture, other federal agencies, or 14614
foreign countries, indicating that the product is not infested. 14615

If the director charges fees for any of the certificates, 14616
agreements, or inspections specified in this section, the fees 14617
shall be as follows: 14618

(1) Phyto sanitary certificates, twenty-five dollars; 14619

(2) Compliance agreements, twenty dollars; 14620

(3) Solid wood packing certificates, twenty dollars; 14621

(4) Agricultural products and their conveyances inspections, 14622
~~sixty five dollars~~ an amount equal to the hourly rate of pay in 14623
the highest step in the pay range, including fringe benefits, of a 14624
plant pest control specialist multiplied by the number of hours 14625
worked by such a specialist in conducting an inspection. 14626

The director may adopt rules under section 927.52 of the 14627
Revised Code that define the certificates, agreements, and 14628
inspections. 14629

The fees shall be deposited into the state treasury to the 14630
credit of the pesticide program fund created in Chapter 921. of 14631
the Revised Code. Money credited to the fund shall be used to pay 14632
the costs incurred by the department of agriculture in 14633
administering this chapter, including employing a minimum of two 14634
additional inspectors. 14635

Sec. 1111.04. (A) Prior to soliciting or engaging in trust 14636
business in this state, a trust company shall pledge to the 14637
treasurer of state interest bearing securities authorized in 14638
division (B) of this section, having a par value, not including 14639
unaccrued interest, of one hundred thousand dollars, and approved 14640
by the superintendent of financial institutions. The trust company 14641
may pledge the securities either by delivery to the treasurer of 14642
state or by placing the securities with a qualified trustee for 14643
safekeeping to the account of the treasurer of state, the 14644
corporate fiduciary, and any other person having an interest in 14645
the securities under Chapter 1109. of the Revised Code, as their 14646
respective interests may appear and be asserted by written notice 14647
to or demand upon the qualified trustee or by order of judgment of 14648
a court. 14649

(B) Securities pledged by a trust company to satisfy the 14650
requirements of division (A) of this section shall be one or more 14651
of the following: 14652

(1) Bonds, notes, or other obligations of or guaranteed by 14653
the United States or for which the full faith and credit of the 14654
United States is pledged for the payment of principal and 14655
interest; 14656

(2) Bonds, notes, debentures, or other obligations or 14657
securities issued by any agency or instrumentality of the United 14658
States; 14659

(3) General obligations of this or any other state of the 14660
United States or any subdivision of this or any other state of the 14661
United States. 14662

(C) The treasurer of state shall accept delivery of 14663
securities pursuant to this section when accompanied by the 14664
superintendent's approval of the securities or the written receipt 14665
of a qualified trustee describing the securities and showing the 14666

superintendent's approval of the securities, and shall issue a 14667
written acknowledgment of the delivery of the securities or the 14668
qualified trustee's receipt and the superintendent's approval to 14669
the trust company. 14670

(D) The superintendent shall approve securities to be pledged 14671
by a trust company pursuant to this section if the securities are 14672
all of the following: 14673

(1) Interest bearing and of the value required by division 14674
(A) of this section; 14675

(2) Of one or more of the kinds authorized by division (B) of 14676
this section and not a derivative of or merely an interest in any 14677
of those securities; 14678

(3) Not in default. 14679

(E) The treasurer of state shall, with the approval of the 14680
superintendent, permit a trust company to pledge securities in 14681
substitution for securities pledged pursuant to this section and 14682
the withdrawal of the securities substituted for so long as the 14683
securities remaining pledged satisfy the requirements of division 14684
(A) of this section. The treasurer of state shall permit a trust 14685
company to collect interest paid on securities pledged pursuant to 14686
this section so long as the trust company is solvent. The 14687
treasurer of state shall, with the approval of the superintendent, 14688
permit a trust company to withdraw securities pledged pursuant to 14689
this section when the trust company has ceased to solicit or 14690
engage in trust business in this state. 14691

(F) For purposes of this section, a qualified trustee is a 14692
federal reserve bank located in this state, a branch of a federal 14693
reserve bank located in this state regardless of where the branch 14694
is located, a federal home loan bank, or a trust company as 14695
defined in section 1101.01 of the Revised Code, except a trust 14696
company may not act as a qualified trustee for securities it or 14697

any of its affiliates is pledging pursuant to this section. 14698

(G) The superintendent, with the approval of the treasurer of 14699
state and the attorney general, shall prescribe the form of all 14700
receipts and acknowledgments provided for by this section, and 14701
upon request shall furnish a copy of each form, with the 14702
superintendent's certification attached, to each qualified trustee 14703
eligible to hold securities for safekeeping under this section. 14704

Sec. 1327.511. All money collected under section 1327.50 of 14705
the Revised Code for services rendered by the department of 14706
agriculture in operating the type evaluation program shall be 14707
deposited in the state treasury to the credit of the metrology and 14708
scale certification fund, which is hereby created. Money credited 14709
to the fund shall be used to pay operating costs incurred by the 14710
department in administering the program. 14711

Sec. 1502.02. (A) There is hereby created in the department 14712
of natural resources the division of recycling and litter 14713
prevention to be headed by the chief of recycling and litter 14714
prevention. 14715

(B) There is hereby created in the state treasury the 14716
recycling and litter prevention fund, consisting of moneys 14717
distributed to it from fees, including the fee levied under 14718
division (A)(2) of section 3714.073 of the Revised Code, gifts, 14719
donations, grants, reimbursements, and other sources, including 14720
investment earnings. 14721

(C) The chief of recycling and litter prevention shall do all 14722
of the following: 14723

(1) Use moneys credited to the fund exclusively for the 14724
purposes set forth in sections 1502.03, 1502.04, and 1502.05 of 14725
the Revised Code, with particular emphasis on programs relating to 14726
recycling; 14727

(2) Expend for administration of the division not more than 14728
ten per cent of any fiscal year's appropriation to the division, 14729
excluding the amount assessed to the division for direct and 14730
indirect central support charges; 14731

(3) Require recipients of grants under section 1502.05 of the 14732
Revised Code, as a condition of receiving and retaining them, to 14733
do all of the following: 14734

(a) Create a separate account for the grants and any cash 14735
donations received that qualify for the donor credit allowed by 14736
section 5733.064 of the Revised Code; 14737

(b) Make expenditures from the account exclusively for the 14738
purposes for which the grants were received; 14739

(c) Use any auditing and accounting practices the chief 14740
considers necessary regarding the account; 14741

(d) Report to the chief information regarding the amount and 14742
donor of cash donations received as described by section 5733.064 14743
of the Revised Code; 14744

(e) Use grants received to supplement and not to replace any 14745
existing funding for such purposes. 14746

(4) Report to the tax commissioner information the chief 14747
receives pursuant to division (C)(3)(d) of this section. 14748

Sec. 1509.06. (A) An application for a permit to drill a new 14749
well, drill an existing well deeper, reopen a well, convert a well 14750
to any use other than its original purpose, or plug back a well to 14751
a different source of supply shall be filed with the chief of the 14752
division of mineral resources management upon such form as the 14753
chief prescribes and shall contain each of the following that is 14754
applicable: 14755

~~(A)~~(1) The name and address of the owner and, if a 14756
corporation, the name and address of the statutory agent; 14757

~~(B)~~(2) The signature of the owner or the owner's authorized agent. When an authorized agent signs an application, it shall be accompanied by a certified copy of the appointment as such agent. 14758
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~~(C)~~(3) The names and addresses of all persons holding the royalty interest in the tract upon which the well is located or is to be drilled or within a proposed drilling unit; 14761
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~~(D)~~(4) The location of the tract or drilling unit on which the well is located or is to be drilled identified by section or lot number, city, village, township, and county; 14764
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~~(E)~~(5) Designation of the well by name and number; 14767

~~(F)~~(6) The geological formation to be tested or used and the proposed total depth of the well; 14768
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~~(G)~~(7) The type of drilling equipment to be used; 14770

~~(H)~~(8) If the well is for the injection of a liquid, identity of the geological formation to be used as the injection zone and the composition of the liquid to be injected; 14771
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~~(I)~~(9) For an application for a permit to drill a new well, a sworn statement that the applicant has provided notice of the application to the owner of each occupied dwelling unit that is located within five hundred feet of the surface location of the well if the surface location will be less than five hundred feet from the boundary of the drilling unit and more than fifteen occupied dwelling units are located less than five hundred feet from the surface location of the well, excluding any dwelling that is located on real property all or any portion of which is included in the drilling unit. The notice shall contain a statement that an application has been filed with the division of mineral resources management, identify the name of the applicant and the proposed well location, include the name and address of the division, and contain a statement that comments regarding the application may be sent to the division. The notice may be 14774
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provided by hand delivery or regular mail. The identity of the 14789
owners of occupied dwelling units shall be determined using the 14790
tax records of the municipal corporation or county in which the 14791
dwelling unit is located as of the date of the notice. 14792

~~(J)~~(10) A plan for restoration of the land surface disturbed 14793
by drilling operations. The plan shall provide for compliance with 14794
the restoration requirements of division (A) of section 1509.072 14795
of the Revised Code and any rules adopted by the chief pertaining 14796
to that restoration. 14797

~~(K)~~(11) A description by name or number of the county, 14798
township, and municipal corporation roads, streets, and highways 14799
that the applicant anticipates will be used for access to and 14800
egress from the well site; 14801

~~(L)~~(12) Such other relevant information as the chief 14802
prescribes by rule. 14803

Each application shall be accompanied by a map, on a scale 14804
not smaller than four hundred feet to the inch, prepared by an 14805
Ohio registered surveyor, showing the location of the well and 14806
containing such other data as may be prescribed by the chief. If 14807
the well is or is to be located within the excavations and 14808
workings of a mine, the map also shall include the location of the 14809
mine, the name of the mine, and the name of the person operating 14810
the mine. 14811

(B) The chief shall cause a copy of the weekly circular 14812
prepared by the division to be provided to the county engineer of 14813
each county that contains active or proposed drilling activity. 14814
The weekly circular shall contain, in the manner prescribed by the 14815
chief, the names of all applicants for permits, the location of 14816
each well or proposed well, the information required by division 14817
~~(K)~~(A)(11) of this section, and any additional information the 14818
chief prescribes. In addition, the chief promptly shall transfer 14819

an electronic copy or facsimile, or if those methods are not 14820
available to a municipal corporation or township, a copy via 14821
regular mail, of a drilling permit application to the clerk of the 14822
legislative authority of the municipal corporation or to the clerk 14823
of the township in which the well or proposed well is or is to be 14824
located if the legislative authority of the municipal corporation 14825
or the board of township trustees has asked to receive copies of 14826
such applications and the appropriate clerk has provided the chief 14827
an accurate, current electronic mailing address or facsimile 14828
number, as applicable. 14829

(C) The chief shall not issue a permit for at least ten days 14830
after the date of filing of the application for the permit unless, 14831
upon reasonable cause shown, the chief waives that period or a 14832
request for expedited review is filed under this section. However, 14833
the chief shall issue a permit within twenty-one days of the 14834
filing of the application unless the chief denies the application 14835
by order. 14836

(D) An applicant may file a request with the chief for 14837
expedited review of a permit application if the well is not or is 14838
not to be located in a gas storage reservoir or reservoir 14839
protective area, as "reservoir protective area" is defined in 14840
section 1571.01 of the Revised Code. If the well is or is to be 14841
located in a coal bearing township, the application shall be 14842
accompanied by the affidavit of the landowner prescribed in 14843
section 1509.08 of the Revised Code. 14844

In addition to a complete application for a permit that meets 14845
the requirements of this section and the permit fee prescribed by 14846
this section, a request for expedited review shall be accompanied 14847
by a separate nonrefundable filing fee of five hundred dollars. 14848
Upon the filing of a request for expedited review, the chief shall 14849
cause the county engineer of the county in which the well is or is 14850
to be located to be notified of the filing of the permit 14851

application and the request for expedited review by telephone or 14852
other means that in the judgment of the chief will provide timely 14853
notice of the application and request. The chief shall issue a 14854
permit within seven days of the filing of the request unless the 14855
chief denies the application by order. Notwithstanding the 14856
provisions of this section governing expedited review of permit 14857
applications, the chief may refuse to accept requests for 14858
expedited review if, in the chief's judgment, the acceptance of 14859
the requests would prevent the issuance, within twenty-one days of 14860
their filing, of permits for which applications are pending. 14861

(E) A well shall be drilled and operated in accordance with 14862
the plans, sworn statements, and other information submitted in 14863
the approved application. 14864

(F) The chief shall issue an order denying a permit if the 14865
chief finds that there is a substantial risk that the operation 14866
will result in violations of this chapter or rules adopted under 14867
it that will present an imminent danger to public health or safety 14868
or damage to the environment, provided that where the chief finds 14869
that terms or conditions to the permit can reasonably be expected 14870
to prevent such violations, the chief shall issue the permit 14871
subject to those terms or conditions, including, if applicable, 14872
terms and conditions regarding subjects identified in rules 14873
adopted under section 1509.03 of the Revised Code. 14874

(G) Each application for a permit required by section 1509.05 14875
of the Revised Code, except an application to plug back an 14876
existing well that is required by that section and an application 14877
for a well drilled or reopened for purposes of section 1509.22 of 14878
the Revised Code, also shall be accompanied by a nonrefundable fee 14879
~~of two~~ as follows: 14880

(1) Two hundred fifty dollars for a permit to conduct 14881
activities in a township with a population of fewer than five 14882
thousand; 14883

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| <u>(2) Five hundred dollars for a permit to conduct activities</u> | 14884 |
| <u>in a township with a population of five thousand or more, but</u> | 14885 |
| <u>fewer than ten thousand;</u> | 14886 |
| <u>(3) Seven hundred fifty dollars for a permit to conduct</u> | 14887 |
| <u>activities in a township with a population of ten thousand or</u> | 14888 |
| <u>more, but fewer than fifteen thousand;</u> | 14889 |
| <u>(4) One thousand dollars for a permit to conduct activities</u> | 14890 |
| <u>in either of the following:</u> | 14891 |
| <u>(a) A township with a population of fifteen thousand or more;</u> | 14892 |
| <u>(b) A municipal corporation regardless of population.</u> | 14893 |
| <u>For purposes of calculating fee amounts, populations shall be</u> | 14894 |
| <u>determined using the most recent federal decennial census.</u> | 14895 |
| <u>Each application for the revision or reissuance of a permit</u> | 14896 |
| <u>shall be accompanied by a nonrefundable fee of two hundred fifty</u> | 14897 |
| <u>dollars.</u> | 14898 |
| <u>(H) The chief may order the immediate suspension of drilling,</u> | 14899 |
| <u>operating, or plugging activities after finding that any person is</u> | 14900 |
| <u>causing, engaging in, or maintaining a condition or activity that</u> | 14901 |
| <u>in the chief's judgment presents an imminent danger to public</u> | 14902 |
| <u>health or safety or results in or is likely to result in immediate</u> | 14903 |
| <u>substantial damage to natural resources or for nonpayment of the a</u> | 14904 |
| <u>fee required by this section. The chief may order the immediate</u> | 14905 |
| <u>suspension of the drilling or reopening of a well in a coal</u> | 14906 |
| <u>bearing township after determining that the drilling or reopening</u> | 14907 |
| <u>activities present an imminent and substantial threat to public</u> | 14908 |
| <u>health or safety or to miners' health or safety. Before issuing</u> | 14909 |
| <u>any such order, the chief shall notify the owner in such manner as</u> | 14910 |
| <u>in the chief's judgment would provide reasonable notification that</u> | 14911 |
| <u>the chief intends to issue a suspension order. The chief may issue</u> | 14912 |
| <u>such an order without prior notification if reasonable attempts to</u> | 14913 |
| <u>notify the owner have failed, but in such an event notification</u> | 14914 |

shall be given as soon thereafter as practical. Within five 14915
calendar days after the issuance of the order, the chief shall 14916
provide the owner an opportunity to be heard and to present 14917
evidence that the condition or activity is not likely to result in 14918
immediate substantial damage to natural resources or does not 14919
present an imminent danger to public health or safety or to 14920
miners' health or safety, if applicable. In the case of activities 14921
in a coal bearing township, if the chief, after considering 14922
evidence presented by the owner, determines that the activities do 14923
not present such a threat, the chief shall revoke the suspension 14924
order. Notwithstanding any provision of this chapter, the owner 14925
may appeal a suspension order directly to the court of common 14926
pleas of the county in which the activity is located or, if in a 14927
coal bearing township, to the reclamation commission under section 14928
1513.13 of the Revised Code. 14929

Sec. 1509.072. No oil or gas well owner or agent of an oil or 14930
gas well owner shall fail to restore the land surface within the 14931
area disturbed in siting, drilling, completing, and producing the 14932
well as required in this section. 14933

(A) Within five months after the date upon which the surface 14934
drilling of a well is commenced, the owner or the owner's agent, 14935
in accordance with the restoration plan filed under division 14936
~~(J)~~(A)(10) of section 1509.06 of the Revised Code, shall fill all 14937
the pits for containing brine, other waste substances resulting, 14938
obtained, or produced in connection with exploration or drilling 14939
for, or production of, oil or gas, or oil that are not required by 14940
other state or federal law or regulation, and remove all concrete 14941
bases, drilling supplies, and drilling equipment. Within nine 14942
months after the date upon which the surface drilling of a well is 14943
commenced, the owner or the owner's agent shall grade or terrace 14944
and plant, seed, or sod the area disturbed that is not required in 14945
production of the well where necessary to bind the soil and 14946

prevent substantial erosion and sedimentation. If the chief of the 14947
division of mineral resources management finds that a pit used for 14948
containing brine, other waste substances, or oil is in violation 14949
of section 1509.22 of the Revised Code or rules adopted or orders 14950
issued under it, the chief may require the pit to be emptied and 14951
closed before expiration of the five-month restoration period. 14952

(B) Within six months after a well that has produced oil or 14953
gas is plugged, or after the plugging of a dry hole, the owner or 14954
the owner's agent shall remove all production and storage 14955
structures, supplies, and equipment, and any oil, salt water, and 14956
debris, and fill any remaining excavations. Within that period the 14957
owner or the owner's agent shall grade or terrace and plant, seed, 14958
or sod the area disturbed where necessary to bind the soil and 14959
prevent substantial erosion and sedimentation. 14960

The owner shall be released from responsibility to perform 14961
any or all restoration requirements of this section on any part or 14962
all of the area disturbed upon the filing of a request for a 14963
waiver with and obtaining the written approval of the chief, which 14964
request shall be signed by the surface owner to certify the 14965
approval of the surface owner of the release sought. The chief 14966
shall approve the request unless the chief finds upon inspection 14967
that the waiver would be likely to result in substantial damage to 14968
adjoining property, substantial contamination of surface or 14969
underground water, or substantial erosion or sedimentation. 14970

The chief, by order, may shorten the time periods provided 14971
for under division (A) or (B) of this section if failure to 14972
shorten the periods would be likely to result in damage to public 14973
health or the waters or natural resources of the state. 14974

The chief, upon written application by an owner or an owner's 14975
agent showing reasonable cause, may extend the period within which 14976
restoration shall be completed under divisions (A) and (B) of this 14977
section, but not to exceed a further six-month period, except 14978

under extraordinarily adverse weather conditions or when essential 14979
equipment, fuel, or labor is unavailable to the owner or the 14980
owner's agent. 14981

If the chief refuses to approve a request for waiver or 14982
extension, the chief shall do so by order. 14983

Sec. 1509.31. Whenever the entire interest of an oil and gas 14984
lease is assigned or otherwise transferred, the assignor or 14985
transferor shall notify the holders of the royalty interests, and, 14986
if a well or wells exist on the lease, the division of mineral 14987
resources management, of the name and address of the assignee or 14988
transferee by certified mail, return receipt requested, not later 14989
than thirty days after the date of the assignment or transfer. 14990
When notice of any such assignment or transfer is required to be 14991
provided to the division, it shall be provided on a form 14992
prescribed and provided by the division and verified by both the 14993
assignor or transferor and by the assignee or transferee. The 14994
notice form applicable to assignments or transfers of a well to 14995
the owner of the surface estate of the tract on which the well is 14996
located shall contain a statement informing the landowner that the 14997
well may require periodic servicing to maintain its productivity; 14998
that, upon assignment or transfer of the well to the landowner, 14999
the landowner becomes responsible for compliance with the 15000
requirements of this chapter and rules adopted under it, 15001
including, without limitation, the proper disposal of brine 15002
obtained from the well, the plugging of the well when it becomes 15003
incapable of producing oil or gas, and the restoration of the well 15004
site; and that, upon assignment or transfer of the well to the 15005
landowner, the landowner becomes responsible for the costs of 15006
compliance with the requirements of this chapter and rules adopted 15007
under it and the costs for operating and servicing the well. 15008

The owner holding a permit under section 1509.05 of the 15009

Revised Code is responsible for all obligations and liabilities 15010
imposed by this chapter and any rules, orders, and terms and 15011
conditions of a permit adopted or issued under it, and no 15012
assignment or transfer by the owner relieves the owner of the 15013
obligations and liabilities until and unless the assignee or 15014
transferee files with the division the information described in 15015
divisions ~~(A)(1)~~, ~~(B)(2)~~, ~~(C)(3)~~, ~~(D)(4)~~, ~~(E)(5)~~, ~~(J)(10)~~,
~~(K)(11)~~, and ~~(L)(12)~~ of section 1509.06 of the Revised Code; 15016
obtains liability insurance coverage required by section 1509.07 15017
of the Revised Code, except when none is required by that section; 15018
and executes and files a surety bond, negotiable certificates of 15019
deposit or irrevocable letters of credit, or cash, as described in 15020
that section. Instead of a bond, but only upon acceptance by the 15021
chief of the division of mineral resources management, the 15022
assignee or transferee may file proof of financial responsibility, 15023
described in section 1509.07 of the Revised Code. Section 1509.071 15024
of the Revised Code applies to the surety bond, cash, and 15025
negotiable certificates of deposit and irrevocable letters of 15026
credit described in this section. Unless the chief approves a 15027
modification, each assignee or transferee shall operate in 15028
accordance with the plans and information filed by the permit 15029
holder pursuant to section 1509.06 of the Revised Code. 15030
15031

Sec. 1515.14. Within the limits of funds appropriated to the 15032
department of natural resources and the soil and water 15033
conservation district assistance fund created in this section, 15034
there shall be paid in each calendar year to each local soil and 15035
water conservation district an amount not to exceed one dollar for 15036
each one dollar received in accordance with section 1515.10 of the 15037
Revised Code, received from tax levies in excess of the ten-mill 15038
levy limitation approved for the benefit of local soil and water 15039
conservation districts, or received from an appropriation by a 15040
municipal corporation or a township to a maximum of eight thousand 15041

dollars, provided that the Ohio soil and water conservation 15042
commission may approve payment to a district in an amount in 15043
excess of eight thousand dollars in any calendar year upon receipt 15044
of a request and justification from the district. The county 15045
auditor shall credit such payments to the special fund established 15046
pursuant to section 1515.10 of the Revised Code for the local soil 15047
and water conservation district. The department may make advances 15048
at least quarterly to each district on the basis of the estimated 15049
contribution of the state to each district. Moneys received by 15050
each district shall be expended for the purposes of the district. 15051

For the purpose of providing money to soil and water 15052
conservation districts under this section, there is hereby created 15053
in the state treasury the soil and water conservation district 15054
assistance fund consisting of money credited to it under section 15055
3714.073 of the Revised Code. 15056

Sec. 1517.02. There is hereby created in the department of 15057
natural resources the division of natural areas and preserves, 15058
which shall be administered by the chief of natural areas and 15059
preserves. The chief shall take an oath of office and shall file 15060
in the office of the secretary of state a bond signed by the chief 15061
and by a surety approved by the governor for a sum fixed pursuant 15062
to section 121.11 of the Revised Code. 15063

The chief shall administer a system of nature preserves and 15064
wild, scenic, and recreational river areas. The chief shall 15065
establish a system of nature preserves through acquisition and 15066
dedication of natural areas of state or national significance, 15067
which shall include, but not be limited to, areas ~~which~~ that 15068
represent characteristic examples of Ohio's natural landscape 15069
types and its natural vegetation and geological history. The chief 15070
shall encourage landowners to dedicate areas of unusual 15071
significance as nature preserves, and shall establish and maintain 15072

a registry of natural areas of unusual significance. 15073

The chief may supervise, operate, protect, and maintain wild, 15074
scenic, and recreational river areas, as designated by the 15075
director of natural resources. The chief may cooperate with 15076
federal agencies administering any federal program concerning 15077
wild, scenic, or recreational river areas. 15078

~~The chief may, with the approval of the director, enter into 15079
an agreement with the United States department of commerce under 15080
the "Coastal Zone Management Act of 1972," 86 Stat. 1280, 16 15081
U.S.C.A. 1451, as amended, for the purpose of receiving grants to 15082
continue the management, operation, research, and programming at 15083
old woman creek national estuarine research reserve. 15084~~

The chief shall do the following: 15085

(A) Formulate policies and plans for the acquisition, use, 15086
management, and protection of nature preserves; 15087

(B) Formulate policies for the selection of areas suitable 15088
for registration; 15089

(C) Formulate policies for the dedication of areas as nature 15090
preserves; 15091

(D) Prepare and maintain surveys and inventories of natural 15092
areas and habitats of rare and endangered species of plants and 15093
animals; 15094

(E) Adopt rules for the use, visitation, and protection of 15095
nature preserves, "natural areas owned or managed through 15096
easement, license, or lease by the department and administered by 15097
the division," and lands owned "or managed through easement, 15098
license, or lease" by the department and administered by the 15099
division ~~which~~ that are within or adjacent to any wild, scenic, or 15100
recreational river area, in accordance with Chapter 119. of the 15101
Revised Code; 15102

(F) Provide facilities and improvements within the state system of nature preserves that are necessary for their visitation, use, restoration, and protection and do not impair their natural character;

(G) Provide interpretive programs and publish and disseminate information pertaining to nature preserves and natural areas for their visitation and use;

(H) Conduct and grant permits to qualified persons for the conduct of scientific research and investigations within nature preserves;

(I) Establish an appropriate system for marking nature preserves;

(J) Publish and submit to the governor and the general assembly a biennial report of the status and condition of each nature preserve, activities conducted within each preserve, and plans and recommendations for natural area preservation.

Sec. 1521.062. (A) All dams, dikes, and levees constructed in this state and not exempted by this section or by the chief of the division of water under section 1521.06 of the Revised Code shall be inspected periodically by the chief ~~to~~, except for classes of dams that, in accordance with rules adopted under this section, are required to be inspected by registered professional engineers who have been approved for that purpose by the chief. The inspection shall ensure that continued operation and use of the dam, dike, or levee does not constitute a hazard to life, health, or property. Periodic inspections shall not be required of the following structures:

(1) A dam that is less than ten feet in height and has a storage capacity of not more than fifty acre-feet at the elevation of the top of the dam, as determined by the chief. For the

purposes of this section, the height of a dam shall be measured 15133
from the natural stream bed or lowest ground elevation at the 15134
downstream or outside limit of the dam to the elevation of the top 15135
of the dam. 15136

(2) A dam, regardless of height, that has a storage capacity 15137
of not more than fifteen acre-feet at the elevation of the top of 15138
the dam, as determined by the chief; 15139

(3) A dam, regardless of storage capacity, that is six feet 15140
or less in height, as determined by the chief; 15141

(4) A dam, dike, or levee belonging to a class exempted by 15142
the chief; 15143

(5) A dam, dike, or levee that has been exempted in 15144
accordance with rules adopted under section 1521.064 of the 15145
Revised Code. 15146

(B) In accordance with rules adopted under this section, the 15147
owner of a dam that is in a class of dams that is designated in 15148
the rules for inspection by registered professional engineers 15149
shall obtain the services of a registered professional engineer 15150
who has been approved by the chief to conduct the periodic 15151
inspection of dams pursuant to schedules and other standards and 15152
procedures established in the rules. The registered professional 15153
engineer shall prepare a report of the inspection in accordance 15154
with the rules and provide the inspection report to the dam owner 15155
who shall submit it to the chief. A dam that is designated under 15156
the rules for inspection by a registered professional engineer but 15157
that is not inspected within a five-year period may be inspected 15158
by the chief at the owner's expense. 15159

(C) Intervals between periodic inspections shall be 15160
determined by the chief, but shall not exceed five years. ~~The 15161
chief may use inspection reports prepared for the owner of the 15162
dam, dike, or levee by a registered professional engineer. 15163~~

~~(C) The owner~~ (D) In the case of a dam, dike, or levee that 15164
the chief inspects, the chief shall be furnished furnish a report 15165
of ~~each~~ the inspection ~~and to the owner of the dam, dike, or~~ 15166
levee. With regard to a dam, dike, or levee that has been 15167
inspected, either by the chief or by a registered professional 15168
engineer, and that is the subject of an inspection report prepared 15169
or received by the chief, the chief shall be informed of inform 15170
the owner of any required repairs, maintenance, investigations, 15171
and other remedial and operational measures ~~by the chief~~. The 15172
chief shall order the owner to perform such repairs, maintenance, 15173
investigations, or other remedial or operational measures as ~~he~~ 15174
the chief considers necessary to safeguard life, health, or 15175
property. The order shall permit the owner a reasonable time in 15176
which to perform the needed repairs, maintenance, investigations, 15177
or other remedial measures, and the cost thereof shall be borne by 15178
the owner. All orders of the chief are subject to appeal as 15179
provided in Chapter 119. of the Revised Code. The attorney 15180
general, upon written request of the chief, may bring an action 15181
for an injunction against any person who violates this section or 15182
to enforce an order of the chief made pursuant to this section. 15183

~~(D)~~(E) The owner of a dam, dike, or levee shall monitor, 15184
maintain, and operate the structure and its appurtenances safely 15185
in accordance with state rules, terms and conditions of permits, 15186
orders, and other requirements issued pursuant to this section or 15187
section 1521.06 of the Revised Code. The owner shall fully and 15188
promptly notify the division of water and other responsible 15189
authorities of any condition ~~which~~ that threatens the safety of 15190
the structure and shall take all necessary actions to safeguard 15191
life, health, and property. 15192

~~(E)~~(F) Before commencing the repair, improvement, alteration, 15193
or removal of a dam, dike, or levee, the owner shall file an 15194
application including plans, specifications, and other required 15195

information with the division and shall secure written approval of 15196
the application by the chief. Emergency actions by the owner 15197
required to safeguard life, health, or property are exempt from 15198
this requirement. The chief may, by rule, define maintenance, 15199
repairs, or other remedial measures of a routine nature ~~which~~ that 15200
are exempt from this requirement. 15201

~~(F)~~(G) The chief may remove or correct, at the expense of the 15202
owner, any unsafe structures found to be constructed or maintained 15203
in violation of this section or section 1521.06 of the Revised 15204
Code. In the case of an owner other than a governmental agency, 15205
the cost of removal or correction of any unsafe structure, 15206
together with a description of the property on which the unsafe 15207
structure is located, shall be certified by the chief to the 15208
county auditor and placed by the county auditor upon the tax 15209
duplicate. This cost is a lien upon the lands from the date of 15210
entry and shall be collected as other taxes and returned to the 15211
division. In the case of an owner that is a governmental agency, 15212
the cost of removal or correction of any unsafe structure shall be 15213
recoverable from the owner by appropriate action in a court of 15214
competent jurisdiction. 15215

~~(G)~~(H) If the condition of any dam, dike, or levee is found, 15216
in the judgment of the chief, to be so dangerous to the safety of 15217
life, health, or property as not to permit time for the issuance 15218
and enforcement of an order relative to repair, maintenance, or 15219
operation, the chief shall employ any of the following remedial 15220
means necessary to protect life, health, and property: 15221

(1) Lower the water level of the lake or reservoir by 15222
releasing water; 15223

(2) Completely drain the lake or reservoir; 15224

(3) Take such other measures or actions as ~~he~~ the chief 15225
considers necessary to safeguard life, health, and property. 15226

The chief shall continue in full charge and control of the dam, dike, or levee until the structure is rendered safe. The cost of the remedy shall be recoverable from the owner of the structure by appropriate action in a court of competent jurisdiction.

~~(H)~~(I) The chief may accept and expend gifts, bequests, and grants from the United States government or from any other public or private source and may contract with the United States government or any other agency or entity for the purpose of carrying out the dam safety functions set forth in this section and section 1521.06 of the Revised Code.

(J) In accordance with Chapter 119. of the Revised Code, the chief shall adopt, and may amend or rescind, rules that do all of the following:

(1) Designate classes of dams for which dam owners must obtain the services of a registered professional engineer to periodically inspect the dams and to prepare reports of the inspections for submittal to the chief;

(2) Establish standards in accordance with which the chief must approve or disapprove registered professional engineers to inspect dams together with procedures governing the approval process;

(3) Establish schedules, standards, and procedures governing periodic inspections and standards and procedures governing the preparation and submittal of inspection reports;

(4) Establish provisions regarding the enforcement of this section and rules adopted under it.

Sec. 1531.27. The chief of the division of wildlife shall pay to the treasurers of the several counties wherein lands owned by the state and administered by the division are ~~situate~~ located an annual amount determined in the following manner: in each such

county one per cent of the total value of such lands exclusive of 15257
improvements, as shown on the auditor's records of taxable value 15258
of real property existing at the time when the state acquired the 15259
tract or tracts comprising ~~such~~ the lands. 15260

~~Such~~ The payments shall be made from funds accruing to the 15261
division ~~of wildlife~~ from the sale of hunting or fishing licenses 15262
and ~~federal wildlife restoration funds, and the~~ from fines, 15263
penalties, and forfeitures deposited into the state treasury to 15264
the credit of the wildlife fund created in section 1531.17 of the 15265
Revised Code. The allocation of amounts to be paid from ~~such~~ those 15266
sources shall be determined by the director of natural resources. 15267

~~Such~~ The payments to the treasurers of the several counties 15268
shall be credited to the fund for school purposes within the 15269
school districts wherein ~~such~~ the lands are ~~situate~~ located. 15270

Sec. 1533.10. Except as provided in this section or division 15271
(A)(2) of section 1533.12 of the Revised Code, no person shall 15272
hunt any wild bird or wild quadruped without a hunting license. 15273
Each day that any person hunts within the state without procuring 15274
such a license constitutes a separate offense. Except as otherwise 15275
provided in this section, every applicant for a hunting license 15276
who is a resident of the state and ~~sixteen~~ eighteen years of age 15277
or more shall procure a resident hunting license, the fee for 15278
which shall be eighteen dollars, unless the rules adopted under 15279
division (B) of section 1533.12 of the Revised Code provide for 15280
issuance of a resident hunting license to the applicant free of 15281
charge. Except as provided in rules adopted under division (B)(2) 15282
of that section, each applicant who is a resident of this state 15283
and who at the time of application is sixty-six years of age or 15284
older shall procure a special senior hunting license, the fee for 15285
which shall be one-half of the regular hunting license fee. Every 15286
applicant who is under the age of ~~sixteen~~ eighteen years shall 15287

procure a special youth hunting license, the fee for which shall 15288
be one-half of the regular hunting license fee. The owner of lands 15289
in the state and the owner's children of any age and grandchildren 15290
under eighteen years of age may hunt on the lands without a 15291
hunting license. The tenant and children of the tenant, residing 15292
on lands in the state, may hunt on them without a hunting license. 15293
Every Except as otherwise provided in division (A)(1) of section 15294
1533.12 of the Revised Code, every applicant for a hunting license 15295
who is a nonresident of the state and who is ~~sixteen~~ eighteen 15296
years of age or older shall procure a nonresident hunting license, 15297
the fee for which shall be one hundred twenty-four dollars, unless 15298
the applicant is a resident of a state that is a party to an 15299
agreement under section 1533.91 of the Revised Code, in which case 15300
the fee shall be eighteen dollars. 15301

The chief of the division of wildlife may issue a small game 15302
hunting license expiring three days from the effective date of the 15303
license to a nonresident of the state, the fee for which shall be 15304
thirty-nine dollars. No person shall take or possess deer, wild 15305
turkeys, fur-bearing animals, ducks, geese, brant, or any nongame 15306
animal while possessing only a small game hunting license. A small 15307
game hunting license does not authorize the taking or possessing 15308
of ducks, geese, or brant without having obtained, in addition to 15309
the small game hunting license, a wetlands habitat stamp as 15310
provided in section 1533.112 of the Revised Code. A small game 15311
hunting license does not authorize the taking or possessing of 15312
deer, wild turkeys, or fur-bearing animals. A nonresident of the 15313
state who wishes to take or possess deer, wild turkeys, or 15314
fur-bearing animals in this state shall procure, respectively, a 15315
special deer or wild turkey permit as provided in section 1533.11 15316
of the Revised Code or a fur taker permit as provided in section 15317
1533.111 of the Revised Code in addition to a nonresident hunting 15318
license or a special youth hunting license, as applicable, as 15319
provided in this section. 15320

No person shall procure or attempt to procure a hunting license by fraud, deceit, misrepresentation, or any false statement. 15321
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This section does not authorize the taking and possessing of deer or wild turkeys without first having obtained, in addition to the hunting license required by this section, a special deer or wild turkey permit as provided in section 1533.11 of the Revised Code or the taking and possessing of ducks, geese, or brant without first having obtained, in addition to the hunting license required by this section, a wetlands habitat stamp as provided in section 1533.112 of the Revised Code. 15324
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This section does not authorize the hunting or trapping of fur-bearing animals without first having obtained, in addition to a hunting license required by this section, a fur taker permit as provided in section 1533.111 of the Revised Code. 15332
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No hunting license shall be issued unless it is accompanied by a written explanation of the law in section 1533.17 of the Revised Code and the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed. 15336
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No hunting license shall be issued unless the applicant presents to the agent authorized to issue the license a previously held hunting license or evidence of having held such a license in content and manner approved by the chief, a certificate of completion issued upon completion of a hunter education and conservation course approved by the chief, or evidence of equivalent training in content and manner approved by the chief. 15341
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No person shall issue a hunting license to any person who fails to present the evidence required by this section. No person shall purchase or obtain a hunting license without presenting to the issuing agent the evidence required by this section. Issuance 15348
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of a hunting license in violation of the requirements of this 15352
section is an offense by both the purchaser of the illegally 15353
obtained hunting license and the clerk or agent who issued the 15354
hunting license. Any hunting license issued in violation of this 15355
section is void. 15356

The chief, with approval of the wildlife council, shall adopt 15357
rules prescribing a hunter education and conservation course for 15358
first-time hunting license buyers and for volunteer instructors. 15359
The course shall consist of subjects including, but not limited 15360
to, hunter safety and health, use of hunting implements, hunting 15361
tradition and ethics, the hunter and conservation, the law in 15362
section 1533.17 of the Revised Code along with the penalty for its 15363
violation, including a description of terms of imprisonment and 15364
fines that may be imposed, and other law relating to hunting. 15365
Authorized personnel of the division or volunteer instructors 15366
approved by the chief shall conduct such courses with such 15367
frequency and at such locations throughout the state as to 15368
reasonably meet the needs of license applicants. The chief shall 15369
issue a certificate of completion to each person who successfully 15370
completes the course and passes an examination prescribed by the 15371
chief. 15372

Sec. 1533.11. (A) Except as provided in this section, no 15373
person shall hunt deer on lands of another without first obtaining 15374
an annual special deer permit. Except as provided in this section, 15375
no person shall hunt wild turkeys on lands of another without 15376
first obtaining an annual special wild turkey permit. Each 15377
applicant for a special deer or wild turkey permit shall pay an 15378
annual fee of twenty-three dollars for each permit unless the 15379
rules adopted under division (B) of section 1533.12 of the Revised 15380
Code provide for issuance of a deer or wild turkey permit to the 15381
applicant free of charge. Except as provided in rules adopted 15382
under division (B)(2) of that section, each applicant who is a 15383

resident of this state and who at the time of application is 15384
sixty-six years of age or older shall procure a special senior 15385
deer or wild turkey permit, the fee for which shall be one-half of 15386
the regular special deer or wild turkey permit fee. Each applicant 15387
who is under the age of ~~sixteen~~ eighteen years shall procure a 15388
special youth deer or wild turkey permit, the fee for which shall 15389
be one-half of the regular special deer or wild turkey permit fee. 15390
Except as provided in division (A)(2) of section 1533.12 of the 15391
Revised Code, a deer or wild turkey permit shall run concurrently 15392
with the hunting license. The money received shall be paid into 15393
the state treasury to the credit of the wildlife fund, created in 15394
section 1531.17 of the Revised Code, exclusively for the use of 15395
the division of wildlife in the acquisition and development of 15396
land for deer or wild turkey management, for investigating deer or 15397
wild turkey problems, and for the stocking, management, and 15398
protection of deer or wild turkey. Every person, while hunting 15399
deer or wild turkey on lands of another, shall carry the person's 15400
special deer or wild turkey permit and exhibit it to any 15401
enforcement officer so requesting. Failure to so carry and exhibit 15402
such a permit constitutes an offense under this section. The chief 15403
of the division of wildlife shall adopt any additional rules the 15404
chief considers necessary to carry out this section and section 15405
1533.10 of the Revised Code. 15406

The owner and the children of the owner of lands in this 15407
state may hunt deer or wild turkey thereon without a special deer 15408
or wild turkey permit. The tenant and children of the tenant may 15409
hunt deer or wild turkey on lands where they reside without a 15410
special deer or wild turkey permit. 15411

(B) A special deer or wild turkey permit is not transferable. 15412
No person shall carry a special deer or wild turkey permit issued 15413
in the name of another person. 15414

(C) The wildlife refunds fund is hereby created in the state 15415

treasury. The fund shall consist of money received from 15416
application fees for special deer permits that are not issued. 15417
Money in the fund shall be used to make refunds of such 15418
application fees. 15419

Sec. 1533.111. Except as provided in this section or division 15420
(A)(2) of section 1533.12 of the Revised Code, no person shall 15421
hunt or trap fur-bearing animals on land of another without first 15422
obtaining an annual fur taker permit. Each applicant for a fur 15423
taker permit shall pay an annual fee of fourteen dollars for the 15424
permit, except as otherwise provided in this section or unless the 15425
rules adopted under division (B) of section 1533.12 of the Revised 15426
Code provide for issuance of a fur taker permit to the applicant 15427
free of charge. Except as provided in rules adopted under division 15428
(B)(2) of that section, each applicant who is a resident of this 15429
state and who at the time of application is sixty-six years of age 15430
or older shall procure a special senior fur taker permit, the fee 15431
for which shall be one-half of the regular fur taker permit fee. 15432
Each applicant ~~who is a resident of the state and~~ under the age of 15433
~~sixteen~~ eighteen years shall procure a special youth fur taker 15434
permit, the fee for which shall be one-half of the regular fur 15435
taker permit fee. The fur taker permit shall run concurrently with 15436
the hunting license. The money received shall be paid into the 15437
state treasury to the credit of the fund established in section 15438
1533.15 of the Revised Code. 15439

No fur taker permit shall be issued unless it is accompanied 15440
by a written explanation of the law in section 1533.17 of the 15441
Revised Code and the penalty for its violation, including a 15442
description of terms of imprisonment and fines that may be 15443
imposed. 15444

No fur taker permit shall be issued unless the applicant 15445
presents to the agent authorized to issue a fur taker permit a 15446

previously held hunting license or trapping or fur taker permit or 15447
evidence of having held such a license or permit in content and 15448
manner approved by the chief of the division of wildlife, a 15449
certificate of completion issued upon completion of a trapper 15450
education course approved by the chief, or evidence of equivalent 15451
training in content and manner approved by the chief. 15452

No person shall issue a fur taker permit to any person who 15453
fails to present the evidence required by this section. No person 15454
shall purchase or obtain a fur taker permit without presenting to 15455
the issuing agent the evidence required by this section. Issuance 15456
of a fur taker permit in violation of the requirements of this 15457
section is an offense by both the purchaser of the illegally 15458
obtained permit and the clerk or agent who issued the permit. Any 15459
fur taker permit issued in violation of this section is void. 15460

The chief, with approval of the wildlife council, shall adopt 15461
rules prescribing a trapper education course for first-time fur 15462
taker permit buyers and for volunteer instructors. The course 15463
shall consist of subjects that include, but are not limited to, 15464
trapping techniques, animal habits and identification, trapping 15465
tradition and ethics, the trapper and conservation, the law in 15466
section 1533.17 of the Revised Code along with the penalty for its 15467
violation, including a description of terms of imprisonment and 15468
fines that may be imposed, and other law relating to trapping. 15469
Authorized personnel of the division of wildlife or volunteer 15470
instructors approved by the chief shall conduct the courses with 15471
such frequency and at such locations throughout the state as to 15472
reasonably meet the needs of permit applicants. The chief shall 15473
issue a certificate of completion to each person who successfully 15474
completes the course and passes an examination prescribed by the 15475
chief. 15476

Every person, while hunting or trapping fur-bearing animals 15477
on lands of another, shall carry the person's fur taker permit 15478

~~affixed to the person's hunting license~~ with the person's 15479
signature written ~~across the face of~~ on the permit. Failure to 15480
carry such a signed permit constitutes an offense under this 15481
section. The chief shall adopt any additional rules the chief 15482
considers necessary to carry out this section. 15483

The owner and the children of the owner of lands in this 15484
state may hunt or trap fur-bearing animals thereon without a fur 15485
taker permit. The tenant and children of the tenant may hunt or 15486
trap fur-bearing animals on lands where they reside without a fur 15487
taker permit. 15488

A fur taker permit is not transferable. No person shall carry 15489
a fur taker permit issued in the name of another person. 15490

A fur taker permit entitles a nonresident to take from this 15491
state fur-bearing animals taken and possessed by the nonresident 15492
as provided by law or division rule. 15493

Sec. 1533.112. Except as provided in this section or unless 15494
otherwise provided by division rule, no person shall hunt ducks, 15495
geese, or brant on the lands of another without first obtaining an 15496
annual wetlands habitat stamp. The annual fee for the wetlands 15497
habitat stamp shall be fourteen dollars for each stamp unless the 15498
rules adopted under division (B) of section 1533.12 provide for 15499
issuance of a wetlands habitat stamp to the applicant free of 15500
charge. 15501

Moneys received from the stamp fee shall be paid into the 15502
state treasury to the credit of the wetlands habitat fund, which 15503
is hereby established. Moneys shall be paid from the fund on the 15504
order of the director of natural resources for the following 15505
purposes: 15506

(A) Sixty per cent for projects that the division approves 15507
for the acquisition, development, management, or preservation of 15508

waterfowl areas within the state; 15509

(B) Forty per cent for contribution by the division to an 15510
appropriate nonprofit organization for the acquisition, 15511
development, management, or preservation of lands and waters 15512
within the United States or Canada that provide or will provide 15513
habitat for waterfowl with migration routes that cross this state. 15514

No moneys derived from the issuance of wetlands habitat 15515
stamps shall be spent for purposes other than those specified by 15516
this section. All investment earnings of the fund shall be 15517
credited to the fund. 15518

Wetlands habitat stamps shall be furnished by and in a form 15519
prescribed by the chief of the division of wildlife and issued by 15520
clerks and other agents authorized to issue licenses and permits 15521
under section 1533.13 of the Revised Code. The record of stamps 15522
kept by the clerks and other agents shall be uniform throughout 15523
the state, in such form or manner as the director prescribes, and 15524
open at all reasonable hours to the inspection of any person. 15525
Unless otherwise provided by rule, each stamp shall remain in 15526
force until midnight of the thirty-first day of August next 15527
ensuing. Wetlands habitat stamps may be issued in any manner to 15528
any person on any date, whether or not that date is within the 15529
period in which they are effective. 15530

Every person to whom this section applies, while hunting 15531
ducks, geese, or brant, shall carry an unexpired wetlands habitat 15532
stamp that is validated by the person's signature written on the 15533
stamp in ink and shall exhibit the stamp to any enforcement 15534
officer so requesting. No person shall fail to carry and exhibit 15535
the person's stamp. 15536

A wetlands habitat stamp is not transferable. 15537

The chief shall establish a procedure to obtain subject 15538
matter to be printed on the wetlands habitat stamp and shall use, 15539

dispose of, or distribute the subject matter as the chief 15540
considers necessary. The chief also shall adopt rules necessary to 15541
administer this section. 15542

This section does not apply to persons under sixteen years of 15543
age nor to persons exempted from procuring a hunting license under 15544
section 1533.10 or division (A)(2) of section 1533.12 of the 15545
Revised Code. 15546

Sec. 1533.12. (A)(1) Except as otherwise provided in division 15547
(A)(2) of this section, every person on active duty in the armed 15548
forces of the United States who is stationed in this state and who 15549
wishes to engage in an activity for which a license, permit, or 15550
stamp is required under this chapter first shall obtain the 15551
requisite license, permit, or stamp. Such a person is eligible to 15552
obtain a resident hunting or fishing license regardless of whether 15553
the person qualifies as a resident of this state. To obtain a 15554
resident hunting or fishing license, the person shall present a 15555
card or other evidence identifying the person as being on active 15556
duty in the armed forces of the United States and as being 15557
stationed in this state. 15558

(2) Every person on active duty in the armed forces of the 15559
United States, while on leave or furlough, may take or catch fish 15560
of the kind lawfully permitted to be taken or caught within the 15561
state, may hunt any wild bird or wild quadruped lawfully permitted 15562
to be hunted within the state, and may trap fur-bearing animals 15563
lawfully permitted to be trapped within the state, without 15564
procuring a fishing license, a hunting license, a fur taker 15565
permit, or a wetlands habitat stamp required by this chapter, 15566
provided that the person shall carry on the person when fishing, 15567
hunting, or trapping, a card or other evidence identifying the 15568
person as being on active duty in the armed forces of the United 15569
States, and provided that the person is not otherwise violating 15570

any of the hunting, fishing, and trapping laws of this state. 15571

In order to hunt deer or wild turkey, any such person shall 15572
obtain a special deer or wild turkey permit, as applicable, under 15573
section 1533.11 of the Revised Code. However, the person need not 15574
obtain a hunting license in order to obtain such a permit. 15575

(B) The chief of the division of wildlife shall provide by 15576
rule adopted under section 1531.10 of the Revised Code all of the 15577
following: 15578

(1) Every resident of this state with a disability that has 15579
been determined by the veterans administration to be permanently 15580
and totally disabling, who receives a pension or compensation from 15581
the veterans administration, and who received an honorable 15582
discharge from the armed forces of the United States, and every 15583
veteran to whom the registrar of motor vehicles has issued a set 15584
of license plates under section 4503.41 of the Revised Code, shall 15585
be issued an annual fishing license, hunting license, fur taker 15586
permit, deer or wild turkey permit, or wetlands habitat stamp, or 15587
any combination of those licenses, permits, and stamp, free of 15588
charge when application is made to the chief in the manner 15589
prescribed by and on forms provided by the chief. 15590

(2) Every resident of the state who was born on or before 15591
December 31, 1937, shall be issued an annual fishing license, 15592
hunting license, fur taker permit, deer or wild turkey permit, or 15593
wetlands habitat stamp, or any combination of those licenses, 15594
permits, and stamp, free of charge when application is made to the 15595
chief in the manner prescribed by and on forms provided by the 15596
chief. 15597

(3) Every resident of state or county institutions, 15598
charitable institutions, and military homes in this state shall be 15599
issued an annual fishing license free of charge when application 15600
is made to the chief in the manner prescribed by and on forms 15601

provided by the chief. 15602

(4) Any mobility impaired or blind person, as defined in 15603
section 955.011 of the Revised Code, who is a resident of this 15604
state and who is unable to engage in fishing without the 15605
assistance of another person shall be issued an annual fishing 15606
license free of charge when application is made to the chief in 15607
the manner prescribed by and on forms provided by the chief. The 15608
person who is assisting the mobility impaired or blind person may 15609
assist in taking or catching fish of the kind permitted to be 15610
taken or caught without procuring the license required under 15611
section 1533.32 of the Revised Code, provided that only one line 15612
is used by both persons. 15613

(5) As used in division (B)(5) of this section, "prisoner of 15614
war" means any regularly appointed, enrolled, enlisted, or 15615
inducted member of the military forces of the United States who 15616
was captured, separated, and incarcerated by an enemy of the 15617
United States. 15618

Any person who has been a prisoner of war, was honorably 15619
discharged from the military forces, and is a resident of this 15620
state shall be issued an annual fishing license, hunting license, 15621
fur taker permit, or wetlands habitat stamp, or any combination of 15622
those licenses, permits, and stamp, free of charge when 15623
application is made to the chief in the manner prescribed by and 15624
on forms provided by the chief. 15625

(C) The chief shall adopt rules pursuant to section 1531.08 15626
of the Revised Code designating not more than two days, which need 15627
not be consecutive, in each year as "free sport fishing days" on 15628
which any resident may exercise the privileges accorded the holder 15629
of a fishing license issued under section 1533.32 of the Revised 15630
Code without procuring such a license, provided that the person is 15631
not otherwise violating any of the fishing laws of this state. 15632

Sec. 1533.32. Except as provided in this section or division 15633
(A)(2) or (C) of section 1533.12 of the Revised Code, no person, 15634
including nonresidents, shall take or catch any fish by angling in 15635
any of the waters in the state or engage in fishing in those 15636
waters without a license. No person shall take or catch frogs or 15637
turtles without a valid fishing license, except as provided in 15638
this section. Persons fishing in privately owned ponds, lakes, or 15639
reservoirs to or from which fish are not accustomed to migrate are 15640
exempt from the license requirements set forth in this section. 15641
Persons fishing in privately owned ponds, lakes, or reservoirs 15642
that are open to public fishing through an agreement or lease with 15643
the division of wildlife shall comply with the license 15644
requirements set forth in this section. 15645

The fee for an annual license shall be thirty-nine dollars 15646
for a resident of a state that is not a party to an agreement 15647
under section 1533.91 of the Revised Code. The fee for an annual 15648
license shall be eighteen dollars for a resident of a state that 15649
is a party to such an agreement. The fee for an annual license for 15650
residents of this state shall be eighteen dollars unless the rules 15651
adopted under division (B) of section 1533.12 of the Revised Code 15652
provide for issuance of a resident fishing license to the 15653
applicant free of charge. Except as provided in rules adopted 15654
under division (B)(2) of that section, each applicant who is a 15655
resident of this state and who at the time of application is 15656
sixty-six years of age or older shall procure a special senior 15657
fishing license, the fee for which shall be one-half of the annual 15658
resident fishing license fee. 15659

Any person under the age of sixteen years may take or catch 15660
frogs and turtles and take or catch fish by angling without a 15661
license. 15662

The chief of the division of wildlife may issue a tourist's 15663

license expiring three days from the effective date of the license 15664
to a resident of a state that is not a party to an agreement under 15665
section 1533.91 of the Revised Code. The fee for a tourist's 15666
license shall be eighteen dollars. 15667

The chief shall adopt rules under section 1531.10 of the 15668
Revised Code providing for the issuance of a one-day fishing 15669
license to a resident of this state or of any other state. The fee 15670
for such a license shall be fifty-five per cent of the amount 15671
established under this section for a tourist's license, rounded up 15672
to the nearest whole dollar. A one-day fishing license shall allow 15673
the holder to take or catch fish by angling in the waters in the 15674
state, engage in fishing in those waters, or take or catch frogs 15675
or turtles in those waters for one day without obtaining an annual 15676
license or a tourist's license under this section. At the request 15677
of a holder of a one-day fishing license who wishes to obtain an 15678
annual license, a clerk or agent authorized to issue licenses 15679
under section 1533.13 of the Revised Code, not later than the last 15680
day on which the one-day license would be valid if it were an 15681
annual license, shall credit the amount of the fee paid for the 15682
one-day license toward the fee charged for the annual license if 15683
so authorized by the chief. The clerk or agent shall issue the 15684
annual license upon presentation of the one-day license and 15685
payment of a fee in an amount equal to the difference between the 15686
fee for the annual license and the fee for the one-day license. 15687

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Unless otherwise provided by division rule, each annual 15689
license shall begin on the first day of March of the current year 15690
and expire on the last day of February of the following year. 15691

No person shall alter a fishing license or possess a fishing 15692
license that has been altered. 15693

No person shall procure or attempt to procure a fishing 15694

license by fraud, deceit, misrepresentation, or any false statement. 15695
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Owners of land over, through, upon, or along which any water flows or stands, except where the land is in or borders on state parks or state-owned lakes, together with the members of the immediate families of such owners, may take frogs and turtles and may take or catch fish of the kind permitted to be taken or caught therefrom without procuring a license provided for in this section. This exemption extends to tenants actually residing upon such lands and to the members of the immediate families of the tenants. Residents of state or county institutions, charitable institutions, and military homes in this state may take frogs and turtles without procuring the required license, provided that a member of the institution or home has an identification card, which shall be carried on that person when fishing. 15697
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Every fisher required to be licensed, while fishing or taking or attempting to take frogs or turtles, shall carry the license and exhibit it to any person. Failure to so carry and exhibit the license constitutes an offense under this section. 15710
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Sec. 1541.03. All lands and waters dedicated and set apart for state park purposes shall be under the control and management of the division of parks and recreation, which shall protect, maintain, and keep them in repair. The division shall have the following powers over all such lands and waters: 15714
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(A) To make alterations and improvements; 15719

(B) To construct and maintain dikes, wharves, landings, docks, dams, and other works; 15720
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(C) To construct and maintain roads and drives in, around, upon, and to the lands and waters to make them conveniently accessible and useful to the public; 15722
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| (D) To <u>Except as otherwise provided in this section, to</u> | 15725 |
| adopt, amend, and rescind, in accordance with Chapter 119. of the | 15726 |
| Revised Code, rules necessary for the proper management of state | 15727 |
| parks, bodies of water, and the lands adjacent to them under its | 15728 |
| jurisdiction and control, including the following: | 15729 |
| (1) Governing opening and closing times and dates of the | 15730 |
| parks; | 15731 |
| (2) Establishing fees and charges for admission to state | 15732 |
| parks and for use of facilities in them <u>state parks</u> ; | 15733 |
| (3) Governing camps, camping, and fees for camps and camping; | 15734 |
| (4) Governing the application for and rental of, rental fees | 15735 |
| for, and the use of cabins; | 15736 |
| (5) Relating to public use of state park lands, and governing | 15737 |
| the operation of motor vehicles, including speeds, and parking on | 15738 |
| those lands; | 15739 |
| (6) Governing all advertising within state parks and the | 15740 |
| requirements for the operation of places selling tangible personal | 15741 |
| property and control of food service sales on lands and waters | 15742 |
| under the control of the division, which rules shall establish | 15743 |
| uniform requirements; | 15744 |
| (7) Providing uniform standards relating to the size, type, | 15745 |
| location, construction, and maintenance of structures and devices | 15746 |
| used for fishing or moorage of watercraft, rowboats, sailboats, | 15747 |
| and powercraft, as those terms are defined in section 1547.01 of | 15748 |
| the Revised Code, over waters under the control of the division | 15749 |
| and establishing reasonable fees for the construction of and | 15750 |
| annual use permits for those structures and devices; | 15751 |
| (8) Governing state beaches, swimming, inflatable devices, | 15752 |
| and fees for them; | 15753 |
| (9) Governing the removal and disposition of any watercraft, | 15754 |

rowboat, sailboat, or powercraft, as those terms are defined in 15755
section 1547.01 of the Revised Code, left unattended for more than 15756
seven days on any lands or waters under the control of the 15757
division; 15758

(10) Governing the establishment and collection of check 15759
collection charges for checks that are returned to the division or 15760
dishonored for any reason. 15761

The division shall adopt rules under this section 15762
establishing a discount program for all persons who are issued a 15763
golden buckeye card under section 173.06 of the Revised Code. The 15764
discount program shall provide a discount for all park services 15765
and rentals, but shall not provide a discount for the purchase of 15766
merchandise. 15767

The division shall not adopt rules establishing fees or 15768
charges for parking a motor vehicle in a state park or for 15769
admission to a state park. 15770

Every resident of this state with a disability that has been 15771
determined by the veterans administration to be permanently and 15772
totally disabling, who receives a pension or compensation from the 15773
veterans administration, and who received an honorable discharge 15774
from the armed forces of the United States, and every veteran to 15775
whom the registrar of motor vehicles has issued a set of license 15776
plates under section 4503.41 of the Revised Code, shall be exempt 15777
from the fees for camping, provided that the resident or veteran 15778
carries in the state park such evidence of the resident's or 15779
veteran's disability as the chief of the division of parks and 15780
recreation prescribes by rule. 15781

Every Unless otherwise provided by division rule, every 15782
resident of this state who is sixty-five years of age or older or 15783
who is permanently and totally disabled and who furnishes evidence 15784
of that age or disability in a manner prescribed by division rule 15785

shall be charged one-half of the regular fee for camping, except 15786
on the weekends and holidays designated by the division. ~~Such a~~ 15787
~~person, and~~ shall not be charged more than ninety per cent of the 15788
regular charges for state recreational facilities, equipment, 15789
services, and food service operations utilized by the person at 15790
any time of year, whether maintained or operated by the state or 15791
leased for operation by another entity. 15792

As used in this section, "food service operations" means 15793
restaurants that are owned by the department of natural resources 15794
at Hocking Hills, Lake Hope, Malabar Farm, and Rocky Fork state 15795
parks or are part of a state park lodge. "Food service operations" 15796
does not include automatic vending machines, concession stands, or 15797
snack bars. 15798

As used in this section, "prisoner of war" means any 15799
regularly appointed, enrolled, enlisted, or inducted member of the 15800
military forces of the United States who was captured, separated, 15801
and incarcerated by an enemy of the United States. Any person who 15802
has been a prisoner of war, was honorably discharged from the 15803
military forces, and is a resident of this state is exempt from 15804
the fees for camping. To claim this exemption, the person shall 15805
present written evidence in the form of a record of separation, a 15806
letter from one of the military forces of the United States, or 15807
such other evidence as the chief prescribes by rule that satisfies 15808
the eligibility criteria established by this section. 15809

Sec. 1547.721. As used in sections 1547.721 to 1547.726 of 15810
the Revised Code: 15811

(A) "Eligible project" means a project that involves the 15812
acquisition, construction, establishment, reconstruction, 15813
rehabilitation, renovation, enlargement, improvement, equipping, 15814
furnishing, or development of either of the following: 15815

(1) Marine recreational facilities; 15816

(2) Refuge harbors and other projects for the harboring, 15817
mooring, docking, launching, and storing of light draft vessels. 15818

(B) "Marine recreational facilities," "refuge harbors," 15819
"light draft vessels," and "allowable costs" have the meanings 15820
established in rules adopted under section 1547.723 of the Revised 15821
Code. 15822

(C) "Revolving loan program" means the loan program 15823
established under sections 1547.721 to 1547.726 of the Revised 15824
Code. 15825

(D) "State agency" has the same meaning as in section 9.66 of 15826
the Revised Code. 15827

Sec. 1547.722. There is hereby created in the state treasury 15828
the watercraft revolving loan fund consisting of money 15829
appropriated or transferred to it, money received and credited to 15830
the fund under section 1547.726 of the Revised Code, and any 15831
grants, gifts, or contributions of moneys received for deposit to 15832
the credit of the fund. 15833

The director of natural resources shall use money in the 15834
watercraft revolving loan fund for the purpose of making loans 15835
under section 1547.724 of the Revised Code for eligible projects 15836
and taking actions under sections 1547.721 to 1547.726 of the 15837
Revised Code necessary to fulfill that purpose. The director may 15838
establish separate accounts in the fund for particular projects or 15839
otherwise. Income from the investment of money in the fund shall 15840
be credited to the fund, and, if the director so requires, to 15841
particular accounts in the fund. 15842

Sec. 1547.723. (A) The director of natural resources shall 15843
adopt rules under Chapter 119. of the Revised Code that the 15844
director determines to be necessary for the implementation of the 15845
revolving loan program. The rules shall include a definition of 15846

what constitutes "allowable costs" of an eligible project for 15847
purposes of the program together with a definition of "marine 15848
recreational facilities," "refuge harbors," and "light draft 15849
vessels," respectively. 15850

(B) The director may delegate any of the director's duties or 15851
responsibilities under sections 1547.721 to 1547.726 of the 15852
Revised Code to the chief of the division of watercraft. 15853

Sec. 1547.724. (A) With the approval of the controlling 15854
board, and subject to the other applicable provisions of sections 15855
1547.721 to 1547.726 of the Revised Code, the director of natural 15856
resources may lend moneys in the watercraft revolving loan fund to 15857
public or private entities for the purpose of paying the allowable 15858
costs of an eligible project. Loans shall be made under this 15859
division only if the director determines that all of the following 15860
apply: 15861

(1) The project is an eligible project and is economically 15862
sound; 15863

(2) The borrower is unable to finance the necessary allowable 15864
costs through ordinary financial channels upon comparable terms; 15865

(3) The repayment of the loan will be adequately secured by a 15866
mortgage, lien, assignment, or pledge at a level of priority as 15867
the director may require; 15868

(4) The amount of the loan does not exceed ninety per cent of 15869
the total cost of the project. 15870

(B) The determinations of the director under division (A) of 15871
this section shall be conclusive for purposes of the validity of a 15872
loan commitment evidenced by a loan agreement signed by the 15873
director. Further, the director's determinations that a project 15874
constitutes an eligible project and that the costs of such a 15875
project are allowable costs, together with all other 15876

determinations relevant to the project or to an action taken or 15877
agreement entered into under sections 1547.721 to 1547.726 of the 15878
Revised Code shall be conclusive for purposes of the validity and 15879
enforceability of rights of parties arising from actions taken and 15880
agreements entered into under those sections. 15881

(C) The director may take any actions necessary or 15882
appropriate with respect to a loan made under this section, 15883
including facilitating the collection of amounts due on a loan. 15884

Sec. 1547.725. For purposes of the revolving loan program, 15885
the director of natural resources may do any of the following: 15886

(A) Establish fees, charges, rates of interest, times of 15887
payment of interest and principal, and other terms, conditions, 15888
and provisions of and security for loans made from the watercraft 15889
revolving loan fund that the director determines to be appropriate 15890
and in furtherance of the purpose for which the loans are made; 15891

(B) Retain the services of or employ financial consultants, 15892
appraisers, consulting engineers, superintendents, managers, 15893
construction and accounting experts, attorneys, and employees, 15894
agents, and independent contractors that the director determines 15895
to be necessary and fix the compensation for their services; 15896

(C) Receive and accept from any person grants, gifts, 15897
contributions of money, property, labor, and other things of value 15898
to be held, used, and applied only for the purpose for which such 15899
grants, gifts, and contributions are made; 15900

(D) Enter into appropriate agreements with other governmental 15901
entities to provide for all of the following: 15902

(1) Payment of allowable costs related to the development of 15903
eligible projects for which loans have been made from the 15904
watercraft revolving loan fund; 15905

(2) Any governmental action a governmental entity is 15906

authorized to take, including undertaking on behalf and at the 15907
request of the director any action that the director is authorized 15908
to undertake pursuant to sections 1547.721 to 1547.725 of the 15909
Revised Code; 15910

(3) The operation of facilities associated with eligible 15911
projects. 15912

All state agencies shall cooperate with and provide 15913
assistance to the director as is necessary for the administration 15914
of sections 1547.721 to 1547.726 of the Revised Code. 15915

Sec. 1547.726. All money received by the state from the 15916
repayment of loans made from the watercraft revolving loan fund, 15917
including interest, fees, and charges associated with such loans, 15918
shall be deposited to the credit of the watercraft revolving loan 15919
fund. 15920

Sec. 1548.06. (A)(1) Application for a certificate of title 15921
for a watercraft or outboard motor shall be made upon a form 15922
prescribed by the chief of the division of watercraft and shall be 15923
sworn to before a notary public or other officer empowered to 15924
administer oaths. The application shall be filed with the clerk of 15925
any court of common pleas. An application for a certificate of 15926
title may be filed electronically by any electronic means approved 15927
by the chief in any county with the clerk of the court of common 15928
pleas of that county. The application shall be accompanied by the 15929
fee prescribed in section 1548.10 of the Revised Code. The fee 15930
shall be retained by the clerk who issues the certificate of title 15931
and shall be distributed in accordance with that section. If a 15932
clerk of a court of common pleas, other than the clerk of the 15933
court of common pleas of an applicant's county of residence, 15934
issues a certificate of title to the applicant, the clerk shall 15935
transmit data related to the transaction to the automated title 15936

processing system. 15937

(2) If a certificate of title previously has been issued for 15938
the watercraft or outboard motor, the application for a 15939
certificate of title also shall be accompanied by the certificate 15940
of title duly assigned unless otherwise provided in this chapter. 15941
If a certificate of title previously has not been issued for the 15942
watercraft or outboard motor in this state, the application, 15943
unless otherwise provided in this chapter, shall be accompanied by 15944
a manufacturer's or importer's certificate; by a sworn statement 15945
of ownership if the watercraft or outboard motor was purchased by 15946
the applicant on or before October 9, 1963, or if the watercraft 15947
is less than fourteen feet long with a permanently affixed 15948
mechanical means of propulsion and was purchased by the applicant 15949
on or before January 1, 2000; or by a certificate of title, bill 15950
of sale, or other evidence of ownership required by the law of 15951
another state from which the watercraft or outboard motor was 15952
brought into this state. Evidence of ownership of a watercraft or 15953
outboard motor for which an Ohio certificate of title previously 15954
has not been issued and which watercraft or outboard motor does 15955
not have permanently affixed to it a manufacturer's serial number 15956
shall be accompanied by the certificate of assignment of a hull 15957
identification number assigned by the chief as provided in section 15958
1548.07 of the Revised Code. 15959

(3) The clerk shall retain the evidence of title presented by 15960
the applicant and on which the certificate of title is issued, 15961
except that, if an application for a certificate of title is filed 15962
electronically, by a vendor on behalf of a purchaser of a 15963
watercraft or outboard motor, the clerk shall retain the completed 15964
electronic record to which the vendor converted the certificate of 15965
title application and other required documents. The chief, after 15966
consultation with the attorney general, shall adopt rules that 15967
govern the location at which, and the manner in which, are stored 15968

the actual application and all other documents relating to the 15969
sale of a watercraft or outboard motor when a vendor files the 15970
application for a certificate of title electronically on behalf of 15971
a purchaser. 15972

(B) The clerk shall use reasonable diligence in ascertaining 15973
whether the facts in the application are true by checking the 15974
application and documents accompanying it or the electronic record 15975
to which a vendor converted the application and accompanying 15976
documents with the records of watercraft and outboard motors in 15977
the clerk's office. If the clerk is satisfied that the applicant 15978
is the owner of the watercraft or outboard motor and that the 15979
application is in the proper form, the clerk shall issue a 15980
physical certificate of title over the clerk's signature and 15981
sealed with the clerk's seal unless the applicant specifically 15982
requests the clerk not to issue a physical certificate of title 15983
and instead to issue an electronic certificate of title. However, 15984
if the evidence indicates and an investigation shows that one or 15985
more Ohio titles already exist for the watercraft or outboard 15986
motor, the chief may cause the redundant title or titles to be 15987
canceled. 15988

(C) In the case of the sale of a watercraft or outboard motor 15989
by a vendor to a general purchaser or user, the certificate of 15990
title shall be obtained in the name of the purchaser by the vendor 15991
upon application signed by the purchaser. In all other cases, the 15992
certificate shall be obtained by the purchaser. In all cases of 15993
transfer of watercraft or outboard motors, the application for 15994
certificate of title shall be filed within thirty days after the 15995
later of the date of purchase or assignment of ownership of the 15996
watercraft or outboard motor. If the application for certificate 15997
of title is not filed within thirty days after the later of the 15998
date of purchase or assignment of ownership of the watercraft or 15999
outboard motor, the clerk shall charge a late penalty fee of five 16000

dollars in addition to the fee prescribed by section 1548.10 of 16001
the Revised Code. The clerk shall retain the entire amount of each 16002
late penalty fee. 16003

(D) The clerk shall refuse to accept an application for 16004
certificate of title unless the applicant either tenders with the 16005
application payment of all taxes levied by or pursuant to Chapter 16006
5739. or 5741. of the Revised Code based on the applicant's county 16007
of residence less, in the case of a sale by a vendor, any discount 16008
to which the vendor is entitled under section 5739.12 of the 16009
Revised Code, or submits any of the following: 16010

~~(A)~~(1) A receipt issued by the tax commissioner or a clerk of 16011
courts showing payment of the tax; 16012

~~(B)~~(2) A copy of the unit certificate of exemption completed 16013
by the purchaser at the time of sale as provided in section 16014
5739.03 of the Revised Code; 16015

~~(C)~~(3) An exemption certificate, in a form prescribed by the 16016
tax commissioner, that specifies why the purchase is not subject 16017
to the tax imposed by Chapter 5739. or 5741. of the Revised Code. 16018

Payment of the tax shall be in accordance with rules issued 16019
by the tax commissioner, and the clerk shall issue a receipt in 16020
the form prescribed by the tax commissioner to any applicant who 16021
tenders payment of the tax with the application for the 16022
certificate of title. 16023

(E)(1) For receiving and disbursing the taxes paid to the 16024
clerk by a resident of the clerk's county, the clerk may retain a 16025
poundage fee of one and one one-hundredth per cent of the taxes 16026
collected, which shall be paid into the certificate of title 16027
administration fund created by section 325.33 of the Revised Code. 16028
The clerk shall not retain a poundage fee from payments of taxes 16029
by persons who do not reside in the clerk's county. 16030

(2) A clerk, however, may retain from the taxes paid to the 16031

clerk an amount equal to the poundage fees associated with 16032
certificates of title issued by other clerks of courts of common 16033
pleas to applicants who reside in the first clerk's county. The 16034
chief of the division of watercraft, in consultation with the tax 16035
commissioner and the clerks of the courts of common pleas, shall 16036
develop a report from the automated title processing system that 16037
informs each clerk of the amount of the poundage fees that the 16038
clerk is permitted to retain from those taxes because of 16039
certificates of title issued by the clerks of other counties to 16040
applicants who reside in the first clerk's county. 16041

(F) In the case of casual sales of watercraft or outboard 16042
motors that are subject to the tax imposed by Chapter 5739. or 16043
5741. of the Revised Code, the purchase price for the purpose of 16044
determining the tax shall be the purchase price on an affidavit 16045
executed and filed with the clerk by the vendor on a form to be 16046
prescribed by the chief, which shall be prima-facie evidence of 16047
the price for the determination of the tax. In addition to the 16048
information required by section 1548.08 of the Revised Code, each 16049
certificate of title shall contain in bold lettering the following 16050
notification and statements: "WARNING TO TRANSFEROR AND TRANSFEREE 16051
(SELLER AND BUYER). You are required by law to state the true 16052
selling price. A false statement is a violation of section 2921.13 16053
of the Revised Code and is punishable by six months imprisonment 16054
or a fine of up to one thousand dollars, or both. All transfers 16055
are audited by the department of taxation. The seller and buyer 16056
must provide any information requested by the department of 16057
taxation. The buyer may be assessed any additional tax found to be 16058
due." 16059

~~The clerk shall forward all payments of taxes, less poundage 16060
fees, to the treasurer of state in a manner to be prescribed by 16061
the tax commissioner and shall furnish information to the 16062
commissioner as the commissioner may require. (G) Each county 16063~~

clerk of courts shall forward to the treasurer of state all sales 16064
and use tax collections resulting from sales of titled watercraft 16065
and outboard motors during a calendar week on or before the Friday 16066
following the close of that week. If, on any Friday, the offices 16067
of the clerk of courts or the state are not open for business, the 16068
tax shall be forwarded to the treasurer of state on or before the 16069
next day on which the offices are open. Every remittance of tax 16070
under this division shall be accompanied by a remittance report in 16071
such form as the tax commissioner prescribes. Upon receipt of a 16072
tax remittance and remittance report, the treasurer of state shall 16073
date stamp the report and forward it to the tax commissioner. If 16074
the tax due for any week is not remitted by a clerk of courts as 16075
required under this division, the clerk shall forfeit the poundage 16076
fees for the sales made during that week. The treasurer of state 16077
may require the clerks of courts to transmit tax collections and 16078
remittance reports electronically. 16079

(H) For purposes of a transfer of a certificate of title, if 16080
the clerk is satisfied that a secured party has discharged a lien 16081
but has not canceled the lien notation with a clerk, the clerk may 16082
cancel the lien notation on the automated title processing system 16083
and notify the clerk of the county of origin. 16084

(I) Every clerk shall have the capability to transact by 16085
electronic means all procedures and transactions relating to the 16086
issuance of watercraft or outboard motor certificates of title 16087
that are described in the Revised Code as being accomplished by 16088
electronic means. 16089

Sec. 1707.01. As used in this chapter: 16090

(A) Whenever the context requires it, "division" or "division 16091
of securities" may be read as "director of commerce" or as 16092
"commissioner of securities." 16093

(B) "Security" means any certificate or instrument, or any 16094

oral, written, or electronic agreement, understanding, or 16095
opportunity, that represents title to or interest in, or is 16096
secured by any lien or charge upon, the capital, assets, profits, 16097
property, or credit of any person or of any public or governmental 16098
body, subdivision, or agency. It includes shares of stock, 16099
certificates for shares of stock, an uncertificated security, 16100
membership interests in limited liability companies, voting-trust 16101
certificates, warrants and options to purchase securities, 16102
subscription rights, interim receipts, interim certificates, 16103
promissory notes, all forms of commercial paper, evidences of 16104
indebtedness, bonds, debentures, land trust certificates, fee 16105
certificates, leasehold certificates, syndicate certificates, 16106
endowment certificates, interests in or under profit-sharing or 16107
participation agreements, interests in or under oil, gas, or 16108
mining leases, preorganization or reorganization subscriptions, 16109
preorganization certificates, reorganization certificates, 16110
interests in any trust or pretended trust, any investment 16111
contract, any life settlement interest, any instrument evidencing 16112
a promise or an agreement to pay money, warehouse receipts for 16113
intoxicating liquor, and the currency of any government other than 16114
those of the United States and Canada, but sections 1707.01 to 16115
1707.45 of the Revised Code do not apply to the sale of real 16116
estate. 16117

(C)(1) "Sale" has the full meaning of "sale" as applied by or 16118
accepted in courts of law or equity, and includes every 16119
disposition, or attempt to dispose, of a security or of an 16120
interest in a security. "Sale" also includes a contract to sell, 16121
an exchange, an attempt to sell, an option of sale, a solicitation 16122
of a sale, a solicitation of an offer to buy, a subscription, or 16123
an offer to sell, directly or indirectly, by agent, circular, 16124
pamphlet, advertisement, or otherwise. 16125

(2) "Sell" means any act by which a sale is made. 16126

(3) The use of advertisements, circulars, or pamphlets in connection with the sale of securities in this state exclusively to the purchasers specified in division (D) of section 1707.03 of the Revised Code is not a sale when the advertisements, circulars, and pamphlets describing and offering those securities bear a readily legible legend in substance as follows: "This offer is made on behalf of dealers licensed under sections 1707.01 to 1707.45 of the Revised Code, and is confined in this state exclusively to institutional investors and licensed dealers."

(4) The offering of securities by any person in conjunction with a licensed dealer by use of advertisement, circular, or pamphlet is not a sale if that person does not otherwise attempt to sell securities in this state.

(5) Any security given with, or as a bonus on account of, any purchase of securities is conclusively presumed to constitute a part of the subject of that purchase and has been "sold."

(6) "Sale" by an owner, pledgee, or mortgagee, or by a person acting in a representative capacity, includes sale on behalf of such party by an agent, including a licensed dealer or salesperson.

(D) "Person," except as otherwise provided in this chapter, means a natural person, firm, partnership, limited partnership, partnership association, syndicate, joint-stock company, unincorporated association, trust or trustee except where the trust was created or the trustee designated by law or judicial authority or by a will, and a corporation or limited liability company organized under the laws of any state, any foreign government, or any political subdivision of a state or foreign government.

(E)(1) "Dealer," except as otherwise provided in this chapter, means every person, other than a salesperson, who engages

or professes to engage, in this state, for either all or part of 16158
the person's time, directly or indirectly, either in the business 16159
of the sale of securities for the person's own account, or in the 16160
business of the purchase or sale of securities for the account of 16161
others in the reasonable expectation of receiving a commission, 16162
fee, or other remuneration as a result of engaging in the purchase 16163
and sale of securities. "Dealer" does not mean any of the 16164
following: 16165

(a) Any issuer, including any officer, director, employee, or 16166
trustee of, or member or manager of, or partner in, or any general 16167
partner of, any issuer, that sells, offers for sale, or does any 16168
act in furtherance of the sale of a security that represents an 16169
economic interest in that issuer, provided no commission, fee, or 16170
other similar remuneration is paid to or received by the issuer 16171
for the sale; 16172

(b) Any licensed attorney, public accountant, or firm of such 16173
attorneys or accountants, whose activities are incidental to the 16174
practice of the attorney's, accountant's, or firm's profession; 16175

(c) Any person that, for the account of others, engages in 16176
the purchase or sale of securities that are issued and outstanding 16177
before such purchase and sale, if a majority or more of the equity 16178
interest of an issuer is sold in that transaction, and if, in the 16179
case of a corporation, the securities sold in that transaction 16180
represent a majority or more of the voting power of the 16181
corporation in the election of directors; 16182

(d) Any person that brings an issuer together with a 16183
potential investor and whose compensation is not directly or 16184
indirectly based on the sale of any securities by the issuer to 16185
the investor; 16186

(e) Any bank; 16187

(f) Any person that the division of securities by rule 16188

exempts from the definition of "dealer" under division (E)(1) of
this section. 16189
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(2) "Licensed dealer" means a dealer licensed under this
chapter. 16191
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(F)(1) "Salesman" or "salesperson" means every natural
person, other than a dealer, who is employed, authorized, or
appointed by a dealer to sell securities within this state. 16193
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(2) The general partners of a partnership, and the executive
officers of a corporation or unincorporated association, licensed
as a dealer are not salespersons within the meaning of this
definition, nor are such clerical or other employees of an issuer
or dealer as are employed for work to which the sale of securities
is secondary and incidental; but the division of securities may
require a license from any such partner, executive officer, or
employee if it determines that protection of the public
necessitates the licensing. 16196
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(3) "Licensed salesperson" means a salesperson licensed under
this chapter. 16205
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(G) "Issuer" means every person who has issued, proposes to
issue, or issues any security. 16207
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(H) "Director" means each director or trustee of a
corporation, each trustee of a trust, each general partner of a
partnership, except a partnership association, each manager of a
partnership association, and any person vested with managerial or
directory power over an issuer not having a board of directors or
trustees. 16209
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(I) "Incorporator" means any incorporator of a corporation
and any organizer of, or any person participating, other than in a
representative or professional capacity, in the organization of an
unincorporated issuer. 16215
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(J) "Fraud," "fraudulent," "fraudulent acts," "fraudulent practices," or "fraudulent transactions" means anything recognized on or after July 22, 1929, as such in courts of law or equity; any device, scheme, or artifice to defraud or to obtain money or property by means of any false pretense, representation, or promise; any fictitious or pretended purchase or sale of securities; and any act, practice, transaction, or course of business relating to the purchase or sale of securities that is fraudulent or that has operated or would operate as a fraud upon the seller or purchaser.

(K) Except as otherwise specifically provided, whenever any classification or computation is based upon "par value," as applied to securities without par value, the average of the aggregate consideration received or to be received by the issuer for each class of those securities shall be used as the basis for that classification or computation.

(L)(1) "Intangible property" means patents, copyrights, secret processes, formulas, services, good will, promotion and organization fees and expenses, trademarks, trade brands, trade names, licenses, franchises, any other assets treated as intangible according to generally accepted accounting principles, and securities, accounts receivable, or contract rights having no readily determinable value.

(2) "Tangible property" means all property other than intangible property and includes securities, accounts receivable, and contract rights, when the securities, accounts receivable, or contract rights have a readily determinable value.

(M) "Public utilities" means those utilities defined in sections 4905.02, 4905.03, 4907.02, and 4907.03 of the Revised Code; in the case of a foreign corporation, it means those utilities defined as public utilities by the laws of its domicile; and in the case of any other foreign issuer, it means those

utilities defined as public utilities by the laws of the situs of 16251
its principal place of business. The term always includes 16252
railroads whether or not they are so defined as public utilities. 16253

(N) "State" means any state of the United States, any 16254
territory or possession of the United States, the District of 16255
Columbia, and any province of Canada. 16256

(O) "Bank" means any bank, trust company, savings and loan 16257
association, savings bank, or credit union that is incorporated or 16258
organized under the laws of the United States, any state of the 16259
United States, Canada, or any province of Canada and that is 16260
subject to regulation or supervision by that country, state, or 16261
province. 16262

(P) "Include," when used in a definition, does not exclude 16263
other things or persons otherwise within the meaning of the term 16264
defined. 16265

(Q)(1) "Registration by description" means that the 16266
requirements of section 1707.08 of the Revised Code have been 16267
complied with. 16268

(2) "Registration by qualification" means that the 16269
requirements of sections 1707.09 and 1707.11 of the Revised Code 16270
have been complied with. 16271

(3) "Registration by coordination" means that there has been 16272
compliance with section 1707.091 of the Revised Code. Reference in 16273
this chapter to registration by qualification also shall be deemed 16274
to include registration by coordination unless the context 16275
otherwise indicates. 16276

(R) "Intoxicating liquor" includes all liquids and compounds 16277
that contain more than three and two-tenths per cent of alcohol by 16278
weight and are fit for use for beverage purposes. 16279

(S) "Institutional investor" means any corporation, bank, 16280

insurance company, pension fund or pension fund trust, employees' 16281
profit-sharing fund or employees' profit-sharing trust, any 16282
association engaged, as a substantial part of its business or 16283
operations, in purchasing or holding securities, or any trust in 16284
respect of which a bank is trustee or cotrustee. "Institutional 16285
investor" does not include any business entity formed for the 16286
primary purpose of evading sections 1707.01 to 1707.45 of the 16287
Revised Code. 16288

(T) "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 77a, 16289
"Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a, 16290
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, 16291
"Investment Advisers Act of 1940," 54 Stat. 847, 15 U.S.C. 80b, 16292
and "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a 16293
mean the federal statutes of those names as amended before or 16294
after March 18, 1999. 16295

(U) "Securities and exchange commission" means the securities 16296
and exchange commission established by the Securities Exchange Act 16297
of 1934. 16298

(V)(1) "Control bid" means the purchase of or offer to 16299
purchase any equity security of a subject company from a resident 16300
of this state if either of the following applies: 16301

(a) After the purchase of that security, the offeror would be 16302
directly or indirectly the beneficial owner of more than ten per 16303
cent of any class of the issued and outstanding equity securities 16304
of the issuer. 16305

(b) The offeror is the subject company, there is a pending 16306
control bid by a person other than the issuer, and the number of 16307
the issued and outstanding shares of the subject company would be 16308
reduced by more than ten per cent. 16309

(2) For purposes of division (V)(1) of this section, "control 16310
bid" does not include any of the following: 16311

(a) A bid made by a dealer for the dealer's own account in 16312
the ordinary course of business of buying and selling securities; 16313

(b) An offer to acquire any equity security solely in 16314
exchange for any other security, or the acquisition of any equity 16315
security pursuant to an offer, for the sole account of the 16316
offeror, in good faith and not for the purpose of avoiding the 16317
provisions of this chapter, and not involving any public offering 16318
of the other security within the meaning of Section 4 of Title I 16319
of the "Securities Act of 1933," 48 Stat. 77, 15 U.S.C.A. 77d(2), 16320
as amended; 16321

(c) Any other offer to acquire any equity security, or the 16322
acquisition of any equity security pursuant to an offer, for the 16323
sole account of the offeror, from not more than fifty persons, in 16324
good faith and not for the purpose of avoiding the provisions of 16325
this chapter. 16326

(W) "Offeror" means a person who makes, or in any way 16327
participates or aids in making, a control bid and includes persons 16328
acting jointly or in concert, or who intend to exercise jointly or 16329
in concert any voting rights attached to the securities for which 16330
the control bid is made and also includes any subject company 16331
making a control bid for its own securities. 16332

(X)(1) "Investment adviser" means any person who, for 16333
compensation, engages in the business of advising others, either 16334
directly or through publications or writings, as to the value of 16335
securities or as to the advisability of investing in, purchasing, 16336
or selling securities, or who, for compensation and as a part of 16337
regular business, issues or promulgates analyses or reports 16338
concerning securities. 16339

(2) "Investment adviser" does not mean any of the following: 16340

(a) Any attorney, accountant, engineer, or teacher, whose 16341
performance of investment advisory services described in division 16342

(X)(1) of this section is solely incidental to the practice of the attorney's, accountant's, engineer's, or teacher's profession; 16343
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(b) A publisher of any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation; 16345
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(c) A person who acts solely as an investment adviser representative; 16348
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(d) A bank holding company, as defined in the "Bank Holding Company Act of 1956," 70 Stat. 133, 12 U.S.C. 1841, that is not an investment company; 16350
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(e) A bank, or any receiver, conservator, or other liquidating agent of a bank; 16353
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(f) Any licensed dealer or licensed salesperson whose performance of investment advisory services described in division (X)(1) of this section is solely incidental to the conduct of the dealer's or salesperson's business as a licensed dealer or licensed salesperson and who receives no special compensation for the services; 16355
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(g) Any person, the advice, analyses, or reports of which do not relate to securities other than securities that are direct obligations of, or obligations guaranteed as to principal or interest by, the United States, or securities issued or guaranteed by corporations in which the United States has a direct or indirect interest, and that have been designated by the secretary of the treasury as exempt securities as defined in the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78c; 16361
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(h) Any person that is excluded from the definition of investment adviser pursuant to section 202(a)(11)(A) to (E) of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-2(a)(11), or that has received an order from the securities and exchange commission under section 202(a)(11)(F) of the "Investment Advisers Act of 16369
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1940," 15 U.S.C. 80b-2(a)(11)(F), declaring that the person is not
within the intent of section 202(a)(11) of the Investment Advisers
Act of 1940.

(i) A person who acts solely as a state retirement system
investment officer or as a bureau of workers' compensation chief
investment officer;

(j) Any other person that the division designates by rule, if
the division finds that the designation is necessary or
appropriate in the public interest or for the protection of
investors or clients and consistent with the purposes fairly
intended by the policy and provisions of this chapter.

(Y)(1) "Subject company" means an issuer that satisfies both
of the following:

(a) Its principal place of business or its principal
executive office is located in this state, or it owns or controls
assets located within this state that have a fair market value of
at least one million dollars.

(b) More than ten per cent of its beneficial or record equity
security holders are resident in this state, more than ten per
cent of its equity securities are owned beneficially or of record
by residents in this state, or more than one thousand of its
beneficial or record equity security holders are resident in this
state.

(2) The division of securities may adopt rules to establish
more specific application of the provisions set forth in division
(Y)(1) of this section. Notwithstanding the provisions set forth
in division (Y)(1) of this section and any rules adopted under
this division, the division, by rule or in an adjudicatory
proceeding, may make a determination that an issuer does not
constitute a "subject company" under division (Y)(1) of this
section if appropriate review of control bids involving the issuer

is to be made by any regulatory authority of another jurisdiction. 16405

(Z) "Beneficial owner" includes any person who directly or 16406
indirectly through any contract, arrangement, understanding, or 16407
relationship has or shares, or otherwise has or shares, the power 16408
to vote or direct the voting of a security or the power to dispose 16409
of, or direct the disposition of, the security. "Beneficial 16410
ownership" includes the right, exercisable within sixty days, to 16411
acquire any security through the exercise of any option, warrant, 16412
or right, the conversion of any convertible security, or 16413
otherwise. Any security subject to any such option, warrant, 16414
right, or conversion privilege held by any person shall be deemed 16415
to be outstanding for the purpose of computing the percentage of 16416
outstanding securities of the class owned by that person, but 16417
shall not be deemed to be outstanding for the purpose of computing 16418
the percentage of the class owned by any other person. A person 16419
shall be deemed the beneficial owner of any security beneficially 16420
owned by any relative or spouse or relative of the spouse residing 16421
in the home of that person, any trust or estate in which that 16422
person owns ten per cent or more of the total beneficial interest 16423
or serves as trustee or executor, any corporation or entity in 16424
which that person owns ten per cent or more of the equity, and any 16425
affiliate or associate of that person. 16426

(AA) "Offeree" means the beneficial or record owner of any 16427
security that an offeror acquires or offers to acquire in 16428
connection with a control bid. 16429

(BB) "Equity security" means any share or similar security, 16430
or any security convertible into any such security, or carrying 16431
any warrant or right to subscribe to or purchase any such 16432
security, or any such warrant or right, or any other security 16433
that, for the protection of security holders, is treated as an 16434
equity security pursuant to rules of the division of securities. 16435

(CC)(1) "Investment adviser representative" means a 16436

supervised person of an investment adviser, provided that the 16437
supervised person has more than five clients who are natural 16438
persons other than excepted persons defined in division (EE) of 16439
this section, and that more than ten per cent of the supervised 16440
person's clients are natural persons other than excepted persons 16441
defined in division (EE) of this section. "Investment adviser 16442
representative" does not mean any of the following: 16443

(a) A supervised person that does not on a regular basis 16444
solicit, meet with, or otherwise communicate with clients of the 16445
investment adviser; 16446

(b) A supervised person that provides only investment 16447
advisory services described in division (X)(1) of this section by 16448
means of written materials or oral statements that do not purport 16449
to meet the objectives or needs of specific individuals or 16450
accounts; 16451

(c) Any other person that the division designates by rule, if 16452
the division finds that the designation is necessary or 16453
appropriate in the public interest or for the protection of 16454
investors or clients and is consistent with the provisions fairly 16455
intended by the policy and provisions of this chapter. 16456

(2) For the purpose of the calculation of clients in division 16457
(CC)(1) of this section, a natural person and the following 16458
persons are deemed a single client: Any minor child of the natural 16459
person; any relative, spouse, or relative of the spouse of the 16460
natural person who has the same principal residence as the natural 16461
person; all accounts of which the natural person or the persons 16462
referred to in division (CC)(2) of this section are the only 16463
primary beneficiaries; and all trusts of which the natural person 16464
or persons referred to in division (CC)(2) of this section are the 16465
only primary beneficiaries. Persons who are not residents of the 16466
United States need not be included in the calculation of clients 16467
under division (CC)(1) of this section. 16468

(3) If subsequent to March 18, 1999, amendments are enacted 16469
or adopted defining "investment adviser representative" for 16470
purposes of the Investment Advisers Act of 1940 or additional 16471
rules or regulations are promulgated by the securities and 16472
exchange commission regarding the definition of "investment 16473
adviser representative" for purposes of the Investment Advisers 16474
Act of 1940, the division of securities shall, by rule, adopt the 16475
substance of the amendments, rules, or regulations, unless the 16476
division finds that the amendments, rules, or regulations are not 16477
necessary for the protection of investors or in the public 16478
interest. 16479

(DD) "Supervised person" means a natural person who is any of 16480
the following: 16481

(1) A partner, officer, or director of an investment adviser, 16482
or other person occupying a similar status or performing similar 16483
functions with respect to an investment adviser; 16484

(2) An employee of an investment adviser; 16485

(3) A person who provides investment advisory services 16486
described in division (X)(1) of this section on behalf of the 16487
investment adviser and is subject to the supervision and control 16488
of the investment adviser. 16489

(EE) "Excepted person" means a natural person to whom any of 16490
the following applies: 16491

(1) Immediately after entering into the investment advisory 16492
contract with the investment adviser, the person has at least 16493
seven hundred fifty thousand dollars under the management of the 16494
investment adviser. 16495

(2) The investment adviser reasonably believes either of the 16496
following at the time the investment advisory contract is entered 16497
into with the person: 16498

(a) The person has a net worth, together with assets held jointly with a spouse, of more than one million five hundred thousand dollars. 16499
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(b) The person is a qualified purchaser as defined in division (FF) of this section. 16502
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(3) Immediately prior to entering into an investment advisory contract with the investment adviser, the person is either of the following: 16504
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(a) An executive officer, director, trustee, general partner, or person serving in a similar capacity, of the investment adviser; 16507
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(b) An employee of the investment adviser, other than an employee performing solely clerical, secretarial, or administrative functions or duties for the investment adviser, which employee, in connection with the employee's regular functions or duties, participates in the investment activities of the investment adviser, provided that, for at least twelve months, the employee has been performing such nonclerical, nonsecretarial, or nonadministrative functions or duties for or on behalf of the investment adviser or performing substantially similar functions or duties for or on behalf of another company. 16510
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If subsequent to March 18, 1999, amendments are enacted or adopted defining "excepted person" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "excepted person" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the substance of the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest. 16520
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(FF)(1) "Qualified purchaser" means either of the following: 16530

(a) A natural person who owns not less than five million 16531
dollars in investments as defined by rule by the division of 16532
securities; 16533

(b) A natural person, acting for the person's own account or 16534
accounts of other qualified purchasers, who in the aggregate owns 16535
and invests on a discretionary basis, not less than twenty-five 16536
million dollars in investments as defined by rule by the division 16537
of securities. 16538

(2) If subsequent to March 18, 1999, amendments are enacted 16539
or adopted defining "qualified purchaser" for purposes of the 16540
Investment Advisers Act of 1940 or additional rules or regulations 16541
are promulgated by the securities and exchange commission 16542
regarding the definition of "qualified purchaser" for purposes of 16543
the Investment Advisers Act of 1940, the division of securities 16544
shall, by rule, adopt the amendments, rules, or regulations, 16545
unless the division finds that the amendments, rules, or 16546
regulations are not necessary for the protection of investors or 16547
in the public interest. 16548

(GG)(1) "Purchase" has the full meaning of "purchase" as 16549
applied by or accepted in courts of law or equity and includes 16550
every acquisition of, or attempt to acquire, a security or an 16551
interest in a security. "Purchase" also includes a contract to 16552
purchase, an exchange, an attempt to purchase, an option to 16553
purchase, a solicitation of a purchase, a solicitation of an offer 16554
to sell, a subscription, or an offer to purchase, directly or 16555
indirectly, by agent, circular, pamphlet, advertisement, or 16556
otherwise. 16557

(2) "Purchase" means any act by which a purchase is made. 16558

(3) Any security given with, or as a bonus on account of, any 16559
purchase of securities is conclusively presumed to constitute a 16560

part of the subject of that purchase. 16561

(HH) "Life settlement interest" means the entire interest or 16562
any fractional interest in an insurance policy or certificate of 16563
insurance, or in an insurance benefit under such a policy or 16564
certificate, that is the subject of a life settlement contract. 16565

For purposes of this division, "life settlement contract" 16566
means an agreement for the purchase, sale, assignment, transfer, 16567
devise, or bequest of any portion of the death benefit or 16568
ownership of any life insurance policy or contract, in return for 16569
consideration or any other thing of value that is less than the 16570
expected death benefit of the life insurance policy or contract. 16571
"Life settlement contract" includes a viatical settlement contract 16572
as defined in section 3916.01 of the Revised Code, but does not 16573
include any of the following: 16574

(1) A loan by an insurer under the terms of a life insurance 16575
policy, including, but not limited to, a loan secured by the cash 16576
value of the policy; 16577

(2) An agreement with a bank that takes an assignment of a 16578
life insurance policy as collateral for a loan; 16579

(3) The provision of accelerated benefits as defined in 16580
section 3915.21 of the Revised Code; 16581

(4) Any agreement between an insurer and a reinsurer; 16582

(5) An agreement by an individual to purchase an existing 16583
life insurance policy or contract from the original owner of the 16584
policy or contract, if the individual does not enter into more 16585
than one life settlement contract per calendar year; 16586

(6) The initial purchase of an insurance policy or 16587
certificate of insurance from its owner by a viatical settlement 16588
provider, as defined in section 3916.01 of the Revised Code, that 16589
is licensed under Chapter 3916. of the Revised Code. 16590

(II) "State retirement system" means the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, and state highway patrol retirement system.

(JJ) "State retirement system investment officer" means an individual employed by a state retirement system as a chief investment officer, assistant investment officer, or the person in charge of a class of assets or in a position that is substantially equivalent to chief investment officer, assistant investment officer, or person in charge of a class of assets.

(KK) "Bureau of workers' compensation chief investment officer" means an individual employed by the bureau of workers' compensation as a chief investment officer in a position that is substantially equivalent to a chief investment officer.

Sec. 1707.164. (A) No person shall act as a bureau of workers' compensation chief investment officer unless the person is licensed as a bureau of workers' compensation chief investment officer by the division of securities.

(B) No bureau of workers' compensation chief investment officer shall act as a dealer, salesperson, investment advisor, or investment advisor representative.

Sec. 1707.165. (A) Application for a bureau of workers' compensation chief investment officer's license shall be made in accordance with this section by filing with the division of securities the information, materials, and forms specified in rules adopted by the division.

(B) The division may investigate any applicant for a license and may require any additional information as it considers necessary to determine the applicant's business repute and qualifications to act as a chief investment officer. If the

application for a bureau of workers' compensation chief investment officer's license involves investigation outside of this state, the applicant may be required by the division to advance sufficient funds to pay any of the actual expenses of the investigation. The division shall furnish the applicant with an itemized statement of the expenses the applicant is required to pay. 16621
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(C) The division shall by rule require an applicant for a bureau of workers' compensation chief investment officer's license to pass an examination designated by the division or achieve a specified professional designation unless the applicant meets both of the following requirements: 16628
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(1) Acts as a bureau of workers' compensation chief investment officer on the effective date of this section; 16633
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(2) Has experience or education acceptable to the division. 16635

(D) If the division finds that the applicant is of good business repute, appears to be qualified to act as a bureau of workers' compensation chief investment officer, and has complied with this chapter and rules adopted by the division under this chapter, the division, upon receipt of the fees prescribed by division (B) of section 1707.17 of the Revised Code, shall issue to the applicant a license authorizing the applicant to act as a bureau of workers' compensation chief investment officer. 16636
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Sec. 1707.17. (A)(1) The license of every dealer in and salesperson of securities shall expire on the thirty-first day of December of each year, and may be renewed upon the filing with the division of securities of an application for renewal, and the payment of the fee prescribed in this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal of a dealer's or salesperson's license. 16644
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(2) The license of every investment adviser and investment adviser representative licensed under section 1707.141 or 1707.161 of the Revised Code shall expire on the thirty-first day of December of each year. The licenses may be renewed upon the filing with the division of an application for renewal, and the payment of the fee prescribed in division (B) of this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal.

(3) An investment adviser required to make a notice filing under division (B) of section 1707.141 of the Revised Code annually shall file with the division the notice filing and the fee prescribed in division (B) of this section, no later than the thirty-first day of December of each year.

(4) The license of every state retirement system investment officer licensed under section 1707.163 of the Revised Code and the license of a bureau of workers' compensation chief investment officer issued under section 1707.165 of the Revised Code shall expire on the thirtieth day of June of each year. The licenses may be renewed on the filing with the division of an application for renewal, and the payment of the fee prescribed in division (B) of this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal.

(B)(1) The fee for each dealer's license, and for each annual renewal thereof, shall be one hundred dollars.

(2) The fee for each salesperson's license, and for each annual renewal thereof, shall be fifty dollars.

(3) The fee for each investment adviser's license, and for each annual renewal thereof, shall be fifty dollars.

(4) The fee for each investment adviser notice filing required by division (B) of section 1707.141 of the Revised Code shall be fifty dollars.

(5) The fee for each investment adviser representative's license, and for each annual renewal thereof, shall be thirty-five dollars. 16682
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(6) The fee for each state retirement system investment officer's license, and for each annual renewal thereof, shall be fifty dollars. 16685
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(7) The fee for a bureau of workers' compensation chief investment officer's license, and for each annual renewal thereof, shall be fifty dollars. 16688
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(C) A dealer's, salesperson's, investment adviser's, investment adviser representative's, bureau of workers' compensation chief investment officer's, or state retirement system investment officer's license may be issued at any time for the remainder of the calendar year. In that event, the annual fee shall not be reduced. 16691
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Sec. 1707.19. (A) An original license, or a renewal thereof, applied for by a dealer or salesperson of securities, or by an investment adviser, investment adviser representative, bureau of workers' compensation chief investment officer, or state retirement system investment officer, may be refused, and any such license granted may be suspended and, after notice and hearing in accordance with Chapter 119. of the Revised Code, may be revoked, by the division of securities, if the division determines that the applicant or the licensed dealer, salesperson, investment adviser, investment adviser representative, bureau of workers' compensation chief investment officer, or state retirement system investment officer: 16697
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(1) Is not of good business repute; 16709

(2) Is conducting an illegitimate or fraudulent business; 16710

(3) Is, in the case of a dealer or investment adviser, 16711

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| insolvent; | 16712 |
| (4) Has knowingly violated any provision of sections 1707.01 to 1707.45 of the Revised Code, or any regulation or order made thereunder; | 16713 16714 16715 |
| (5) Has knowingly made a false statement of a material fact or an omission of a material fact in an application for a license, in a description or application that has been filed, or in any statement made to the division under such sections; | 16716 16717 16718 16719 |
| (6) Has refused to comply with any lawful order or requirement of the division under section 1707.23 of the Revised Code; | 16720 16721 16722 |
| (7) Has been guilty of any fraudulent act in connection with the sale of any securities or in connection with acting as an investment adviser, investment adviser representative, <u>bureau of workers' compensation chief investment officer</u> , or state retirement system investment officer; | 16723 16724 16725 16726 16727 |
| (8) Conducts business in purchasing or selling securities at such variations from the existing market as in the light of all the circumstances are unconscionable; | 16728 16729 16730 |
| (9) Conducts business in violation of such rules and regulations as the division prescribes for the protection of investors, clients, or prospective clients; | 16731 16732 16733 |
| (10)(a) Has failed to furnish to the division any information with respect to the purchases or sales of securities within this state that may be reasonably requested by the division as pertinent to the protection of investors in this state. | 16734 16735 16736 16737 |
| (b) Has failed to furnish to the division any information with respect to acting as an investment adviser, investment adviser representative, <u>bureau of workers' compensation chief investment officer</u> , or state retirement system investment officer | 16738 16739 16740 16741 |

within this state that may be reasonably requested by the 16742
division. 16743

(B) For the protection of investors the division may 16744
prescribe reasonable rules defining fraudulent, evasive, 16745
deceptive, or grossly unfair practices or devices in the purchase 16746
or sale of securities. 16747

(C) For the protection of investors, clients, or prospective 16748
clients, the division may prescribe reasonable rules regarding the 16749
acts and practices of an investment adviser or an investment 16750
adviser representative. 16751

(D) Pending any investigation or hearing provided for in 16752
sections 1707.01 to 1707.45 of the Revised Code, the division may 16753
order the suspension of any dealer's, salesperson's, investment 16754
adviser's, investment adviser representative's, bureau of workers' 16755
compensation chief investment officer's, or state retirement 16756
system investment officer's license by notifying the party 16757
concerned of such suspension and the cause for it. If it is a 16758
salesperson whose license is suspended, the division shall also 16759
notify the dealer employing the salesperson. If it is an 16760
investment adviser representative whose license is suspended, the 16761
division also shall notify the investment adviser with whom the 16762
investment adviser representative is employed or associated. If it 16763
is a state retirement system investment officer whose license is 16764
suspended, the division shall also notify the state retirement 16765
system with whom the state retirement system investment officer is 16766
employed. If it is a bureau of workers' compensation chief 16767
investment officer whose license is suspended, the division shall 16768
also notify the bureau of workers' compensation. 16769

(E)(1) The suspension or revocation of the dealer's license 16770
suspends the licenses of all the dealer's salespersons. 16771

(2) The suspension or revocation of the investment adviser's 16772

license suspends the licenses of all the investment adviser's 16773
investment adviser representatives. The suspension or revocation 16774
of an investment adviser's registration under section 203 of the 16775
"Investment Advisers Act of 1940," 15 U.S.C. 80b-3, suspends the 16776
licenses of all the investment adviser's investment adviser 16777
representatives. 16778

(F) It is sufficient cause for refusal, revocation, or 16779
suspension of the license in case of a partnership, partnership 16780
association, corporation, or unincorporated association if any 16781
general partner of the partnership, manager of the partnership 16782
association, or executive officer of the corporation or 16783
unincorporated association is not of good business repute or has 16784
been guilty of any act or omission which would be cause for 16785
refusing or revoking the license of an individual dealer, 16786
salesperson, investment adviser, or investment adviser 16787
representative. 16788

Sec. 1707.20. (A) The division of securities may adopt, 16789
amend, and rescind such rules, forms, and orders as are necessary 16790
to carry out sections 1707.01 to 1707.45 of the Revised Code, 16791
including rules and forms governing registration statements, 16792
applications, and reports, and defining any terms, whether or not 16793
used in sections 1707.01 to 1707.45 of the Revised Code, insofar 16794
as the definitions are not inconsistent with these sections. For 16795
the purpose of rules and forms, the division may classify 16796
securities, persons, and matters within its jurisdiction, and 16797
prescribe different requirements for different classes. 16798

(B) No rule, form, or order may be made, amended, or 16799
rescinded unless the division finds that the action is necessary 16800
or appropriate in the public interest or for the protection of 16801
investors, clients, prospective clients, ~~or~~ state retirement 16802
systems, or the workers' compensation system and consistent with 16803

the purposes fairly intended by the policy and provisions of 16804
sections 1707.01 to 1707.45 of the Revised Code. In prescribing 16805
rules and forms and in otherwise administering sections 1707.01 to 16806
1707.45 of the Revised Code, the division may cooperate with the 16807
securities administrators of the other states and the securities 16808
and exchange commission with a view of effectuating the policy of 16809
this section to achieve maximum uniformity in the form and content 16810
of registration statements, applications, reports, and overall 16811
securities regulation wherever practicable. 16812

(C) The division may by rule or order prescribe: 16813

(1) The form and content of financial statements required 16814
under sections 1707.01 to 1707.45 of the Revised Code; 16815

(2) The circumstances under which consolidated financial 16816
statements shall be filed; 16817

(3) Whether any required financial statements shall be 16818
certified by independent or certified public accountants. All 16819
financial statements shall be prepared in accordance with 16820
generally accepted accounting practices. 16821

(D) All rules and forms of the division shall be published; 16822
and in addition to fulfilling the requirements of Chapter 119. of 16823
the Revised Code, the division shall prescribe, and shall publish 16824
and make available its rules regarding the sale of securities, the 16825
administration of sections 1707.01 to 1707.45 of the Revised Code, 16826
and the procedure and practice before the division. 16827

(E) No provision of sections 1707.01 to 1707.45 of the 16828
Revised Code imposing any liability applies to any act done or 16829
omitted in good faith in conformity with any rule, form, or order 16830
of the division of securities, notwithstanding that the rule, 16831
form, or order may later be amended or rescinded or be determined 16832
by judicial or other authority to be invalid for any reason, 16833
except that the issuance of an order granting effectiveness to a 16834

registration under section 1707.09 or 1707.091 of the Revised Code 16835
for the purposes of this division shall not be deemed an order 16836
other than as the establishment of the fact of registration. 16837

Sec. 1707.22. Whenever a dealer's, salesperson's, investment 16838
adviser's, investment adviser representative's, bureau of workers' 16839
compensation chief investment officer's, or state retirement 16840
system investment officer's license has been refused, suspended, 16841
or revoked, or a renewal thereof has been denied, by the division 16842
of securities, or whenever the division has refused to qualify 16843
securities or has suspended or revoked the registration of any 16844
particular security by description or by qualification, or the 16845
right to buy, sell, or deal in any particular security whether it 16846
is registered or qualified or exempt, or whether the transactions 16847
in it are registered or exempt, the aggrieved party may appeal in 16848
accordance with Chapter 119. of the Revised Code. 16849

An order sustaining the refusal of the division to grant or 16850
renew a dealer's, salesperson's, investment adviser's, investment 16851
adviser representative's, bureau of workers' compensation chief 16852
investment officer's, or state retirement system investment 16853
officer's license or to grant qualification of securities, or an 16854
order sustaining the division in suspending or revoking a 16855
dealer's, salesperson's, investment adviser's, investment adviser 16856
representative's, bureau of workers' compensation chief investment 16857
officer's, or state retirement system investment officer's 16858
license, the registration of any particular security by 16859
description or by qualification, or the right to buy, sell, or 16860
deal in any particular security, shall not bar, after ten days 16861
from the order, a new registration by description, or a new 16862
application of the plaintiff for such a license or qualification 16863
or for a withdrawal of a revocation or suspension; nor shall an 16864
order in favor of the plaintiff prevent the division, after proper 16865
notice and hearing, from thereafter revoking or suspending such 16866

license, registration, or right to buy, sell, or deal in a 16867
particular security, for any proper cause which may, after the 16868
order, accrue or be discovered. 16869

Sec. 1707.23. Whenever it appears to the division of 16870
securities, from its files, upon complaint, or otherwise, that any 16871
person has engaged in, is engaged in, or is about to engage in any 16872
practice declared to be illegal or prohibited by this chapter or 16873
rules adopted under this chapter by the division, or defined as 16874
fraudulent in this chapter or rules adopted under this chapter by 16875
the division, or any other deceptive scheme or practice in 16876
connection with the sale of securities, or acting as a dealer, a 16877
salesperson, an investment adviser, investment adviser 16878
representative, bureau of workers' compensation chief investment 16879
officer, or state retirement system investment officer or when the 16880
division believes it to be in the best interests of the public and 16881
necessary for the protection of investors, the division may do any 16882
of the following: 16883

(A) Require any person to file with it, on such forms as it 16884
prescribes, an original or additional statement or report in 16885
writing, under oath or otherwise, as to any facts or circumstances 16886
concerning the issuance, sale, or offer for sale of securities 16887
within this state by the person, as to the person's acts or 16888
practices as a dealer, a salesperson, an investment adviser, 16889
investment adviser representative, bureau of workers' compensation 16890
chief investment officer, or state retirement system investment 16891
officer within this state, and as to other information as it deems 16892
material or relevant thereto; 16893

(B) Examine any investment adviser, investment adviser 16894
representative, state retirement system investment officer, bureau 16895
of workers' compensation chief investment officer, or any seller, 16896
dealer, salesperson, or issuer of any securities, and any of their 16897

agents, employees, partners, officers, directors, members, or 16898
shareholders, wherever located, under oath; and examine and 16899
produce records, books, documents, accounts, and papers as the 16900
division deems material or relevant to the inquiry; 16901

(C) Require the attendance of witnesses, and the production 16902
of books, records, and papers, as are required either by the 16903
division or by any party to a hearing before the division, and for 16904
that purpose issue a subpoena for any witness, or a subpoena duces 16905
tecum to compel the production of any books, records, or papers. 16906
The subpoena shall be served by personal service or by certified 16907
mail, return receipt requested. If the subpoena is returned 16908
because of inability to deliver, or if no return is received 16909
within thirty days of the date of mailing, the subpoena may be 16910
served by ordinary mail. If no return of ordinary mail is received 16911
within thirty days after the date of mailing, service shall be 16912
deemed to have been made. If the subpoena is returned because of 16913
inability to deliver, the division may designate a person or 16914
persons to effect either personal or residence service upon the 16915
witness. The person designated to effect personal or residence 16916
service under this division may be the sheriff of the county in 16917
which the witness resides or may be found or any other duly 16918
designated person. The fees and mileage of the person serving the 16919
subpoena shall be the same as those allowed by the courts of 16920
common pleas in criminal cases, and shall be paid from the funds 16921
of the division. Fees and mileage for the witness shall be the 16922
same as those allowed for witnesses by the courts of common pleas 16923
in criminal cases, and shall be paid from the funds of the 16924
division upon request of the witness following the hearing. 16925

(D) Initiate criminal proceedings under section 1707.042 or 16926
1707.44 of the Revised Code or rules adopted under those sections 16927
by the division by laying before the prosecuting attorney of the 16928
proper county any evidence of criminality which comes to its 16929

knowledge; and in the event of the neglect or refusal of the 16930
prosecuting attorney to prosecute such violations, or at the 16931
request of the prosecuting attorney, the division shall submit the 16932
evidence to the attorney general, who may proceed in the 16933
prosecution with all the rights, privileges, and powers conferred 16934
by law on prosecuting attorneys, including the power to appear 16935
before grand juries and to interrogate witnesses before such grand 16936
juries. 16937

(E) Require any dealers immediately to furnish to the 16938
division copies of prospectuses, circulars, or advertisements 16939
respecting securities that they publish or generally distribute, 16940
or require any investment advisers immediately to furnish to the 16941
division copies of brochures, advertisements, publications, 16942
analyses, reports, or other writings that they publish or 16943
distribute; 16944

(F) Require any dealers to mail to the division, prior to 16945
sale, notices of intention to sell, in respect to all securities 16946
which are not exempt under section 1707.02 of the Revised Code, or 16947
which are sold in transactions not exempt under section 1707.03 or 16948
1707.04 of the Revised Code; 16949

(G) Issue and cause to be served by certified mail upon all 16950
persons affected an order requiring the person or persons to cease 16951
and desist from the acts or practices appearing to the division to 16952
constitute violations of this chapter or rules adopted under this 16953
chapter by the division. The order shall state specifically the 16954
section or sections of this chapter or the rule or rules adopted 16955
under this chapter by the division that appear to the division to 16956
have been violated and the facts constituting the violation. If 16957
after the issuance of the order it appears to the division that 16958
any person or persons affected by the order have engaged in any 16959
act or practice from which the person or persons shall have been 16960
required, by the order, to cease and desist, the director of 16961

commerce may apply to the court of common pleas of any county for, 16962
and upon proof of the validity of the order of the division, the 16963
delivery of the order to the person or persons affected, and of 16964
the illegality and the continuation of the acts or practices that 16965
are the subject of the order, the court may grant an injunction 16966
implementing the order of the division. 16967

(H) Issue and initiate contempt proceedings in this state 16968
regarding subpoenas and subpoenas duces tecum at the request of 16969
the securities administrator of another state, if it appears to 16970
the division that the activities for which the information is 16971
sought would violate this chapter if the activities had occurred 16972
in this state. 16973

(I) The remedies provided by this section are cumulative and 16974
concurrent with any other remedy provided in this chapter, and the 16975
exercise of one remedy does not preclude or require the exercise 16976
of any other remedy. 16977

Sec. 1707.25. In case any person fails to file any statement 16978
or report required by sections 1707.01 to 1707.45 of the Revised 16979
Code, to obey any subpoena the issuance of which is provided for 16980
in those sections, or to produce books, records, or papers, give 16981
testimony, or answer questions, as required by those sections, the 16982
director of commerce may apply to a court of common pleas of any 16983
county for, and upon proof of such failure the court may grant, an 16984
injunction restraining the acting as an investment adviser, 16985
investment adviser representative, bureau of workers' compensation 16986
chief investment officer, or state retirement system investment 16987
officer, or the issuance, sale, or offer for sale of any 16988
securities by the person or by its agents, employees, partners, 16989
officers, directors, or shareholders, until such failure has been 16990
remedied and other relief as the facts may warrant has been had. 16991
Such injunctive relief is available in addition to the other 16992

remedies provided for in sections 1707.01 to 1707.45 of the Revised Code. 16993
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Where the person refusing to comply with such order of court is an issuer of securities, the court may enjoin the sale by any dealer of any securities of the issuer, and the division of securities may revoke the qualification of the securities of the issuer, or suspend or revoke the sale of any securities of the issuer which have been registered by description, and such securities shall not thereafter be sold by any dealer until the order of the court or of the division is withdrawn. 16995
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Sec. 1707.261. (A) If a court of common pleas grants an injunction pursuant to section 1707.26 of the Revised Code, after consultation with the attorney general the director of commerce may request that court to order the defendant or defendants that are subject to the injunction to make restitution or rescission to any purchaser or holder of securities damaged by the defendant's or defendants' violation of any provision of sections 1707.01 to 1707.45 of the Revised Code. 17003
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(B) If the court of common pleas is satisfied with the sufficiency of the director's request for restitution or rescission under division (A) of this section and with the sufficiency of the proof of a substantial violation of any provision of sections 1707.01 to 1707.45 of the Revised Code, or of the use of any act, practice, or transaction declared to be illegal or prohibited or defined as fraudulent by those sections or rules adopted under those sections by the division of securities, to the material prejudice of a purchaser or holder of securities, the court may order the defendant or defendants subject to the injunction to make restitution or rescission to any purchaser or holder of securities damaged by the defendant's or defendants' violation of sections 1707.01 to 1707.45 of the 17011
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Revised Code. 17024

(C) A court order granting restitution or rescission based 17025
upon a request made pursuant to division (A) of this section shall 17026
meet the requirements of division (B) of this section and may not 17027
be based solely upon a final order issued by the division of 17028
securities pursuant to Chapter 119. of the Revised Code or upon an 17029
action to enforce a final order issued by the division pursuant to 17030
that chapter. Notwithstanding the foregoing provision, a request 17031
for restitution or rescission pursuant to division (A) of this 17032
section may concern the same acts, practices, or transactions that 17033
were, or may later be, the subject of a division of securities 17034
action for a violation of any provision of sections 1707.01 to 17035
1707.45 of the Revised Code. If a request for restitution or 17036
rescission pursuant to division (A) of this section concerns the 17037
same acts, practices, or transactions that were the subject of a 17038
final order issued by the division of securities pursuant to 17039
Chapter 119. of the Revised Code, the court shall review the 17040
request in accordance with division (B) of this section, and the 17041
standard of review in section 119.12 of the Revised Code shall not 17042
apply to the request. 17043

(D) No purchaser or holder of securities who is entitled to 17044
restitution or rescission under this section shall recover, 17045
pursuant to this section or any other proceeding, a total amount 17046
in excess of the person's purchase price for the securities sold 17047
in violation of sections 1707.01 to 1707.45 of the Revised Code. 17048

(E)(1) If a court of common pleas grants an injunction 17049
pursuant to section 1707.26 of the Revised Code against any state 17050
retirement system investment officer, after consultation with the 17051
attorney general, the director of commerce may request that court 17052
to order the state retirement system investment officer or 17053
officers that are subject to the injunction to make restitution to 17054
the state retirement system damaged by the state retirement system 17055

investment officer's or officers' violation of any provision of 17056
sections 1707.01 to 1707.45 of the Revised Code. 17057

(2) If the court of common pleas is satisfied with the 17058
sufficiency of the director's request for restitution under 17059
division (E)(1) of this section and with the sufficiency of the 17060
proof of a substantial violation of any provision of sections 17061
1707.01 to 1707.45 of the Revised Code, or of the use of any act, 17062
practice, or transaction declared to be illegal or prohibited or 17063
defined as fraudulent by those sections or rules adopted under 17064
those sections by the division of securities, to the material 17065
prejudice of a state retirement system, the court may order the 17066
state retirement system investment officer or officers subject to 17067
the injunction to make restitution to the state retirement system 17068
damaged by the state retirement system investment officer's or 17069
officers' violation of sections 1707.01 to 1707.45 of the Revised 17070
Code. A request for restitution pursuant to division (E)(1) of 17071
this section may concern the same acts, practices, or transactions 17072
that were, or may later be, the subject of a division of 17073
securities action for a violation of any provision of section 17074
1707.01 to 1707.45 of the Revised Code. 17075

(F)(1) If a court of common pleas grants an injunction 17076
pursuant to section 1707.26 of the Revised Code against a bureau 17077
of workers' compensation chief investment officer, after 17078
consultation with the attorney general, the director of commerce 17079
may request that court to order the bureau of workers' 17080
compensation chief investment officer who is subject to the 17081
injunction to make restitution to the bureau of workers' 17082
compensation damaged by the bureau of workers' compensation chief 17083
investment officer's violation of any provision of sections 17084
1707.01 to 1707.45 of the Revised Code. 17085

(2) If the court of common pleas is satisfied with the 17086
sufficiency of the director's request for restitution under 17087

division (F)(1) of this section and with the sufficiency of the 17088
proof of a substantial violation of any provision of sections 17089
1707.01 to 1707.45 of the Revised Code, or of the use of any act, 17090
practice, or transaction declared to be illegal or prohibited or 17091
defined as fraudulent by those sections or rules adopted under 17092
those sections by the division of securities, to the material 17093
prejudice of the bureau of workers' compensation, the court may 17094
order the bureau of workers' compensation chief investment officer 17095
subject to the injunction to make restitution to the bureau of 17096
workers' compensation damaged by the bureau of workers' 17097
compensation chief investment officer's violation of sections 17098
1707.01 to 1707.45 of the Revised Code. A request for restitution 17099
pursuant to division (F)(1) of this section may concern the same 17100
acts, practices, or transactions that were, or may later be, the 17101
subject of a division of securities action for a violation of any 17102
provision of section 1707.01 to 1707.45 of the Revised Code. 17103

Sec. 1707.431. For purposes of this section, the following 17104
persons shall not be deemed to have effected, participated in, or 17105
aided the seller in any way in making, a sale or contract of sale 17106
in violation of sections 1707.01 to 1707.45 of the Revised Code: 17107

(A) Any attorney, accountant, or engineer whose performance 17108
is incidental to the practice of the person's profession; 17109

(B) Any person, other than an investment adviser, investment 17110
adviser representative, bureau of workers' compensation chief 17111
investment officer, or state retirement system investment officer, 17112
who brings any issuer together with any potential investor, 17113
without receiving, directly or indirectly, a commission, fee, or 17114
other remuneration based on the sale of any securities by the 17115
issuer to the investor. Remuneration received by the person solely 17116
for the purpose of offsetting the reasonable out-of-pocket costs 17117
incurred by the person shall not be deemed a commission, fee, or 17118

other remuneration. 17119

Any person claiming exemption under this division for a 17120
publicly advertised meeting shall file a notice with the division 17121
of securities indicating an intent to cause or hold such a meeting 17122
at least twenty-one days prior to the meeting. The division may, 17123
upon receipt of such notice, issue an order denying the 17124
availability of an exemption under this division not more than 17125
fourteen days after receipt of the notice based on a finding that 17126
the applicant is not entitled to the exemption. Notwithstanding 17127
the notice described in this section, a failure to file the notice 17128
does not create a presumption that a person was participating in 17129
or aiding in the making of a sale or contract of sale in violation 17130
of this chapter. 17131

(C) Any person whom the division exempts from this provision 17132
by rule. 17133

Sec. 1707.44. (A)(1) No person shall engage in any act or 17134
practice that violates division (A), (B), or (C) of section 17135
1707.14 of the Revised Code, and no salesperson shall sell 17136
securities in this state without being licensed pursuant to 17137
section 1707.16 of the Revised Code. 17138

(2) No person shall engage in any act or practice that 17139
violates division (A) of section 1707.141 or section 1707.161 of 17140
the Revised Code. 17141

(3) No person shall engage in any act or practice that 17142
violates section 1707.162 of the Revised Code. 17143

(4) No person shall engage in any act or practice that 17144
violates section 1707.164 of the Revised Code. 17145

(B) No person shall knowingly make or cause to be made any 17146
false representation concerning a material and relevant fact, in 17147
any oral statement or in any prospectus, circular, description, 17148

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| application, or written statement, for any of the following | 17149 |
| purposes: | 17150 |
| (1) Registering securities or transactions, or exempting | 17151 |
| securities or transactions from registration, under this chapter; | 17152 |
| (2) Securing the qualification of any securities under this | 17153 |
| chapter; | 17154 |
| (3) Procuring the licensing of any dealer, salesperson, | 17155 |
| investment adviser, investment adviser representative, <u>bureau of</u> | 17156 |
| <u>workers' compensation chief investment officer</u> , or state | 17157 |
| retirement system investment officer under this chapter; | 17158 |
| (4) Selling any securities in this state; | 17159 |
| (5) Advising for compensation, as to the value of securities | 17160 |
| or as to the advisability of investing in, purchasing, or selling | 17161 |
| securities; | 17162 |
| (6) Submitting a notice filing to the division under division | 17163 |
| (X) of section 1707.03 or section 1707.092 or 1707.141 of the | 17164 |
| Revised Code. | 17165 |
| (C) No person shall knowingly sell, cause to be sold, offer | 17166 |
| for sale, or cause to be offered for sale, any security which | 17167 |
| comes under any of the following descriptions: | 17168 |
| (1) Is not exempt under section 1707.02 of the Revised Code, | 17169 |
| nor the subject matter of one of the transactions exempted in | 17170 |
| section 1707.03, 1707.04, or 1707.34 of the Revised Code, has not | 17171 |
| been registered by coordination or qualification, and is not the | 17172 |
| subject matter of a transaction that has been registered by | 17173 |
| description; | 17174 |
| (2) The prescribed fees for registering by description, by | 17175 |
| coordination, or by qualification have not been paid in respect to | 17176 |
| such security; | 17177 |
| (3) The person has been notified by the division, or has | 17178 |

knowledge of the notice, that the right to buy, sell, or deal in 17179
such security has been suspended or revoked, or that the 17180
registration by description, by coordination, or by qualification 17181
under which it may be sold has been suspended or revoked; 17182

(4) The offer or sale is accompanied by a statement that the 17183
security offered or sold has been or is to be in any manner 17184
indorsed by the division. 17185

(D) No person who is an officer, director, or trustee of, or 17186
a dealer for, any issuer, and who knows such issuer to be 17187
insolvent in that the liabilities of the issuer exceed its assets, 17188
shall sell any securities of or for any such issuer, without 17189
disclosing the fact of the insolvency to the purchaser. 17190

(E) No person with intent to aid in the sale of any 17191
securities on behalf of the issuer, shall knowingly make any 17192
representation not authorized by such issuer or at material 17193
variance with statements and documents filed with the division by 17194
such issuer. 17195

(F) No person, with intent to deceive, shall sell, cause to 17196
be sold, offer for sale, or cause to be offered for sale, any 17197
securities of an insolvent issuer, with knowledge that such issuer 17198
is insolvent in that the liabilities of the issuer exceed its 17199
assets, taken at their fair market value. 17200

(G) No person in purchasing or selling securities shall 17201
knowingly engage in any act or practice that is, in this chapter, 17202
declared illegal, defined as fraudulent, or prohibited. 17203

(H) No licensed dealer shall refuse to buy from, sell to, or 17204
trade with any person because the person appears on a blacklist 17205
issued by, or is being boycotted by, any foreign corporate or 17206
governmental entity, nor sell any securities of or for any issuer 17207
who is known in relation to the issuance or sale of the securities 17208
to have engaged in such practices. 17209

(I) No dealer in securities, knowing that the dealer's liabilities exceed the reasonable value of the dealer's assets, shall accept money or securities, except in payment of or as security for an existing debt, from a customer who is ignorant of the dealer's insolvency, and thereby cause the customer to lose any part of the customer's securities or the value of those securities, by doing either of the following without the customer's consent:

(1) Pledging, selling, or otherwise disposing of such securities, when the dealer has no lien on or any special property in such securities;

(2) Pledging such securities for more than the amount due, or otherwise disposing of such securities for the dealer's own benefit, when the dealer has a lien or indebtedness on such securities.

It is an affirmative defense to a charge under this division that, at the time the securities involved were pledged, sold, or disposed of, the dealer had in the dealer's possession or control, and available for delivery, securities of the same kinds and in amounts sufficient to satisfy all customers entitled to the securities, upon demand and tender of any amount due on the securities.

(J) No person, with purpose to deceive, shall make, issue, publish, or cause to be made, issued, or published any statement or advertisement as to the value of securities, or as to alleged facts affecting the value of securities, or as to the financial condition of any issuer of securities, when the person knows that such statement or advertisement is false in any material respect.

(K) No person, with purpose to deceive, shall make, record, or publish or cause to be made, recorded, or published, a report of any transaction in securities which is false in any material

respect. 17241

(L) No dealer shall engage in any act that violates the 17242
provisions of section 15(c) or 15(g) of the "Securities Exchange 17243
Act of 1934," 48 Stat. 881, 15 U.S.C.A. 78o(c) or (g), or any rule 17244
or regulation promulgated by the securities and exchange 17245
commission thereunder. If, subsequent to October 11, 1994, 17246
additional amendments to section 15(c) or 15(g) are adopted, or 17247
additional rules or regulations are promulgated pursuant to such 17248
sections, the division of securities shall, by rule, adopt the 17249
amendments, rules, or regulations, unless the division finds that 17250
the amendments, rules, or regulations are not necessary for the 17251
protection of investors or in the public interest. 17252

(M)(1) No investment adviser or investment adviser 17253
representative shall do any of the following: 17254

(a) Employ any device, scheme, or artifice to defraud any 17255
person; 17256

(b) Engage in any act, practice, or course of business that 17257
operates or would operate as a fraud or deceit upon any person; 17258

(c) In acting as principal for the investment adviser's or 17259
investment adviser representative's own account, knowingly sell 17260
any security to or purchase any security from a client, or in 17261
acting as salesperson for a person other than such client, 17262
knowingly effect any sale or purchase of any security for the 17263
account of such client, without disclosing to the client in 17264
writing before the completion of the transaction the capacity in 17265
which the investment adviser or investment adviser representative 17266
is acting and obtaining the consent of the client to the 17267
transaction. Division (M)(1)(c) of this section does not apply to 17268
any investment adviser registered with the securities and exchange 17269
commission under section 203 of the "Investment Advisers Act of 17270
1940," 15 U.S.C. 80b-3, or to any transaction with a customer of a 17271

licensed dealer or salesperson if the licensed dealer or 17272
salesperson is not acting as an investment adviser or investment 17273
adviser representative in relation to the transaction. 17274

(d) Engage in any act, practice, or course of business that 17275
is fraudulent, deceptive, or manipulative. The division of 17276
securities may adopt rules reasonably designed to prevent such 17277
acts, practices, or courses of business that are fraudulent, 17278
deceptive, or manipulative. 17279

(2) No investment adviser or investment adviser 17280
representative licensed or required to be licensed under this 17281
chapter shall take or have custody of any securities or funds of 17282
any person, except as provided in rules adopted by the division. 17283

(3) In the solicitation of clients or prospective clients, no 17284
person shall make any untrue statement of a material fact or omit 17285
to state a material fact necessary in order to make the statements 17286
made not misleading in light of the circumstances under which the 17287
statements were made. 17288

(N) No person knowingly shall influence, coerce, manipulate, 17289
or mislead any person engaged in the preparation, compilation, 17290
review, or audit of financial statements to be used in the 17291
purchase or sale of securities for the purpose of rendering the 17292
financial statements materially misleading. 17293

(O) No state retirement system investment officer shall do 17294
any of the following: 17295

(1) Employ any device, scheme, or artifice to defraud any 17296
state retirement system; 17297

(2) Engage in any act, practice, or course of business that 17298
operates or would operate as a fraud or deceit on any state 17299
retirement system; 17300

(3) Engage in any act, practice, or course of business that 17301

is fraudulent, deceptive, or manipulative. The division of 17302
securities may adopt rules reasonably designed to prevent such 17303
acts, practices, or courses of business as are fraudulent, 17304
deceptive, or manipulative; 17305

(4) Knowingly fail to comply with any policy adopted 17306
regarding the officer established pursuant to section 145.094, 17307
742.104, 3307.043, 3309.043, or ~~5505.066~~ 5505.065 of the Revised 17308
Code. 17309

(P) No bureau of workers' compensation chief investment 17310
officer shall do any of the following: 17311

(1) Employ any device, scheme, or artifice to defraud the 17312
workers' compensation system; 17313

(2) Engage in any act, practice, or course of business that 17314
operates or would operate as a fraud or deceit on the workers' 17315
compensation system; 17316

(3) Engage in any act, practice, or course of business that 17317
is fraudulent, deceptive, or manipulative. The division of 17318
securities may adopt rules reasonably designed to prevent such 17319
acts, practices, or courses of business as are fraudulent, 17320
deceptive, or manipulative; 17321

(4) Knowingly fail to comply with any policy adopted 17322
regarding the officer established pursuant to section 4123.441 of 17323
the Revised Code. 17324

Sec. 1707.46. The principal executive officer of the division 17325
of securities shall be the commissioner of securities, who shall 17326
be appointed by the director of commerce. The commissioner of 17327
securities shall enforce all the laws and administrative rules 17328
enacted or adopted to regulate the sale of bonds, stocks, and 17329
other securities and to prevent fraud in such sales. The 17330
commissioner also shall enforce all the laws and administrative 17331

rules enacted or adopted to regulate investment advisers, 17332
investment adviser representatives, ~~and~~ state retirement system 17333
investment officers, and the bureau of workers' compensation chief 17334
investment officer and to prevent fraud in their acts, practices, 17335
and transactions. 17336

The commissioner shall be paid at a rate not less than pay 17337
range 47 set out in schedule E-2 of section 124.152 of the Revised 17338
Code, to be paid as other operating expenses of the division. 17339

Sec. 1711.52. The advisory council on amusement ride safety 17340
shall: 17341

(A) Study any subject pertaining to amusement ride safety, 17342
including administrative, engineering, and technical subjects, and 17343
make findings and recommendations to the director of agriculture; 17344

(B) Prior to the ~~promulgation~~ adoption of any rules or 17345
amendments to those rules under division (B) of section 1711.53 17346
and division (B) of section 1711.551 of the Revised Code, study 17347
the proposed rules to be ~~promulgated~~ adopted by the director 17348
regarding amusement ride safety, advise the director, and make 17349
findings and recommendations to the director; 17350

(C) Not later than December 31, 2006, prepare and submit a 17351
report to the governor, the speaker and the minority leader of the 17352
house of representatives, the president and the minority leader of 17353
the senate, and the director concerning the advisory council's 17354
recommendations for alternative funding sources for the amusement 17355
ride safety program established under this chapter. 17356

The director shall make available to the advisory council any 17357
information, reports, and studies requested by the advisory 17358
council. 17359

Sec. 1711.53. (A)(1) No person shall operate an amusement 17360
ride within the state without a permit issued by the director of 17361

agriculture under division (A)(2) of this section. The owner of an 17362
amusement ride, whether the ride is a temporary amusement ride or 17363
a permanent amusement ride, who desires to operate the amusement 17364
ride within the state shall, prior to the operation of the 17365
amusement ride and annually thereafter, submit to the department 17366
of agriculture an application for a permit, together with the 17367
appropriate permit and inspection fee, on a form to be furnished 17368
by the department. Prior to issuing any permit the department 17369
shall, within thirty days after the date on which it receives the 17370
application, inspect each amusement ride described in the 17371
application. The owner of an amusement ride shall have the 17372
amusement ride ready for inspection not later than two hours after 17373
the time that is requested by the person for the inspection. 17374

(2) For each amusement ride found to comply with the rules 17375
adopted by the director under division (B) of this section and 17376
division (B) of section 1711.551 of the Revised Code, the director 17377
shall issue an annual permit, provided that evidence of liability 17378
insurance coverage for the amusement ride as required by section 17379
1711.54 of the Revised Code is on file with the department. 17380

(3) The director shall issue with each permit a decal 17381
indicating that the amusement ride has been issued the permit. The 17382
owner of the amusement ride shall affix the decal on the ride at a 17383
location where the decal is easily visible to the patrons of the 17384
ride. A copy of the permit shall be kept on file at the same 17385
address as the location of the amusement ride identified on the 17386
permit, and shall be made available for inspection, upon 17387
reasonable demand, by any person. An owner may operate an 17388
amusement ride prior to obtaining a permit, provided that the 17389
operation is for the purpose of testing the amusement ride or 17390
training amusement ride operators and other employees of the owner 17391
and the amusement ride is not open to the public. 17392

(B) The director, in accordance with Chapter 119. of the 17393

Revised Code, shall adopt rules providing for a schedule of fines, 17394
with no fine exceeding five thousand dollars, for violations of 17395
sections 1711.50 to 1711.57 of the Revised Code or any rules 17396
adopted under this division and for the classification of 17397
amusement rides and rules for the safe operation and inspection of 17398
all amusement rides as are necessary for amusement ride safety and 17399
for the protection of the general public. Rules adopted by the 17400
director for the safe operation and inspection of amusement rides 17401
shall be reasonable and based upon generally accepted engineering 17402
standards and practices. In adopting rules under this section, the 17403
director may adopt by reference, in whole or in part, the national 17404
fire code or the national electrical code (NEC) prepared by the 17405
national fire protection association, the standards of the 17406
American society for testing and materials (ASTM) or the American 17407
national standards institute (ANSI), or any other principles, 17408
tests, or standards of nationally recognized technical or 17409
scientific authorities. Insofar as is practicable and consistent 17410
with sections 1711.50 to 1711.57 of the Revised Code, rules 17411
adopted under this division shall be consistent with the rules of 17412
other states. The department shall cause sections 1711.50 to 17413
1711.57 of the Revised Code and the rules adopted in accordance 17414
with this division and division (B) of section 1711.551 of the 17415
Revised Code to be published in pamphlet form and a copy to be 17416
furnished without charge to each owner of an amusement ride who 17417
holds a current permit or is an applicant therefor. 17418

(C) With respect to an application for a permit for an 17419
amusement ride, an owner may apply to the director for a waiver or 17420
modification of any rule adopted under division (B) of this 17421
section if there are practical difficulties or unnecessary 17422
hardships for the amusement ride to comply with the rules. Any 17423
application shall set forth the reasons for the request. The 17424
director, with the approval of the advisory council on amusement 17425
ride safety, may waive or modify the application of a rule to any 17426

amusement ride if the public safety is secure. Any authorization 17427
by the director under this division shall be in writing and shall 17428
set forth the conditions under which the waiver or modification is 17429
authorized, and the department shall retain separate records of 17430
all proceedings under this division. 17431

(D)(1) The director shall employ and provide for training of 17432
a chief inspector and additional inspectors and employees as may 17433
be necessary to administer and enforce sections 1711.50 to 1711.57 17434
of the Revised Code. The director may appoint or contract with 17435
other persons to perform inspections of amusement rides, provided 17436
that the persons meet the qualifications for inspectors 17437
established by rules adopted under division (B) of this section 17438
and are not owners, or employees of owners, of any amusement ride 17439
subject to inspection under sections 1711.50 to 1711.57 of the 17440
Revised Code. No person shall inspect an amusement ride who, 17441
within six months prior to the date of inspection, was an employee 17442
of the owner of the ride. 17443

(2) Before the director contracts with other persons to 17444
inspect amusement rides, the director shall seek the advice of the 17445
advisory council on amusement ride safety on whether to contract 17446
with those persons. The advice shall not be binding upon the 17447
director. After having received the advice of the council, the 17448
director may proceed to contract with inspectors in accordance 17449
with the procedures specified in division (E)(2) of section 17450
1711.11 of the Revised Code. 17451

(3) With the advice and consent of the advisory council on 17452
amusement ride safety, the director may employ a special 17453
consultant to conduct an independent investigation of an amusement 17454
ride accident. This consultant need not be in the civil service of 17455
the state, but shall have qualifications to conduct the 17456
investigation acceptable to the council. 17457

(E)(1) Except as otherwise provided in division (E)(1) of 17458

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| this section, the department shall charge the following amusement | | 17459 |
| ride fees: | | 17460 |
| Permit | \$ 50 <u>\$ 150</u> | 17461 |
| Annual inspection and reinspection per ride: | | 17462 |
| Kiddie rides | \$ 100 | 17463 |
| Roller coaster | \$ 950 | 17464 |
| Aerial lifts or bungee | | 17465 |
| jumping facilities | \$ 450 | 17466 |
| Go karts | \$ 5 | 17467 |
| Other rides | \$ 160 | 17468 |
| Midseason operational inspection per ride | \$ 25 | 17469 |
| Expedited inspection per ride | \$ 100 | 17470 |
| Failure to cancel scheduled inspection per ride | \$ 100 | 17471 |
| Failure to have amusement ride ready for | | 17472 |
| inspection per ride | \$100 | 17473 |
| The go kart inspection fee is in addition to the inspection | | 17474 |
| fee for the go kart track. | | 17475 |
| The fees for an expedited inspection, failure to cancel a | | 17476 |
| scheduled inspection, and failure to have an amusement ride ready | | 17477 |
| for inspection do not apply to go karts. | | 17478 |
| As used in division (E)(1) of this section, "expedited | | 17479 |
| inspection" means an inspection of an amusement ride by the | | 17480 |
| department not later than ten days after the owner of the | | 17481 |
| amusement ride files an application for a permit under this | | 17482 |
| section. | | 17483 |
| (2) All fees and fines collected by the department under | | 17484 |
| sections 1711.50 to 1711.57 of the Revised Code shall be deposited | | 17485 |
| in the state treasury to the credit of the amusement ride | | 17486 |
| inspection fund, which is hereby created, and shall be used only | | 17487 |
| for the purpose of administering and enforcing sections 1711.11 | | 17488 |
| and 1711.50 to 1711.57 of the Revised Code. | | 17489 |

(3) The owner of an amusement ride shall be required to pay a reinspection fee only if the reinspection was conducted at the owner's request under division (F) of this section, if the reinspection is required by division (F) of this section because of an accident, or if the reinspection is required by division (F) of section 1711.55 of the Revised Code. If a reinspection is conducted at the request of the chief officer of a fair, festival, or event where the ride is operating, the reinspection fee shall be charged to the fair, festival, or event.

(4) The rules adopted under division (B) of this section shall define "kiddie rides," "roller coaster," "aerial lifts," "go karts," and "other rides" for purposes of determining the fees under division (E) of this section. The rules shall define "other rides" to include go kart tracks.

(F) A reinspection of an amusement ride shall take place if an accident occurs, if the owner of the ride or the chief officer of the fair, festival, or event where the ride is operating requests a reinspection, or if the reinspection is required by division (F) of section 1711.55 of the Revised Code.

(G) As a supplement to its annual inspection of a temporary amusement ride, the department may inspect the ride during each scheduled event, as listed in the schedule of events provided to the department by the owner pursuant to division (C) of section 1711.55 of the Revised Code, at which the ride is operated in this state. These supplemental inspections are in addition to any other inspection or reinspection of the ride as may be required under sections 1711.50 to 1711.57 of the Revised Code, and the owner of the temporary amusement ride is not required to pay an inspection or reinspection fee for this supplemental inspection. Nothing in this division shall be construed to prohibit the owner of a temporary amusement ride having a valid permit to operate in this state from operating the ride at a scheduled event before the

department conducts a supplemental inspection. 17522

(H) The department may annually conduct a midseason 17523
operational inspection of every amusement ride upon which it 17524
conducts an annual inspection pursuant to division (A) of this 17525
section. The midseason operational inspection is in addition to 17526
any other inspection or reinspection of the amusement ride as may 17527
be required pursuant to sections 1711.50 to 1711.57 of the Revised 17528
Code. The owner of an amusement ride shall submit to the 17529
department, at the time determined by the department, the 17530
midseason operational inspection fee specified in division (E) of 17531
this section. The director, in accordance with Chapter 119. of the 17532
Revised Code, shall adopt rules specifying the time period during 17533
which the department will conduct midseason operational 17534
inspections. 17535

Sec. 1711.531. (A) No person shall operate an amusement ride 17536
powered from an electric light company source unless the amusement 17537
ride operates through a fusible switch, enclosed circuit breaker, 17538
or panelboard that has been: 17539

(1) Rated by the underwriters laboratories for service 17540
entrance applications; 17541

(2) Installed in compliance with the national electrical 17542
code; 17543

(3) Metered through a meter installed by the electric light 17544
company. 17545

(B) An amusement ride owner shall not use an electric light 17546
company source as described in division (A) of this section unless 17547
the owner has written certification that the fusible switch, 17548
enclosed circuit breaker, or panelboard satisfies the requirements 17549
established in divisions (A)(1) to (3) of this section and that is 17550
issued by a person certified under section 3783.03 or licensed 17551

under section 4740.06 of the Revised Code. The owner shall make 17552
the certificate available to the director of agriculture upon 17553
request. 17554

(C) This section does not apply to either of the following 17555
types of amusement rides: 17556

(1) Rides that do not require electrical current; 17557

(2) Rides that the director exempts in rules the director 17558
adopts. 17559

(D) A person licensed pursuant to section 4740.06 of the 17560
Revised Code, when conducting an inspection pursuant to this 17561
section, is not violating section 3783.06 of the Revised Code. 17562

(E) As used in this section, "electric light company" has the 17563
same meaning as in section 4905.03 of the Revised Code. 17564

Sec. 1713.03. The Ohio board of regents shall establish 17565
standards for certificates of authorization to be issued to 17566
institutions as defined in section 1713.01 of the Revised Code, to 17567
private institutions exempt from regulation under Chapter 3332. of 17568
the Revised Code as prescribed in section 3333.046 of the Revised 17569
Code, and to schools holding certificates of registration issued 17570
by the state board of career colleges and schools pursuant to 17571
division (C) of section 3332.05 of the Revised Code. A certificate 17572
of authorization may permit an institution or school to award one 17573
or more types of degrees. 17574

The standards for a certificate of authorization may include, 17575
for various types of institutions, schools, or degrees, minimum 17576
qualifications for faculty, library, laboratories, and other 17577
facilities as adopted and published by the Ohio board of regents. 17578
The standards shall be adopted by the board pursuant to Chapter 17579
119. of the Revised Code. 17580

An institution or school shall apply to the board for a 17581

certificate of authorization on forms containing such information 17582
as is prescribed by the board. Each institution or school with a 17583
certificate of authorization shall file an annual report with the 17584
board in such form and containing such information as the board 17585
prescribes. 17586

The board shall adopt a rule under Chapter 119. of the 17587
Revised Code establishing fees to pay the cost of reviewing an 17588
application for a certificate of authorization, which the 17589
institution or school shall pay when it applies for a certificate 17590
of authorization, and establishing fees, which an institution or 17591
school shall pay, for any further reviews the board determines 17592
necessary upon examining an institution's or school's annual 17593
report. 17594

Sec. 1751.03. (A) Each application for a certificate of 17595
authority under this chapter shall be verified by an officer or 17596
authorized representative of the applicant, shall be in a format 17597
prescribed by the superintendent of insurance, and shall set forth 17598
or be accompanied by the following: 17599

(1) A certified copy of the applicant's articles of 17600
incorporation and all amendments to the articles of incorporation; 17601

(2) A copy of any regulations adopted for the government of 17602
the corporation, any bylaws, and any similar documents, and a copy 17603
of all amendments to these regulations, bylaws, and documents. The 17604
corporate secretary shall certify that these regulations, bylaws, 17605
documents, and amendments have been properly adopted or approved. 17606

(3) A list of the names, addresses, and official positions of 17607
the persons responsible for the conduct of the applicant, 17608
including all members of the board, the principal officers, and 17609
the person responsible for completing or filing financial 17610
statements with the department of insurance, accompanied by a 17611
completed original biographical affidavit and release of 17612

information for each of these persons on forms acceptable to the 17613
department; 17614

(4) A full and complete disclosure of the extent and nature 17615
of any contractual or other financial arrangement between the 17616
applicant and any provider or a person listed in division (A)(3) 17617
of this section, including, but not limited to, a full and 17618
complete disclosure of the financial interest held by any such 17619
provider or person in any health care facility, provider, or 17620
insurer that has entered into a financial relationship with the 17621
health insuring corporation; 17622

(5) A description of the applicant, its facilities, and its 17623
personnel, including, but not limited to, the location, hours of 17624
operation, and telephone numbers of all contracted facilities; 17625

(6) The applicant's projected annual enrollee population over 17626
a three-year period; 17627

(7) A clear and specific description of the health care plan 17628
or plans to be used by the applicant, including a description of 17629
the proposed providers, procedures for accessing care, and the 17630
form of all proposed and existing contracts relating to the 17631
administration, delivery, or financing of health care services; 17632

(8) A copy of each type of evidence of coverage and 17633
identification card or similar document to be issued to 17634
subscribers; 17635

(9) A copy of each type of individual or group policy, 17636
contract, or agreement to be used; 17637

(10) The schedule of the proposed contractual periodic 17638
prepayments or premium rates, or both, accompanied by appropriate 17639
supporting data; 17640

(11) A financial plan which provides a three-year projection 17641
of operating results, including the projected expenses, income, 17642

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| and sources of working capital; | 17643 |
| (12) The enrollee complaint procedure to be utilized as required under section 1751.19 of the Revised Code; | 17644 17645 |
| (13) A description of the procedures and programs to be implemented on an ongoing basis to assure the quality of health care services delivered to enrollees, including, if applicable, a description of a quality assurance program complying with the requirements of sections 1751.73 to 1751.75 of the Revised Code; | 17646 17647 17648 17649 17650 |
| (14) A statement describing the geographic area or areas to be served, by county; | 17651 17652 |
| (15) A copy of all solicitation documents; | 17653 |
| (16) A balance sheet and other financial statements showing the applicant's assets, liabilities, income, and other sources of financial support; | 17654 17655 17656 |
| (17) A description of the nature and extent of any reinsurance program to be implemented, and a demonstration that errors and omission insurance and, if appropriate, fidelity insurance, will be in place upon the applicant's receipt of a certificate of authority; | 17657 17658 17659 17660 17661 |
| (18) Copies of all proposed or in force related-party or intercompany agreements with an explanation of the financial impact of these agreements on the applicant. If the applicant intends to enter into a contract for managerial or administrative services, with either an affiliated or an unaffiliated person, the applicant shall provide a copy of the contract and a detailed description of the person to provide these services. The description shall include that person's experience in managing or administering health care plans, a copy of that person's most recent audited financial statement, and a completed biographical affidavit on a form acceptable to the superintendent for each of that person's principal officers and board members and for any | 17662 17663 17664 17665 17666 17667 17668 17669 17670 17671 17672 17673 |

additional employee to be directly involved in providing 17674
managerial or administrative services to the health insuring 17675
corporation. If the person to provide managerial or administrative 17676
services is affiliated with the health insuring corporation, the 17677
contract must provide for payment for services based on actual 17678
costs. 17679

(19) A statement from the applicant's board that the admitted 17680
assets of the applicant have not been and will not be pledged or 17681
hypothecated; 17682

(20) A statement from the applicant's board that the 17683
applicant will submit monthly financial statements during the 17684
first year of operations; 17685

(21) The name and address of the applicant's Ohio statutory 17686
agent for service of process, notice, or demand; 17687

(22) Copies of all documents the applicant filed with the 17688
secretary of state; 17689

(23) The location of those books and records of the applicant 17690
that must be maintained, which books and records shall be 17691
maintained in Ohio if the applicant is a domestic corporation, and 17692
which may be maintained either in the applicant's state of 17693
domicile or in Ohio if the applicant is a foreign corporation; 17694

(24) The applicant's federal identification number, corporate 17695
address, and mailing address; 17696

(25) An internal and external organizational chart; 17697

(26) A list of the assets representing the initial net worth 17698
of the applicant; 17699

(27) If the applicant has a parent company, the parent 17700
company's guaranty, on a form acceptable to the superintendent, 17701
that the applicant will maintain Ohio's minimum net worth. If no 17702
parent company exists, a statement regarding the availability of 17703

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| future funds if needed. | 17704 |
| (28) The names and addresses of the applicant's actuary and external auditors; | 17705 17706 |
| (29) If the applicant is a foreign corporation, a copy of the most recent financial statements filed with the insurance regulatory agency in the applicant's state of domicile; | 17707 17708 17709 |
| (30) If the applicant is a foreign corporation, a statement from the insurance regulatory agency of the applicant's state of domicile stating that the regulatory agency has no objection to the applicant applying for an Ohio license and that the applicant is in good standing in the applicant's state of domicile; | 17710 17711 17712 17713 17714 |
| (31) Any other information that the superintendent may require; | 17715 17716 |
| <u>(32) Documentation acceptable to the superintendent of the bond or securities required by section 1751.271 of the Revised Code.</u> | 17717 17718 17719 |
| (B)(1) A health insuring corporation, unless otherwise provided for in this chapter or in section 3901.321 of the Revised Code, shall file a timely notice with the superintendent describing any change to the corporation's articles of incorporation or regulations, or any major modification to its operations as set out in the information required by division (A) of this section that affects any of the following: | 17720 17721 17722 17723 17724 17725 17726 |
| (a) The solvency of the health insuring corporation; | 17727 |
| (b) The health insuring corporation's continued provision of services that it has contracted to provide; | 17728 17729 |
| (c) The manner in which the health insuring corporation conducts its business. | 17730 17731 |
| (2) If the change or modification is to be the result of an action to be taken by the health insuring corporation, the notice | 17732 17733 |

shall be filed with the superintendent prior to the health 17734
insuring corporation taking the action. The action shall be deemed 17735
approved if the superintendent does not disapprove it within sixty 17736
days of filing. 17737

(3) The filing of a notice pursuant to division (B)(1) or (2) 17738
of this section shall also serve as the submission of a notice 17739
when required for the superintendent's review for purposes of 17740
section 3901.341 of the Revised Code, if the notice contains all 17741
of the information that section 3901.341 of the Revised Code 17742
requires for such submissions and a copy of any written agreement. 17743
The filing of such a notice, for the purpose of satisfying this 17744
division and section 3901.341 of the Revised Code, shall be 17745
subject to the sixty-day review period of division (B)(2) of this 17746
section. 17747

(C)(1) No health insuring corporation shall expand its 17748
approved service area until a copy of the request for expansion, 17749
accompanied by documentation of the network of providers, forms of 17750
all proposed or existing provider contracts relating to the 17751
delivery of health care services, a schedule of proposed 17752
contractual periodic prepayments and premium rates for group 17753
contracts accompanied by appropriate supporting data, enrollment 17754
projections, plan of operation, and any other changes have been 17755
filed with the superintendent. 17756

(2) Within ten calendar days after receipt of a complete 17757
filing under division (C)(1) of this section, the superintendent 17758
shall refer the appropriate jurisdictional issues to the director 17759
of health if required pursuant to section 1751.04 of the Revised 17760
Code. 17761

(3) Within seventy-five days after the superintendent's 17762
receipt of a complete filing under division (C)(1) of this 17763
section, the superintendent shall determine whether the plan for 17764
expansion is lawful, fair, and reasonable. ~~The~~ If a referral is 17765

required pursuant to section 1751.04 of the Revised Code, the 17766
superintendent may not make a determination until the 17767
superintendent has received the director's certification of 17768
compliance, which the director shall furnish within forty-five 17769
days after the referral under division (C)(2) of this section. The 17770
director shall not certify that the requirements of section 17771
1751.04 of the Revised Code are not met, unless the applicant has 17772
been given an opportunity for a hearing as provided in division 17773
(D) of section 1751.04 of the Revised Code. The forty-five-day and 17774
seventy-five-day review periods provided for in division (C)(3) of 17775
this section shall cease to run as of the date on which the notice 17776
of the applicant's right to request a hearing is mailed and shall 17777
remain suspended until the director issues a final certification. 17778

(4) If the superintendent has not approved or disapproved all 17779
or a portion of a service area expansion within the 17780
seventy-five-day period provided for in division (C)(3) of this 17781
section, the filing shall be deemed approved. 17782

(5) Disapproval of all or a portion of the filing shall be 17783
effected by written notice, which shall state the grounds for the 17784
order of disapproval and shall be given in accordance with Chapter 17785
119. of the Revised Code. 17786

Sec. 1751.04. (A) ~~Upon~~ Except as provided by division (F) of 17787
this section, upon the receipt by the superintendent of insurance 17788
of a complete application for a certificate of authority to 17789
establish or operate a health insuring corporation, which 17790
application sets forth or is accompanied by the information and 17791
documents required by division (A) of section 1751.03 of the 17792
Revised Code, the superintendent shall transmit copies of the 17793
application and accompanying documents to the director of health. 17794

(B) The director shall review the application and 17795
accompanying documents and make findings as to whether the 17796

applicant for a certificate of authority has done all of the 17797
following with respect to any basic health care services and 17798
supplemental health care services to be furnished: 17799

(1) Demonstrated the willingness and potential ability to 17800
ensure that all basic health care services and supplemental health 17801
care services described in the evidence of coverage will be 17802
provided to all its enrollees as promptly as is appropriate and in 17803
a manner that assures continuity; 17804

(2) Made effective arrangements to ensure that its enrollees 17805
have reliable access to qualified providers in those specialties 17806
that are generally available in the geographic area or areas to be 17807
served by the applicant and that are necessary to provide all 17808
basic health care services and supplemental health care services 17809
described in the evidence of coverage; 17810

(3) Made appropriate arrangements for the availability of 17811
short-term health care services in emergencies within the 17812
geographic area or areas to be served by the applicant, 17813
twenty-four hours per day, seven days per week, and for the 17814
provision of adequate coverage whenever an out-of-area emergency 17815
arises; 17816

(4) Made appropriate arrangements for an ongoing evaluation 17817
and assurance of the quality of health care services provided to 17818
enrollees, including, if applicable, the development of a quality 17819
assurance program complying with the requirements of sections 17820
1751.73 to 1751.75 of the Revised Code, and the adequacy of the 17821
personnel, facilities, and equipment by or through which the 17822
services are rendered; 17823

(5) Developed a procedure to gather and report statistics 17824
relating to the cost and effectiveness of its operations, the 17825
pattern of utilization of its services, and the quality, 17826
availability, and accessibility of its services. 17827

(C) Within ninety days of the director's receipt of the application for issuance of a certificate of authority, the director shall certify to the superintendent whether or not the applicant meets the requirements of division (B) of this section and sections 3702.51 to 3702.62 of the Revised Code. If the director certifies that the applicant does not meet these requirements, the director shall specify in what respects it is deficient. However, the director shall not certify that the requirements of this section are not met unless the applicant has been given an opportunity for a hearing.

(D) If the applicant requests a hearing, the director shall hold a hearing before certifying that the applicant does not meet the requirements of this section. The hearing shall be held in accordance with Chapter 119. of the Revised Code.

(E) The ninety-day review period provided for under division (C) of this section shall cease to run as of the date on which the notice of the applicant's right to request a hearing is mailed and shall remain suspended until the director issues a final certification order.

(F) Nothing in this section requires the director to review or make findings with regard to an application and accompanying documents to establish or operate a health insuring corporation to cover solely recipients of assistance under the medicaid program operated pursuant to Chapter 5111. of the Revised Code.

Sec. 1751.05. (A) The superintendent of insurance shall issue or deny a certificate of authority to ~~establish or operate a health insuring corporations within the deadlines specified as follows:~~

(1) For a health insuring corporation to any corporation filing an application pursuant to section 1751.03 of the Revised Code ~~within~~, forty-five days ~~of~~ from the superintendent's receipt

of the certification from the director of health under division 17859
(C) of section 1751.04 of the Revised Code; 17860

(2) For a health insuring corporation that covers solely 17861
recipients of assistance under the medicaid program operated 17862
pursuant to Chapter 5111. of the Revised Code, one hundred 17863
thirty-five days from the superintendent's receipt of a complete 17864
application and accompanying documents. 17865

(B) A certificate of authority shall be issued upon payment 17866
of the application fee prescribed in section 1751.44 of the 17867
Revised Code if the superintendent is satisfied that the following 17868
conditions are met: 17869

(1) The persons responsible for the conduct of the affairs of 17870
the applicant are competent, trustworthy, and possess good 17871
reputations. 17872

(2) The director certifies, in accordance with division (C) 17873
of section 1751.04 of the Revised Code, that the organization's 17874
proposed plan of operation meets the requirements of division (B) 17875
of that section and sections 3702.51 to 3702.62 of the Revised 17876
Code. If, after the director has certified compliance, the 17877
application is amended in a manner that affects its approval under 17878
section 1751.04 of the Revised Code, the superintendent shall 17879
request the director to review and recertify the amended plan of 17880
operation. Within forty-five days of receipt of the amended plan 17881
from the superintendent, the director shall certify to the 17882
superintendent, pursuant to section 1751.04 of the Revised Code, 17883
whether or not the amended plan meets the requirements of section 17884
1751.04 of the Revised Code. The superintendent's forty-five-day 17885
review period shall cease to run as of the date on which the 17886
amended plan is transmitted to the director and shall remain 17887
suspended until the superintendent receives a new certification 17888
from the director. 17889

(3) The applicant constitutes an appropriate mechanism to 17890
effectively provide or arrange for the provision of the basic 17891
health care services, supplemental health care services, or 17892
specialty health care services to be provided to enrollees. 17893

(4) The applicant is financially responsible, complies with 17894
section 1751.28 of the Revised Code, and may reasonably be 17895
expected to meet its obligations to enrollees and prospective 17896
enrollees. In making this determination, the superintendent may 17897
consider: 17898

(a) The financial soundness of the applicant's arrangements 17899
for health care services, including the applicant's proposed 17900
contractual periodic prepayments or premiums and the use of 17901
copayments and deductibles; 17902

(b) The adequacy of working capital; 17903

(c) Any agreement with an insurer, a government, or any other 17904
person for insuring the payment of the cost of health care 17905
services or providing for automatic applicability of an 17906
alternative coverage in the event of discontinuance of the health 17907
insuring corporation's operations; 17908

(d) Any agreement with providers or health care facilities 17909
for the provision of health care services; 17910

(e) Any deposit of securities submitted in accordance with 17911
section 1751.27 of the Revised Code as a guarantee that the 17912
obligations will be performed. 17913

(5) The applicant has submitted documentation of an 17914
arrangement to provide health care services to its enrollees until 17915
the expiration of the enrollees' contracts with the applicant if a 17916
health care plan or the operations of the health insuring 17917
corporation are discontinued prior to the expiration of the 17918
enrollees' contracts. An arrangement to provide health care 17919
services may be made by using any one, or any combination, of the 17920

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| following methods: | 17921 |
| (a) The maintenance of insolvency insurance; | 17922 |
| (b) A provision in contracts with providers and health care facilities, but no health insuring corporation shall rely solely on such a provision for more than thirty days; | 17923 17924 17925 |
| (c) An agreement with other health insuring corporations or insurers, providing enrollees with automatic conversion rights upon the discontinuation of a health care plan or the health insuring corporation's operations; | 17926 17927 17928 17929 |
| (d) Such other methods as approved by the superintendent. | 17930 |
| (6) Nothing in the applicant's proposed method of operation, as shown by the information submitted pursuant to section 1751.03 of the Revised Code or by independent investigation, will cause harm to an enrollee or to the public at large, as determined by the superintendent. | 17931 17932 17933 17934 17935 |
| (7) Any deficiencies certified by the director have been corrected. | 17936 17937 |
| (8) The applicant has deposited securities as set forth in section 1751.27 of the Revised Code. | 17938 17939 |
| (B) (C) If an applicant elects to fulfill the requirements of division (A)(5) of this section through an agreement with other health insuring corporations or insurers, the agreement shall require those health insuring corporations or insurers to give thirty days' notice to the superintendent prior to cancellation or discontinuation of the agreement for any reason. | 17940 17941 17942 17943 17944 17945 |
| (C) (D) A certificate of authority shall be denied only after compliance with the requirements of section 1751.36 of the Revised Code. | 17946 17947 17948 |
| <u>Sec. 1751.271. (A) Each health insuring corporation that</u> | 17949 |

provides coverage to medicaid recipients shall post a performance 17950
bond in the amount of three million dollars as security to fulfill 17951
the obligations of the health insuring corporation to pay claims 17952
of contracted providers for covered health care services provided 17953
to medicaid recipients. The bond shall be payable to the 17954
department of insurance in the event that the health insuring 17955
corporation is placed in rehabilitation or liquidation proceedings 17956
under Chapter 3903. of the Revised Code, and shall become a 17957
special deposit subject to section 3903.14 or 3903.421 of the 17958
Revised Code, as applicable. In lieu of the performance bond, a 17959
medicaid health insuring corporation may deposit securities with 17960
the superintendent of insurance, acceptable to the superintendent, 17961
in the amount of three million dollars, to satisfy the bonding 17962
requirements of this section. Upon rehabilitation or liquidation, 17963
the securities shall become a special deposit subject to sections 17964
3903.14 and 3903.421 of the Revised Code, as applicable. The 17965
health insuring corporation shall receive the interest on the 17966
deposited securities as long as the health insuring corporation 17967
remains solvent. 17968

(B) The bond shall be issued by a surety company licensed 17969
with the department of insurance. The bond or deposit, or any 17970
replacement bond or deposit, shall be in a form acceptable to the 17971
superintendent, and shall remain in effect during the duration of 17972
the medicaid health insuring corporation's license and thereafter 17973
until all claims against the medicaid health insuring corporation 17974
have been paid in full. 17975

(C) Documentation of the bond acceptable to the 17976
superintendent of insurance shall be filed with the superintendent 17977
prior to the issuance of a certificate of authority. Annually, 17978
thirty days prior to the renewal of its certificate of authority, 17979
every medicaid health insuring corporation shall furnish the 17980
superintendent of insurance with evidence that the required bond 17981

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| <u>is still in effect.</u> | 17982 |
| <u>(D) As used in this section:</u> | 17983 |
| <u>(1) "Contracted provider" means a provider that has a contract with a medicaid health insuring corporation to provide covered health care services to medicaid recipients.</u> | 17984 |
| | 17985 |
| | 17986 |
| <u>(2) "Medicaid health insuring corporation" means a health insuring corporation that provides health insurance coverage or otherwise assumes claims liabilities for medicaid recipients.</u> | 17987 |
| | 17988 |
| | 17989 |
| <u>(3) "Medicaid recipient" means a person eligible for assistance under the medicaid program operated pursuant to Chapter 5111. of the Revised Code.</u> | 17990 |
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| Sec. 1901.26. (A) Subject to division (E) of this section, costs in a municipal court shall be fixed and taxed as follows: | 17993 |
| | 17994 |
| (1) The municipal court shall require an advance deposit for the filing of any new civil action or proceeding when required by division (A)(9) of this section, and in all other cases, by rule, shall establish a schedule of fees and costs to be taxed in any civil or criminal action or proceeding. | 17995 |
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| (2) The municipal court, by rule, may require an advance deposit for the filing of any civil action or proceeding and publication fees as provided in section 2701.09 of the Revised Code. The court may waive the requirement for advance deposit upon affidavit or other evidence that a party is unable to make the required deposit. | 18000 |
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| (3) When a jury trial is demanded in any civil action or proceeding, the party making the demand may be required to make an advance deposit as fixed by rule of court, unless, upon affidavit or other evidence, the court concludes that the party is unable to make the required deposit. If a jury is called, the fees of a jury shall be taxed as costs. | 18006 |
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(4) In any civil or criminal action or proceeding, witnesses' fees shall be fixed in accordance with sections 2335.06 and 2335.08 of the Revised Code.

(5) A reasonable charge for driving, towing, carting, storing, keeping, and preserving motor vehicles and other personal property recovered or seized in any proceeding may be taxed as part of the costs in a trial of the cause, in an amount that shall be fixed by rule of court.

(6) Chattel property seized under any writ or process issued by the court shall be preserved pending final disposition for the benefit of all persons interested and may be placed in storage when necessary or proper for that preservation. The custodian of any chattel property so stored shall not be required to part with the possession of the property until a reasonable charge, to be fixed by the court, is paid.

(7) The municipal court, as it determines, may refund all deposits and advance payments of fees and costs, including those for jurors and summoning jurors, when they have been paid by the losing party.

(8) Charges for the publication of legal notices required by statute or order of court may be taxed as part of the costs, as provided by section 7.13 of the Revised Code.

(B)(1) The municipal court may determine that, for the efficient operation of the court, additional funds are necessary to acquire and pay for special projects of the court including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges, and magistrates, and other related services. Upon that

determination, the court by rule may charge a fee, in addition to 18043
all other court costs, on the filing of each criminal cause, civil 18044
action or proceeding, or judgment by confession. 18045

If the municipal court offers a special program or service in 18046
cases of a specific type, the municipal court by rule may assess 18047
an additional charge in a case of that type, over and above court 18048
costs, to cover the special program or service. The municipal 18049
court shall adjust the special assessment periodically, but not 18050
retroactively, so that the amount assessed in those cases does not 18051
exceed the actual cost of providing the service or program. 18052

All moneys collected under division (B) of this section shall 18053
be paid to the county treasurer if the court is a county-operated 18054
municipal court or to the city treasurer if the court is not a 18055
county-operated municipal court for deposit into either a general 18056
special projects fund or a fund established for a specific special 18057
project. Moneys from a fund of that nature shall be disbursed upon 18058
an order of the court in an amount no greater than the actual cost 18059
to the court of a project. If a specific fund is terminated 18060
because of the discontinuance of a program or service established 18061
under division (B) of this section, the municipal court may order 18062
that moneys remaining in the fund be transferred to an account 18063
established under this division for a similar purpose. 18064

(2) As used in division (B) of this section: 18065

(a) "Criminal cause" means a charge alleging the violation of 18066
a statute or ordinance, or subsection of a statute or ordinance, 18067
that requires a separate finding of fact or a separate plea before 18068
disposition and of which the defendant may be found guilty, 18069
whether filed as part of a multiple charge on a single summons, 18070
citation, or complaint or as a separate charge on a single 18071
summons, citation, or complaint. "Criminal cause" does not include 18072
separate violations of the same statute or ordinance, or 18073
subsection of the same statute or ordinance, unless each charge is 18074

filed on a separate summons, citation, or complaint. 18075

(b) "Civil action or proceeding" means any civil litigation 18076
that must be determined by judgment entry. 18077

(C) The municipal court shall collect in all its divisions 18078
except the small claims division the sum of ~~fifteen~~ twenty-six 18079
dollars as additional filing fees in each new civil action or 18080
proceeding for the charitable public purpose of providing 18081
financial assistance to legal aid societies that operate within 18082
the state and to support the office of the state public defender. 18083
The municipal court shall collect in its small claims division the 18084
sum of ~~seven~~ eleven dollars as additional filing fees in each new 18085
civil action or proceeding for the charitable public purpose of 18086
providing financial assistance to legal aid societies that operate 18087
within the state and to support the office of the state public 18088
defender. This division does not apply to any execution on a 18089
judgment, proceeding in aid of execution, or other post-judgment 18090
proceeding arising out of a civil action. The filing fees required 18091
to be collected under this division shall be in addition to any 18092
other court costs imposed in the action or proceeding and shall be 18093
collected at the time of the filing of the action or proceeding. 18094
The court shall not waive the payment of the additional filing 18095
fees in a new civil action or proceeding unless the court waives 18096
the advanced payment of all filing fees in the action or 18097
proceeding. All such moneys collected during a month shall be 18098
transmitted on or before the ~~first business~~ twentieth day of ~~each~~ 18099
the following month by the clerk of the court to the treasurer of 18100
state in a manner prescribed by the treasurer of state or by the 18101
Ohio legal assistance foundation. The ~~moneys then shall be~~ 18102
~~deposited by the~~ treasurer of state shall deposit four per cent of 18103
the funds collected under this division to the credit of the civil 18104
case filing fee fund established under section 120.07 of the 18105
Revised Code and ninety-six per cent of the funds collected under 18106

this division to the credit of the legal aid fund established 18107
under section 120.52 of the Revised Code. 18108

The court may retain up to one per cent of the moneys it 18109
collects under this division to cover administrative costs, 18110
including the hiring of any additional personnel necessary to 18111
implement this division. 18112

(D) In the Cleveland municipal court, reasonable charges for 18113
investigating titles of real estate to be sold or disposed of 18114
under any writ or process of the court may be taxed as part of the 18115
costs. 18116

(E) Under the circumstances described in sections 2969.21 to 18117
2969.27 of the Revised Code, the clerk of the municipal court 18118
shall charge the fees and perform the other duties specified in 18119
those sections. 18120

Sec. 1901.31. The clerk and deputy clerks of a municipal 18121
court shall be selected, be compensated, give bond, and have 18122
powers and duties as follows: 18123

(A) There shall be a clerk of the court who is appointed or 18124
elected as follows: 18125

(1)(a) Except in the Akron, Barberton, Cuyahoga Falls, 18126
~~Medina~~, Toledo, Hamilton county, Portage county, and Wayne county 18127
municipal courts, if the population of the territory equals or 18128
exceeds one hundred thousand at the regular municipal election 18129
immediately preceding the expiration of the term of the present 18130
clerk, the clerk shall be nominated and elected by the qualified 18131
electors of the territory in the manner that is provided for the 18132
nomination and election of judges in section 1901.07 of the 18133
Revised Code. 18134

The clerk so elected shall hold office for a term of six 18135
years, which term shall commence on the first day of January 18136

following the clerk's election and continue until the clerk's 18137
successor is elected and qualified. 18138

(b) In the Hamilton county municipal court, the clerk of 18139
courts of Hamilton county shall be the clerk of the municipal 18140
court and may appoint an assistant clerk who shall receive the 18141
compensation, payable out of the treasury of Hamilton county in 18142
semimonthly installments, that the board of county commissioners 18143
prescribes. The clerk of courts of Hamilton county, acting as the 18144
clerk of the Hamilton county municipal court and assuming the 18145
duties of that office, shall receive compensation at one-fourth 18146
the rate that is prescribed for the clerks of courts of common 18147
pleas as determined in accordance with the population of the 18148
county and the rates set forth in sections 325.08 and 325.18 of 18149
the Revised Code. This compensation shall be paid from the county 18150
treasury in semimonthly installments and is in addition to the 18151
annual compensation that is received for the performance of the 18152
duties of the clerk of courts of Hamilton county, as provided in 18153
sections 325.08 and 325.18 of the Revised Code. 18154

(c) In the Portage county and Wayne county municipal courts, 18155
the clerks of courts of Portage county and Wayne county shall be 18156
the clerks, respectively, of the Portage county and Wayne county 18157
municipal courts and may appoint a chief deputy clerk for each 18158
branch that is established pursuant to section 1901.311 of the 18159
Revised Code and assistant clerks as the judges of the municipal 18160
court determine are necessary, all of whom shall receive the 18161
compensation that the legislative authority prescribes. The clerks 18162
of courts of Portage county and Wayne county, acting as the clerks 18163
of the Portage county and Wayne county municipal courts and 18164
assuming the duties of these offices, shall receive compensation 18165
payable from the county treasury in semimonthly installments at 18166
one-fourth the rate that is prescribed for the clerks of courts of 18167
common pleas as determined in accordance with the population of 18168

the county and the rates set forth in sections 325.08 and 325.18 18169
of the Revised Code. 18170

(d) Except as otherwise provided in division (A)(1)(d) of 18171
this section, in the Akron municipal court, candidates for 18172
election to the office of clerk of the court shall be nominated by 18173
primary election. The primary election shall be held on the day 18174
specified in the charter of the city of Akron for the nomination 18175
of municipal officers. Notwithstanding section 3513.257 of the 18176
Revised Code, the nominating petitions of independent candidates 18177
shall be signed by at least two hundred fifty qualified electors 18178
of the territory of the court. 18179

The candidates shall file a declaration of candidacy and 18180
petition, or a nominating petition, whichever is applicable, not 18181
later than four p.m. of the seventy-fifth day before the day of 18182
the primary election, in the form prescribed by section 3513.07 or 18183
3513.261 of the Revised Code. The declaration of candidacy and 18184
petition, or the nominating petition, shall conform to the 18185
applicable requirements of section 3513.05 or 3513.257 of the 18186
Revised Code. 18187

If no valid declaration of candidacy and petition is filed by 18188
any person for nomination as a candidate of a particular political 18189
party for election to the office of clerk of the Akron municipal 18190
court, a primary election shall not be held for the purpose of 18191
nominating a candidate of that party for election to that office. 18192
If only one person files a valid declaration of candidacy and 18193
petition for nomination as a candidate of a particular political 18194
party for election to that office, a primary election shall not be 18195
held for the purpose of nominating a candidate of that party for 18196
election to that office, and the candidate shall be issued a 18197
certificate of nomination in the manner set forth in section 18198
3513.02 of the Revised Code. 18199

Declarations of candidacy and petitions, nominating 18200

petitions, and certificates of nomination for the office of clerk 18201
of the Akron municipal court shall contain a designation of the 18202
term for which the candidate seeks election. At the following 18203
regular municipal election, all candidates for the office shall be 18204
submitted to the qualified electors of the territory of the court 18205
in the manner that is provided in section 1901.07 of the Revised 18206
Code for the election of the judges of the court. The clerk so 18207
elected shall hold office for a term of six years, which term 18208
shall commence on the first day of January following the clerk's 18209
election and continue until the clerk's successor is elected and 18210
qualified. 18211

~~(e) Irrespective of the population of the territory of the 18212
Medina municipal court, the clerk of that court shall be appointed 18213
pursuant to division (A)(2)(a) of this section by the judges of 18214
that court, shall hold office until the clerk's successor is 18215
similarly appointed and qualified, and shall receive pursuant to 18216
division (C) of this section the annual compensation that the 18217
legislative authority prescribes and that is payable in 18218
semimonthly installments from the same sources and in the same 18219
manner as provided in section 1901.11 of the Revised Code. 18220~~

~~(f)~~ Except as otherwise provided in division (A)(1)~~(f)~~(e) of 18221
this section, in the Barberton municipal court, candidates for 18222
election to the office of clerk of the court shall be nominated by 18223
primary election. The primary election shall be held on the day 18224
specified in the charter of the city of Barberton for the 18225
nomination of municipal officers. Notwithstanding section 3513.257 18226
of the Revised Code, the nominating petitions of independent 18227
candidates shall be signed by at least two hundred fifty qualified 18228
electors of the territory of the court. 18229

The candidates shall file a declaration of candidacy and 18230
petition, or a nominating petition, whichever is applicable, not 18231
later than four p.m. of the seventy-fifth day before the day of 18232

the primary election, in the form prescribed by section 3513.07 or 18233
3513.261 of the Revised Code. The declaration of candidacy and 18234
petition, or the nominating petition, shall conform to the 18235
applicable requirements of section 3513.05 or 3513.257 of the 18236
Revised Code. 18237

If no valid declaration of candidacy and petition is filed by 18238
any person for nomination as a candidate of a particular political 18239
party for election to the office of clerk of the Barberton 18240
municipal court, a primary election shall not be held for the 18241
purpose of nominating a candidate of that party for election to 18242
that office. If only one person files a valid declaration of 18243
candidacy and petition for nomination as a candidate of a 18244
particular political party for election to that office, a primary 18245
election shall not be held for the purpose of nominating a 18246
candidate of that party for election to that office, and the 18247
candidate shall be issued a certificate of nomination in the 18248
manner set forth in section 3513.02 of the Revised Code. 18249

Declarations of candidacy and petitions, nominating 18250
petitions, and certificates of nomination for the office of clerk 18251
of the Barberton municipal court shall contain a designation of 18252
the term for which the candidate seeks election. At the following 18253
regular municipal election, all candidates for the office shall be 18254
submitted to the qualified electors of the territory of the court 18255
in the manner that is provided in section 1901.07 of the Revised 18256
Code for the election of the judges of the court. The clerk so 18257
elected shall hold office for a term of six years, which term 18258
shall commence on the first day of January following the clerk's 18259
election and continue until the clerk's successor is elected and 18260
qualified. 18261

~~(g)~~(f) Except as otherwise provided in division (A)(1)~~(g)~~(f) 18262
of this section, in the Cuyahoga Falls municipal court, candidates 18263
for election to the office of clerk of the court shall be 18264

nominated by primary election. The primary election shall be held 18265
on the day specified in the charter of the city of Cuyahoga Falls 18266
for the nomination of municipal officers. Notwithstanding section 18267
3513.257 of the Revised Code, the nominating petitions of 18268
independent candidates shall be signed by at least two hundred 18269
fifty qualified electors of the territory of the court. 18270

The candidates shall file a declaration of candidacy and 18271
petition, or a nominating petition, whichever is applicable, not 18272
later than four p.m. of the seventy-fifth day before the day of 18273
the primary election, in the form prescribed by section 3513.07 or 18274
3513.261 of the Revised Code. The declaration of candidacy and 18275
petition, or the nominating petition, shall conform to the 18276
applicable requirements of section 3513.05 or 3513.257 of the 18277
Revised Code. 18278

If no valid declaration of candidacy and petition is filed by 18279
any person for nomination as a candidate of a particular political 18280
party for election to the office of clerk of the Cuyahoga Falls 18281
municipal court, a primary election shall not be held for the 18282
purpose of nominating a candidate of that party for election to 18283
that office. If only one person files a valid declaration of 18284
candidacy and petition for nomination as a candidate of a 18285
particular political party for election to that office, a primary 18286
election shall not be held for the purpose of nominating a 18287
candidate of that party for election to that office, and the 18288
candidate shall be issued a certificate of nomination in the 18289
manner set forth in section 3513.02 of the Revised Code. 18290

Declarations of candidacy and petitions, nominating 18291
petitions, and certificates of nomination for the office of clerk 18292
of the Cuyahoga Falls municipal court shall contain a designation 18293
of the term for which the candidate seeks election. At the 18294
following regular municipal election, all candidates for the 18295
office shall be submitted to the qualified electors of the 18296

territory of the court in the manner that is provided in section 18297
1901.07 of the Revised Code for the election of the judges of the 18298
court. The clerk so elected shall hold office for a term of six 18299
years, which term shall commence on the first day of January 18300
following the clerk's election and continue until the clerk's 18301
successor is elected and qualified. 18302

~~(h)~~(g) Except as otherwise provided in division (A)(1)~~(h)~~(g) 18303
of this section, in the Toledo municipal court, candidates for 18304
election to the office of clerk of the court shall be nominated by 18305
primary election. The primary election shall be held on the day 18306
specified in the charter of the city of Toledo for the nomination 18307
of municipal officers. Notwithstanding section 3513.257 of the 18308
Revised Code, the nominating petitions of independent candidates 18309
shall be signed by at least two hundred fifty qualified electors 18310
of the territory of the court. 18311

The candidates shall file a declaration of candidacy and 18312
petition, or a nominating petition, whichever is applicable, not 18313
later than four p.m. of the seventy-fifth day before the day of 18314
the primary election, in the form prescribed by section 3513.07 or 18315
3513.261 of the Revised Code. The declaration of candidacy and 18316
petition, or the nominating petition, shall conform to the 18317
applicable requirements of section 3513.05 or 3513.257 of the 18318
Revised Code. 18319

If no valid declaration of candidacy and petition is filed by 18320
any person for nomination as a candidate of a particular political 18321
party for election to the office of clerk of the Toledo municipal 18322
court, a primary election shall not be held for the purpose of 18323
nominating a candidate of that party for election to that office. 18324
If only one person files a valid declaration of candidacy and 18325
petition for nomination as a candidate of a particular political 18326
party for election to that office, a primary election shall not be 18327
held for the purpose of nominating a candidate of that party for 18328

election to that office, and the candidate shall be issued a 18329
certificate of nomination in the manner set forth in section 18330
3513.02 of the Revised Code. 18331

Declarations of candidacy and petitions, nominating 18332
petitions, and certificates of nomination for the office of clerk 18333
of the Toledo municipal court shall contain a designation of the 18334
term for which the candidate seeks election. At the following 18335
regular municipal election, all candidates for the office shall be 18336
submitted to the qualified electors of the territory of the court 18337
in the manner that is provided in section 1901.07 of the Revised 18338
Code for the election of the judges of the court. The clerk so 18339
elected shall hold office for a term of six years, which term 18340
shall commence on the first day of January following the clerk's 18341
election and continue until the clerk's successor is elected and 18342
qualified. 18343

(2)(a) Except for the Alliance, Auglaize county, Brown 18344
county, Columbiana county, Lorain, Massillon, and Youngstown 18345
municipal courts, in a municipal court for which the population of 18346
the territory is less than one hundred thousand ~~and in the Medina~~ 18347
~~municipal court~~, the clerk shall be appointed by the court, and 18348
the clerk shall hold office until the clerk's successor is 18349
appointed and qualified. 18350

(b) In the Alliance, Lorain, Massillon, and Youngstown 18351
municipal courts, the clerk shall be elected for a term of office 18352
as described in division (A)(1)(a) of this section. 18353

(c) In the Auglaize county and Brown county municipal courts, 18354
the clerks of courts of Auglaize county and Brown county shall be 18355
the clerks, respectively, of the Auglaize county and Brown county 18356
municipal courts and may appoint a chief deputy clerk for each 18357
branch that is established pursuant to section 1901.311 of the 18358
Revised Code, and assistant clerks as the judge of the court 18359
determines are necessary, all of whom shall receive the 18360

compensation that the legislative authority prescribes. The clerks 18361
of courts of Auglaize county and Brown county, acting as the 18362
clerks of the Auglaize county and Brown county municipal courts 18363
and assuming the duties of these offices, shall receive 18364
compensation payable from the county treasury in semimonthly 18365
installments at one-fourth the rate that is prescribed for the 18366
clerks of courts of common pleas as determined in accordance with 18367
the population of the county and the rates set forth in sections 18368
325.08 and 325.18 of the Revised Code. 18369

(d) In the Columbiana county municipal court, the clerk of 18370
courts of Columbiana county shall be the clerk of the municipal 18371
court, may appoint a chief deputy clerk for each branch office 18372
that is established pursuant to section 1901.311 of the Revised 18373
Code, and may appoint any assistant clerks that the judges of the 18374
court determine are necessary. All of the chief deputy clerks and 18375
assistant clerks shall receive the compensation that the 18376
legislative authority prescribes. The clerk of courts of 18377
Columbiana county, acting as the clerk of the Columbiana county 18378
municipal court and assuming the duties of that office, shall 18379
receive compensation payable from the county treasury in 18380
semimonthly installments at one-fourth the rate that is prescribed 18381
for the clerks of courts of common pleas as determined in 18382
accordance with the population of the county and the rates set 18383
forth in sections 325.08 and 325.18 of the Revised Code. 18384

(3) During the temporary absence of the clerk due to illness, 18385
vacation, or other proper cause, the court may appoint a temporary 18386
clerk, who shall be paid the same compensation, have the same 18387
authority, and perform the same duties as the clerk. 18388

(B) Except in the Hamilton county, ~~Medina~~, Portage county, 18389
and Wayne county municipal courts, if a vacancy occurs in the 18390
office of the clerk of the Alliance, Lorain, Massillon, or 18391
Youngstown municipal court or occurs in the office of the clerk of 18392

a municipal court for which the population of the territory equals 18393
or exceeds one hundred thousand because the clerk ceases to hold 18394
the office before the end of the clerk's term or because a 18395
clerk-elect fails to take office, the vacancy shall be filled, 18396
until a successor is elected and qualified, by a person chosen by 18397
the residents of the territory of the court who are members of the 18398
county central committee of the political party by which the last 18399
occupant of that office or the clerk-elect was nominated. Not less 18400
than five nor more than fifteen days after a vacancy occurs, those 18401
members of that county central committee shall meet to make an 18402
appointment to fill the vacancy. At least four days before the 18403
date of the meeting, the chairperson or a secretary of the county 18404
central committee shall notify each such member of that county 18405
central committee by first class mail of the date, time, and place 18406
of the meeting and its purpose. A majority of all such members of 18407
that county central committee constitutes a quorum, and a majority 18408
of the quorum is required to make the appointment. If the office 18409
so vacated was occupied or was to be occupied by a person not 18410
nominated at a primary election, or if the appointment was not 18411
made by the committee members in accordance with this division, 18412
the court shall make an appointment to fill the vacancy. A 18413
successor shall be elected to fill the office for the unexpired 18414
term at the first municipal election that is held more than one 18415
hundred twenty days after the vacancy occurred. 18416

(C)(1) In a municipal court, other than the Auglaize county, 18417
the Brown county, the Columbiana county, and the Lorain municipal 18418
courts, for which the population of the territory is less than one 18419
hundred thousand ~~and in the Medina municipal court~~, the clerk of 18420
the municipal court shall receive the annual compensation that the 18421
presiding judge of the court prescribes, if the revenue of the 18422
court for the preceding calendar year, as certified by the auditor 18423
or chief fiscal officer of the municipal corporation in which the 18424
court is located or, in the case of a county-operated municipal 18425

court, the county auditor, is equal to or greater than the 18426
expenditures, including any debt charges, for the operation of the 18427
court payable under this chapter from the city treasury or, in the 18428
case of a county-operated municipal court, the county treasury for 18429
that calendar year, as also certified by the auditor or chief 18430
fiscal officer. If the revenue of a municipal court, other than 18431
the Auglaize county, the Brown county, the Columbiana county, and 18432
the Lorain municipal courts, for which the population of the 18433
territory is less than one hundred thousand ~~or the revenue of the~~ 18434
~~Medina municipal court~~ for the preceding calendar year as so 18435
certified is not equal to or greater than those expenditures for 18436
the operation of the court for that calendar year as so certified, 18437
the clerk of a municipal court shall receive the annual 18438
compensation that the legislative authority prescribes. As used in 18439
this division, "revenue" means the total of all costs and fees 18440
that are collected and paid to the city treasury or, in a 18441
county-operated municipal court, the county treasury by the clerk 18442
of the municipal court under division (F) of this section and all 18443
interest received and paid to the city treasury or, in a 18444
county-operated municipal court, the county treasury in relation 18445
to the costs and fees under division (G) of this section. 18446

(2) In a municipal court, other than the Hamilton county, 18447
~~Medina~~, Portage county, and Wayne county municipal courts, for 18448
which the population of the territory is one hundred thousand or 18449
more, and in the Lorain municipal court, the clerk of the 18450
municipal court shall receive annual compensation in a sum equal 18451
to eighty-five per cent of the salary of a judge of the court. 18452

(3) The compensation of a clerk described in division (C)(1) 18453
or (2) of this section is payable in semimonthly installments from 18454
the same sources and in the same manner as provided in section 18455
1901.11 of the Revised Code. 18456

(D) Before entering upon the duties of the clerk's office, 18457

the clerk of a municipal court shall give bond of not less than 18458
six thousand dollars to be determined by the judges of the court, 18459
conditioned upon the faithful performance of the clerk's duties. 18460

(E) The clerk of a municipal court may do all of the 18461
following: administer oaths, take affidavits, and issue executions 18462
upon any judgment rendered in the court, including a judgment for 18463
unpaid costs; issue, sign, and attach the seal of the court to all 18464
writs, process, subpoenas, and papers issuing out of the court; 18465
and approve all bonds, sureties, recognizances, and undertakings 18466
fixed by any judge of the court or by law. The clerk may refuse to 18467
accept for filing any pleading or paper submitted for filing by a 18468
person who has been found to be a vexatious litigator under 18469
section 2323.52 of the Revised Code and who has failed to obtain 18470
leave to proceed under that section. The clerk shall do all of the 18471
following: file and safely keep all journals, records, books, and 18472
papers belonging or appertaining to the court; record the 18473
proceedings of the court; perform all other duties that the judges 18474
of the court may prescribe; and keep a book showing all receipts 18475
and disbursements, which book shall be open for public inspection 18476
at all times. 18477

The clerk shall prepare and maintain a general index, a 18478
docket, and other records that the court, by rule, requires, all 18479
of which shall be the public records of the court. In the docket, 18480
the clerk shall enter, at the time of the commencement of an 18481
action, the names of the parties in full, the names of the 18482
counsel, and the nature of the proceedings. Under proper dates, 18483
the clerk shall note the filing of the complaint, issuing of 18484
summons or other process, returns, and any subsequent pleadings. 18485
The clerk also shall enter all reports, verdicts, orders, 18486
judgments, and proceedings of the court, clearly specifying the 18487
relief granted or orders made in each action. The court may order 18488
an extended record of any of the above to be made and entered, 18489

under the proper action heading, upon the docket at the request of 18490
any party to the case, the expense of which record may be taxed as 18491
costs in the case or may be required to be prepaid by the party 18492
demanding the record, upon order of the court. 18493

(F) The clerk of a municipal court shall receive, collect, 18494
and issue receipts for all costs, fees, fines, bail, and other 18495
moneys payable to the office or to any officer of the court. The 18496
clerk shall each month disburse to the proper persons or officers, 18497
and take receipts for, all costs, fees, fines, bail, and other 18498
moneys that the clerk collects. Subject to sections 3375.50 and 18499
4511.193 of the Revised Code and to any other section of the 18500
Revised Code that requires a specific manner of disbursement of 18501
any moneys received by a municipal court and except for the 18502
Hamilton county, Lawrence county, and Ottawa county municipal 18503
courts, the clerk shall pay all fines received for violation of 18504
municipal ordinances into the treasury of the municipal 18505
corporation the ordinance of which was violated and shall pay all 18506
fines received for violation of township resolutions adopted 18507
pursuant to Chapter 504. of the Revised Code into the treasury of 18508
the township the resolution of which was violated. Subject to 18509
sections 1901.024 and 4511.193 of the Revised Code, in the 18510
Hamilton county, Lawrence county, and Ottawa county municipal 18511
courts, the clerk shall pay fifty per cent of the fines received 18512
for violation of municipal ordinances and fifty per cent of the 18513
fines received for violation of township resolutions adopted 18514
pursuant to Chapter 504. of the Revised Code into the treasury of 18515
the county. Subject to sections 3375.50, 3375.53, 4511.19, and 18516
5503.04 of the Revised Code and to any other section of the 18517
Revised Code that requires a specific manner of disbursement of 18518
any moneys received by a municipal court, the clerk shall pay all 18519
fines collected for the violation of state laws into the county 18520
treasury. Except in a county-operated municipal court, the clerk 18521
shall pay all costs and fees the disbursement of which is not 18522

otherwise provided for in the Revised Code into the city treasury. 18523
The clerk of a county-operated municipal court shall pay the costs 18524
and fees the disbursement of which is not otherwise provided for 18525
in the Revised Code into the county treasury. Moneys deposited as 18526
security for costs shall be retained pending the litigation. The 18527
clerk shall keep a separate account of all receipts and 18528
disbursements in civil and criminal cases, which shall be a 18529
permanent public record of the office. On the expiration of the 18530
term of the clerk, the clerk shall deliver the records to the 18531
clerk's successor. The clerk shall have other powers and duties as 18532
are prescribed by rule or order of the court. 18533

(G) All moneys paid into a municipal court shall be noted on 18534
the record of the case in which they are paid and shall be 18535
deposited in a state or national bank, or a domestic savings and 18536
loan association, as defined in section 1151.01 of the Revised 18537
Code, that is selected by the clerk. Any interest received upon 18538
the deposits shall be paid into the city treasury, except that, in 18539
a county-operated municipal court, the interest shall be paid into 18540
the treasury of the county in which the court is located. 18541

On the first Monday in January of each year, the clerk shall 18542
make a list of the titles of all cases in the court that were 18543
finally determined more than one year past in which there remains 18544
unclaimed in the possession of the clerk any funds, or any part of 18545
a deposit for security of costs not consumed by the costs in the 18546
case. The clerk shall give notice of the moneys to the parties who 18547
are entitled to the moneys or to their attorneys of record. All 18548
the moneys remaining unclaimed on the first day of April of each 18549
year shall be paid by the clerk to the city treasurer, except 18550
that, in a county-operated municipal court, the moneys shall be 18551
paid to the treasurer of the county in which the court is located. 18552
The treasurer shall pay any part of the moneys at any time to the 18553
person who has the right to the moneys upon proper certification 18554

of the clerk. 18555

(H) Deputy clerks may be appointed by the clerk and shall 18556
receive the compensation, payable in semimonthly installments out 18557
of the city treasury, that the clerk may prescribe, except that 18558
the compensation of any deputy clerk of a county-operated 18559
municipal court shall be paid out of the treasury of the county in 18560
which the court is located. Each deputy clerk shall take an oath 18561
of office before entering upon the duties of the deputy clerk's 18562
office and, when so qualified, may perform the duties appertaining 18563
to the office of the clerk. The clerk may require any of the 18564
deputy clerks to give bond of not less than three thousand 18565
dollars, conditioned for the faithful performance of the deputy 18566
clerk's duties. 18567

(I) For the purposes of this section, whenever the population 18568
of the territory of a municipal court falls below one hundred 18569
thousand but not below ninety thousand, and the population of the 18570
territory prior to the most recent regular federal census exceeded 18571
one hundred thousand, the legislative authority of the municipal 18572
corporation may declare, by resolution, that the territory shall 18573
be considered to have a population of at least one hundred 18574
thousand. 18575

(J) The clerk or a deputy clerk shall be in attendance at all 18576
sessions of the municipal court, although not necessarily in the 18577
courtroom, and may administer oaths to witnesses and jurors and 18578
receive verdicts. 18579

Sec. 1907.24. (A) Subject to division (C) of this section, a 18580
county court shall fix and tax fees and costs as follows: 18581

(1) The county court shall require an advance deposit for the 18582
filing of any new civil action or proceeding when required by 18583
division (C) of this section and, in all other cases, shall 18584
establish a schedule of fees and costs to be taxed in any civil or 18585

criminal action or proceeding. 18586

(2) The county court by rule may require an advance deposit 18587
for the filing of a civil action or proceeding and publication 18588
fees as provided in section 2701.09 of the Revised Code. The court 18589
may waive an advance deposit requirement upon the presentation of 18590
an affidavit or other evidence that establishes that a party is 18591
unable to make the requisite deposit. 18592

(3) When a party demands a jury trial in a civil action or 18593
proceeding, the county court may require the party to make an 18594
advance deposit as fixed by rule of court, unless the court 18595
concludes, on the basis of an affidavit or other evidence 18596
presented by the party, that the party is unable to make the 18597
requisite deposit. If a jury is called, the county court shall tax 18598
the fees of a jury as costs. 18599

(4) In a civil or criminal action or proceeding, the county 18600
court shall fix the fees of witnesses in accordance with sections 18601
2335.06 and 2335.08 of the Revised Code. 18602

(5) A county court may tax as part of the costs in a trial of 18603
the cause, in an amount fixed by rule of court, a reasonable 18604
charge for driving, towing, carting, storing, keeping, and 18605
preserving motor vehicles and other personal property recovered or 18606
seized in a proceeding. 18607

(6) The court shall preserve chattel property seized under a 18608
writ or process issued by the court pending final disposition for 18609
the benefit of all interested persons. The court may place the 18610
chattel property in storage when necessary or proper for its 18611
preservation. The custodian of chattel property so stored shall 18612
not be required to part with the possession of the property until 18613
a reasonable charge, to be fixed by the court, is paid. 18614

(7) The county court, as it determines, may refund all 18615
deposits and advance payments of fees and costs, including those 18616

for jurors and summoning jurors, when they have been paid by the 18617
losing party. 18618

(8) The court may tax as part of costs charges for the 18619
publication of legal notices required by statute or order of 18620
court, as provided by section 7.13 of the Revised Code. 18621

(B)(1) The county court may determine that, for the efficient 18622
operation of the court, additional funds are necessary to acquire 18623
and pay for special projects of the court including, but not 18624
limited to, the acquisition of additional facilities or the 18625
rehabilitation of existing facilities, the acquisition of 18626
equipment, the hiring and training of staff, community service 18627
programs, mediation or dispute resolution services, the employment 18628
of magistrates, the training and education of judges, acting 18629
judges, and magistrates, and other related services. Upon that 18630
determination, the court by rule may charge a fee, in addition to 18631
all other court costs, on the filing of each criminal cause, civil 18632
action or proceeding, or judgment by confession. 18633

If the county court offers a special program or service in 18634
cases of a specific type, the county court by rule may assess an 18635
additional charge in a case of that type, over and above court 18636
costs, to cover the special program or service. The county court 18637
shall adjust the special assessment periodically, but not 18638
retroactively, so that the amount assessed in those cases does not 18639
exceed the actual cost of providing the service or program. 18640

All moneys collected under division (B) of this section shall 18641
be paid to the county treasurer for deposit into either a general 18642
special projects fund or a fund established for a specific special 18643
project. Moneys from a fund of that nature shall be disbursed upon 18644
an order of the court in an amount no greater than the actual cost 18645
to the court of a project. If a specific fund is terminated 18646
because of the discontinuance of a program or service established 18647
under division (B) of this section, the county court may order 18648

that moneys remaining in the fund be transferred to an account 18649
established under this division for a similar purpose. 18650

(2) As used in division (B) of this section: 18651

(a) "Criminal cause" means a charge alleging the violation of 18652
a statute or ordinance, or subsection of a statute or ordinance, 18653
that requires a separate finding of fact or a separate plea before 18654
disposition and of which the defendant may be found guilty, 18655
whether filed as part of a multiple charge on a single summons, 18656
citation, or complaint or as a separate charge on a single 18657
summons, citation, or complaint. "Criminal cause" does not include 18658
separate violations of the same statute or ordinance, or 18659
subsection of the same statute or ordinance, unless each charge is 18660
filed on a separate summons, citation, or complaint. 18661

(b) "Civil action or proceeding" means any civil litigation 18662
that must be determined by judgment entry. 18663

(C) Subject to division (E) of this section, the county court 18664
shall collect in all its divisions except the small claims 18665
division the sum of ~~fifteen~~ twenty-six dollars as additional 18666
filing fees in each new civil action or proceeding for the 18667
charitable public purpose of providing financial assistance to 18668
legal aid societies that operate within the state and to support 18669
the office of the state public defender. Subject to division (E) 18670
of this section, the county court shall collect in its small 18671
claims division the sum of ~~seven~~ eleven dollars as additional 18672
filing fees in each new civil action or proceeding for the 18673
charitable public purpose of providing financial assistance to 18674
legal aid societies that operate within the state and to support 18675
the office of the state public defender. This division does not 18676
apply to any execution on a judgment, proceeding in aid of 18677
execution, or other post-judgment proceeding arising out of a 18678
civil action. The filing fees required to be collected under this 18679
division shall be in addition to any other court costs imposed in 18680

the action or proceeding and shall be collected at the time of the 18681
filing of the action or proceeding. The court shall not waive the 18682
payment of the additional filing fees in a new civil action or 18683
proceeding unless the court waives the advanced payment of all 18684
filing fees in the action or proceeding. All such moneys collected 18685
during a month shall be transmitted on or before the twentieth day 18686
of the following month by the clerk of the court to the treasurer 18687
of state in a manner prescribed by the treasurer of state or by 18688
the Ohio legal assistance foundation. The ~~moneys then shall be~~ 18689
~~deposited by the~~ treasurer of state shall deposit four per cent of 18690
the funds collected under this division to the credit of the civil 18691
case filing fee fund established under section 120.07 of the 18692
Revised Code and ninety-six per cent of the funds collected under 18693
this division to the credit of the legal aid fund established 18694
under section 120.52 of the Revised Code. 18695

The court may retain up to one per cent of the moneys it 18696
collects under this division to cover administrative costs, 18697
including the hiring of any additional personnel necessary to 18698
implement this division. 18699

(D) The county court shall establish by rule a schedule of 18700
fees for miscellaneous services performed by the county court or 18701
any of its judges in accordance with law. If judges of the court 18702
of common pleas perform similar services, the fees prescribed in 18703
the schedule shall not exceed the fees for those services 18704
prescribed by the court of common pleas. 18705

(E) Under the circumstances described in sections 2969.21 to 18706
2969.27 of the Revised Code, the clerk of the county court shall 18707
charge the fees and perform the other duties specified in those 18708
sections. 18709

Sec. 2113.041. (A) The administrator of the estate recovery 18710
program established pursuant to section 5111.11 of the Revised 18711

Code may present an affidavit to a financial institution 18712
requesting that the financial institution release account proceeds 18713
to recover the cost of services correctly provided to a medicaid 18714
recipient who is subject to the estate recovery program. The 18715
affidavit shall include all of the following information: 18716

(1) The name of the decedent; 18717

(2) The name of any person who gave notice that the decedent 18718
was a medicaid recipient and that person's relationship to the 18719
decedent; 18720

(3) The name of the financial institution; 18721

(4) The account number; 18722

(5) A description of the claim for estate recovery; 18723

(6) The amount of funds to be recovered. 18724

(B) A financial institution may release account proceeds to 18725
the administrator of the estate recovery program if all of the 18726
following apply: 18727

(1) The decedent held an account at the financial institution 18728
that was in the decedent's name only. 18729

(2) No estate has been, and it is reasonable to assume that 18730
no estate will be, opened for the decedent. 18731

(3) The decedent has no outstanding debts known to the 18732
administrator of the estate recovery program. 18733

(4) The financial institution has received no objections or 18734
has determined that no valid objections to release of proceeds 18735
have been received. 18736

(C) If proceeds have been released pursuant to division (B) 18737
of this section and the department of job and family services 18738
receives notice of a valid claim to the proceeds that has a higher 18739
priority under section 2117.25 of the Revised Code than the claim 18740

of the estate recovery program, the department may refund the 18741
proceeds to the financial institution or pay them to the person or 18742
government entity with the claim. 18743

Sec. 2117.061. (A) As used in this section, ~~"person:~~ 18744

(1) "Medicaid estate recovery program" means the program 18745
instituted under section 5111.11 of the Revised Code. 18746

(2) "Permanently institutionalized individual" has the same 18747
meaning as in section 5111.11 of the Revised Code. 18748

(3) "Person responsible for the estate" means the executor, 18749
administrator, commissioner, or person who filed pursuant to 18750
section 2113.03 of the Revised Code for release from 18751
administration of an estate. 18752

(B) If ~~the a~~ decedent, at the time of death, was fifty-five 18753
years of age or older ~~at the time of death or a permanently~~ 18754
institutionalized individual, the person responsible for ~~an the~~ 18755
decedent's estate shall determine whether the decedent was, at any 18756
time during the decedent's life, a medicaid recipient ~~of medical~~ 18757
~~assistance~~ under Chapter 5111. of the Revised Code. If the 18758
decedent was a medicaid recipient, the person responsible for the 18759
estate shall ~~give written notice to that effect~~ submit a properly 18760
completed medicaid estate recovery reporting form prescribed under 18761
division (D) of this section to the administrator of the medicaid 18762
estate recovery program ~~instituted under section 5111.11 of the~~ 18763
~~Revised Code~~ not later than thirty days after the occurrence of 18764
any of the following: 18765

(1) The granting of letters testamentary; 18766

(2) The administration of the estate; 18767

(3) The filing of an application for release from 18768
administration or summary release from administration. 18769

(C) The person responsible for ~~an the~~ estate shall mark the 18770

appropriate box on the appropriate probate form to indicate 18771
compliance with the requirements of division (B) of this section. 18772

The probate court shall send a copy of the completed probate 18773
form to the administrator of the medicaid estate recovery program. 18774

(D) The administrator of the estate recovery program shall 18775
prescribe a medicaid estate recovery reporting form for the 18776
purpose of division (B) of this section. The form shall require, 18777
at a minimum, that the person responsible for the estate list all 18778
of the decedent's real and personal property and other assets that 18779
are part of the decedent's estate as defined in section 5111.11 of 18780
the Revised Code. The administrator shall include on the form a 18781
statement printed in bold letters informing the person responsible 18782
for the estate that knowingly making a false statement on the form 18783
is falsification under section 2921.13 of the Revised Code, a 18784
misdemeanor of the first degree. 18785

(E) The estate recovery program administrator shall present a 18786
claim for estate recovery to the person responsible for the estate 18787
or the person's legal representative not later than ninety days 18788
after the date on which ~~notice~~ the medicaid estate recovery 18789
reporting form is received under division (B) of this section or 18790
one year after the decedent's death, whichever is later. 18791

Sec. 2151.282. (A) There is hereby created the Ohio court 18792
appointed special advocate/guardian ad litem (CASA/GAL) study 18793
committee consisting of five members. One member shall be a 18794
representative of the Ohio court appointed special 18795
advocate/guardian ad litem association appointed by the governor 18796
and shall be the chairperson of the committee. One member shall be 18797
a member of the Ohio juvenile judges association, appointed by the 18798
president of the senate. One member shall be a member of the Ohio 18799
state bar association appointed by the speaker of the house of 18800
representatives. One member shall be a representative of the 18801

office of the state public defender appointed by the minority 18802
leader of the senate. One member shall be a representative of the 18803
Ohio county commissioner's association appointed by the minority 18804
leader of the house of representatives. The members of the 18805
committee shall be appointed within sixty days after the effective 18806
date of this section. The committee shall do all of the following: 18807

(1) Compile available public data associated with state and 18808
local costs of advocating on behalf of children who have been 18809
found to be abused, neglected, or dependent children; 18810

(2) Examine the costs in counties that have established and 18811
operated an Ohio CASA/GAL association program, and the costs in 18812
counties that utilize the county public defender, joint county 18813
public defender, or court-appointed counsel, to advocate on behalf 18814
of children who have been found to be abused, neglected, or 18815
dependent children; 18816

(3) Analyze the total cost of advocating on behalf of 18817
children who have been found to be abused, neglected, or dependent 18818
children on a per county basis and a per child served basis; 18819

(4) Analyze the cost benefit of having an Ohio CASA/GAL 18820
association versus utilizing the county public defender, joint 18821
county public defender, or court-appointed counsel to advocate on 18822
behalf of children who have been found to be abused, neglected, or 18823
dependent children; 18824

(5) Analyze the advocacy services provided to abused 18825
children, neglected children, or dependent children by Ohio 18826
CASA/GAL association programs versus the advocacy services 18827
provided to abused, neglected, or dependent children by county 18828
public defenders, joint county public defenders, or 18829
court-appointed counsel. 18830

(B) The Ohio CASA/GAL association shall provide staff for the 18831

Ohio CASA/GAL study committee and shall pay for any expenses 18832
incurred by the study committee. The study committee shall meet 18833
within thirty days after the appointment of the members to the 18834
study committee. 18835

(C) The Ohio CASA/GAL study committee shall prepare a report 18836
containing all relevant data and information that division (A) of 18837
this section requires the study committee to compile, examine, and 18838
analyze. The Ohio CASA/GAL study committee shall deliver a final 18839
copy of the report to the governor, the speaker of the house of 18840
representatives, and the president of the senate on or before July 18841
1, 2007. 18842

Sec. 2151.352. A child, ~~or~~ the child's parents, or custodian, 18843
or any other person in loco parentis of ~~such~~ the child is entitled 18844
to representation by legal counsel at all stages of the 18845
proceedings under this chapter or Chapter 2152. of the Revised 18846
Code ~~and if. If~~, as an indigent person, ~~any such person~~ a party is 18847
unable to employ counsel, the party is entitled to have counsel 18848
provided for the person pursuant to Chapter 120. of the Revised 18849
Code except in civil matters in which the juvenile court is 18850
exercising jurisdiction pursuant to division (A)(2), (3), (9), 18851
(10), (11), (12), or (13); (B)(2), (3), (4), (5), or (6); (C); 18852
(D); or (F)(1) or (2) of section 2151.23 of the Revised Code. If a 18853
party appears without counsel, the court shall ascertain whether 18854
the party knows of the party's right to counsel and of the party's 18855
right to be provided with counsel if the party is an indigent 18856
person. The court may continue the case to enable a party to 18857
obtain counsel ~~or~~, to be represented by the county public defender 18858
or the joint county public defender ~~and shall provide, or to be~~ 18859
appointed counsel upon request pursuant to Chapter 120. of the 18860
Revised Code. Counsel must be provided for a child not represented 18861
by the child's parent, guardian, or custodian. If the interests of 18862
two or more such parties conflict, separate counsel shall be 18863

provided for each of them. 18864

Section 2935.14 of the Revised Code applies to any child 18865
taken into custody. The parents, custodian, or guardian of such 18866
child, and any attorney at law representing them or the child, 18867
shall be entitled to visit such child at any reasonable time, be 18868
present at any hearing involving the child, and be given 18869
reasonable notice of such hearing. 18870

Any report or part thereof concerning such child, which is 18871
used in the hearing and is pertinent thereto, shall for good cause 18872
shown be made available to any attorney at law representing such 18873
child and to any attorney at law representing the parents, 18874
custodian, or guardian of such child, upon written request prior 18875
to any hearing involving such child. 18876

Sec. 2151.416. (A) Each agency that is required by section 18877
2151.412 of the Revised Code to prepare a case plan for a child 18878
shall complete a semiannual administrative review of the case plan 18879
no later than six months after the earlier of the date on which 18880
the complaint in the case was filed or the child was first placed 18881
in shelter care. After the first administrative review, the agency 18882
shall complete semiannual administrative reviews no later than 18883
every six months. If the court issues an order pursuant to section 18884
2151.414 or 2151.415 of the Revised Code, the agency shall 18885
complete an administrative review no later than six months after 18886
the court's order and continue to complete administrative reviews 18887
no later than every six months after the first review, except that 18888
the court hearing held pursuant to section 2151.417 of the Revised 18889
Code may take the place of any administrative review that would 18890
otherwise be held at the time of the court hearing. When 18891
conducting a review, the child's health and safety shall be the 18892
paramount concern. 18893

(B) Each administrative review required by division (A) of 18894
this section shall be conducted by a review panel of at least 18895
three persons, including, but not limited to, both of the 18896
following: 18897

(1) A caseworker with day-to-day responsibility for, or 18898
familiarity with, the management of the child's case plan; 18899

(2) A person who is not responsible for the management of the 18900
child's case plan or for the delivery of services to the child or 18901
the parents, guardian, or custodian of the child. 18902

(C) Each semiannual administrative review shall include, but 18903
not be limited to, a joint meeting by the review panel with the 18904
parents, guardian, or custodian of the child, the guardian ad 18905
litem of the child, and the child's foster care provider and shall 18906
include an opportunity for those persons to submit any written 18907
materials to be included in the case record of the child. If a 18908
parent, guardian, custodian, guardian ad litem, or foster care 18909
provider of the child cannot be located after reasonable efforts 18910
to do so or declines to participate in the administrative review 18911
after being contacted, the agency does not have to include them in 18912
the joint meeting. 18913

(D) The agency shall prepare a written summary of the 18914
semiannual administrative review that shall include, but not be 18915
limited to, all of the following: 18916

(1) A conclusion regarding the safety and appropriateness of 18917
the child's foster care placement; 18918

(2) The extent of the compliance with the case plan of all 18919
parties; 18920

(3) The extent of progress that has been made toward 18921
alleviating the circumstances that required the agency to assume 18922
temporary custody of the child; 18923

(4) An estimated date by which the child may be returned to
and safely maintained in the child's home or placed for adoption
or legal custody;

(5) An updated case plan that includes any changes that the
agency is proposing in the case plan;

(6) The recommendation of the agency as to which agency or
person should be given custodial rights over the child for the
six-month period after the administrative review;

(7) The names of all persons who participated in the
administrative review.

(E) The agency shall file the summary with the court no later
than seven days after the completion of the administrative review.
If the agency proposes a change to the case plan as a result of
the administrative review, the agency shall file the proposed
change with the court at the time it files the summary. The agency
shall give notice of the summary and proposed change in writing
before the end of the next day after filing them to all parties
and the child's guardian ad litem. All parties and the guardian ad
litem shall have seven days after the date the notice is sent to
object to and request a hearing on the proposed change.

(1) If the court receives a timely request for a hearing, the
court shall schedule a hearing pursuant to section 2151.417 of the
Revised Code to be held not later than thirty days after the court
receives the request. The court shall give notice of the date,
time, and location of the hearing to all parties and the guardian
ad litem. The agency may implement the proposed change after the
hearing, if the court approves it. The agency shall not implement
the proposed change unless it is approved by the court.

(2) If the court does not receive a timely request for a
hearing, the court may approve the proposed change without a
hearing. If the court approves the proposed change without a

hearing, it shall journalize the case plan with the change not 18955
later than fourteen days after the change is filed with the court. 18956
If the court does not approve the proposed change to the case 18957
plan, it shall schedule a review hearing to be held pursuant to 18958
section 2151.417 of the Revised Code no later than thirty days 18959
after the expiration of the fourteen-day time period and give 18960
notice of the date, time, and location of the hearing to all 18961
parties and the guardian ad litem of the child. If, despite the 18962
requirements of this division and division (D) of section 2151.417 18963
of the Revised Code, the court neither approves and journalizes 18964
the proposed change nor conducts a hearing, the agency may 18965
implement the proposed change not earlier than fifteen days after 18966
it is submitted to the court. 18967

(F) The director of job and family services may adopt rules 18968
pursuant to Chapter 119. of the Revised Code for procedures and 18969
standard forms for conducting administrative reviews pursuant to 18970
this section. 18971

(G) The juvenile court that receives the written summary of 18972
the administrative review, upon determining, either from the 18973
written summary, case plan, or otherwise, that the custody or care 18974
arrangement is not in the best interest of the child, may 18975
terminate the custody of an agency and place the child in the 18976
custody of another institution or association certified by the 18977
department of job and family services under section 5103.03 of the 18978
Revised Code. 18979

(H) The department of job and family services shall report 18980
annually to the public and to the general assembly on the results 18981
of the review of case plans of each agency ~~and on the results of~~ 18982
~~the summaries submitted to the department under section 3107.10 of~~ 18983
~~the Revised Code.~~ The annual report shall include any information 18984
that is required by the department, including, but not limited to, 18985
all of the following: 18986

(1) A statistical analysis of the administrative reviews conducted pursuant to this section and section 2151.417 of the Revised Code; 18987
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(2) The number of children in temporary or permanent custody for whom an administrative review was conducted, the number of children whose custody status changed during the period, the number of children whose residential placement changed during the period, and the number of residential placement changes for each child during the period; 18990
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(3) An analysis of the utilization of public social services by agencies and parents or guardians, and the utilization of the adoption listing service of the department pursuant to section 5103.154 of the Revised Code; 18996
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~~(4) A compilation and analysis of data submitted to the department under section 3107.10 of the Revised Code. 19000
19001~~

Sec. 2152.43. (A) A board of county commissioners that provides a detention facility and the board of trustees of a district detention facility may apply to the department of youth services under section 5139.281 of the Revised Code for assistance in defraying the cost of operating and maintaining the facility. The application shall be made on forms prescribed and furnished by the department. 19002
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The board of county commissioners of each county that participates in a district detention facility may apply to the department of youth services for assistance in defraying the county's share of the cost of acquisition or construction of the facility, as provided in section 5139.271 of the Revised Code. Application shall be made in accordance with rules adopted by the department. No county shall be reimbursed for expenses incurred in the acquisition or construction of a district detention facility that serves a district having a population of less than one 19009
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hundred thousand. 19018

(B)(1) The joint boards of county commissioners of district 19019
detention facilities shall defray all necessary expenses of the 19020
facility not paid from funds made available under section 5139.281 19021
of the Revised Code, through annual assessments of taxes, through 19022
gifts, or through other means. 19023

If any county withdraws from a district under division (D) of 19024
section 2152.41 of the Revised Code, it shall continue to have 19025
levied against its tax duplicate any tax levied by the district 19026
during the period in which the county was a member of the district 19027
for current operating expenses, permanent improvements, or the 19028
retirement of bonded indebtedness. The levy shall continue to be a 19029
levy against the tax duplicate of the county until the time that 19030
it expires or is renewed. 19031

(2) The current expenses of maintaining the facility not paid 19032
from funds made available under section 5139.281 of the Revised 19033
Code or division (C) of this section, and the cost of ordinary 19034
repairs to the facility, shall be paid by each county in 19035
accordance with one of the following methods as approved by the 19036
joint board of county commissioners: 19037

(a) In proportion to the number of children from that county 19038
who are maintained in the facility during the year; 19039

(b) By a levy submitted by the joint board of county 19040
commissioners under division (A) of section 5705.19 of the Revised 19041
Code and approved by the electors of the district; 19042

(c) In proportion to the taxable property of each county, as 19043
shown by its tax duplicate; 19044

(d) In any ~~combination of the methods for payment described~~ 19045
~~in division (B)(2)(a), (b), or (c) of this section~~ other method 19046
agreed upon by unanimous vote of the joint board of county 19047
commissioners. 19048

(C) When any person donates or bequeaths any real or personal property to a county or district detention facility, the juvenile court or the trustees of the facility may accept and use the gift, consistent with the best interest of the institution and the conditions of the gift.

Sec. 2152.74. (A) As used in this section, "DNA analysis" and "DNA specimen" have the same meanings as in section 109.573 of the Revised Code.

(B)(1) A child who is adjudicated a delinquent child for committing an act listed in division (D) of this section and who is committed to the custody of the department of youth services, placed in a detention facility or district detention facility pursuant to division (A)(3) of section 2152.19 of the Revised Code, or placed in a school, camp, institution, or other facility for delinquent children described in division (A)(2) of section 2152.19 of the Revised Code shall submit to a DNA specimen collection procedure administered by the director of youth services if committed to the department or by the chief administrative officer of the detention facility, district detention facility, school, camp, institution, or other facility for delinquent children to which the child was committed or in which the child was placed. If the court commits the child to the department of youth services, the director of youth services shall cause the DNA specimen to be collected from the child during the intake process at an institution operated by or under the control of the department. If the court commits the child to or places the child in a detention facility, district detention facility, school, camp, institution, or other facility for delinquent children, the chief administrative officer of the detention facility, district detention facility, school, camp, institution, or facility to which the child is committed or in which the child is placed shall cause the DNA specimen to be collected from the

child during the intake process for the detention facility, 19081
district detention facility, school, camp, institution, or 19082
facility. In accordance with division (C) of this section, the 19083
director or the chief administrative officer shall cause the DNA 19084
specimen to be forwarded to the bureau of criminal identification 19085
and investigation no later than fifteen days after the date of the 19086
collection of the DNA specimen. The DNA specimen shall be 19087
collected from the child in accordance with division (C) of this 19088
section. 19089

(2) If a child is adjudicated a delinquent child for 19090
committing an act listed in division (D) of this section, is 19091
committed to or placed in the department of youth services, a 19092
detention facility or district detention facility, or a school, 19093
camp, institution, or other facility for delinquent children, and 19094
does not submit to a DNA specimen collection procedure pursuant to 19095
division (B)(1) of this section, prior to the child's release from 19096
the custody of the department of youth services, from the custody 19097
of the detention facility or district detention facility, or from 19098
the custody of the school, camp, institution, or facility, the 19099
child shall submit to, and the director of youth services or the 19100
chief administrator of the detention facility, district detention 19101
facility, school, camp, institution, or facility to which the 19102
child is committed or in which the child was placed shall 19103
administer, a DNA specimen collection procedure at the institution 19104
operated by or under the control of the department of youth 19105
services or at the detention facility, district detention 19106
facility, school, camp, institution, or facility to which the 19107
child is committed or in which the child was placed. In accordance 19108
with division (C) of this section, the director or the chief 19109
administrative officer shall cause the DNA specimen to be 19110
forwarded to the bureau of criminal identification and 19111
investigation no later than fifteen days after the date of the 19112
collection of the DNA specimen. The DNA specimen shall be 19113

collected in accordance with division (C) of this section. 19114

(C) If the DNA specimen is collected by withdrawing blood 19115
from the child or a similarly invasive procedure, a physician, 19116
registered nurse, licensed practical nurse, duly licensed clinical 19117
laboratory technician, or other qualified medical practitioner 19118
shall collect in a medically approved manner the DNA specimen 19119
required to be collected pursuant to division (B) of this section. 19120
If the DNA specimen is collected by swabbing for buccal cells or a 19121
similarly noninvasive procedure, this section does not require 19122
that the DNA specimen be collected by a qualified medical 19123
practitioner of that nature. No later than fifteen days after the 19124
date of the collection of the DNA specimen, the director of youth 19125
services or the chief administrative officer of the detention 19126
facility, district detention facility, school, camp, institution, 19127
or other facility for delinquent children to which the child is 19128
committed or in which the child was placed shall cause the DNA 19129
specimen to be forwarded to the bureau of criminal identification 19130
and investigation in accordance with procedures established by the 19131
superintendent of the bureau under division (H) of section 109.573 19132
of the Revised Code. The bureau shall provide the specimen vials, 19133
mailing tubes, labels, postage, and instruction needed for the 19134
collection and forwarding of the DNA specimen to the bureau. 19135

(D) The director of youth services and the chief 19136
administrative officer of a detention facility, district detention 19137
facility, school, camp, institution, or other facility for 19138
delinquent children shall cause a DNA specimen to be collected in 19139
accordance with divisions (B) and (C) of this section from each 19140
child in its custody who is adjudicated a delinquent child for 19141
committing any of the following acts: 19142

(1) A violation of section 2903.01, 2903.02, 2903.11, 19143
2905.01, 2907.02, 2907.03, 2907.05, 2911.01, 2911.02, 2911.11, or 19144
2911.12 of the Revised Code; 19145

- (2) A violation of section 2907.12 of the Revised Code as it 19146
existed prior to September 3, 1996; 19147
- (3) An attempt to commit a violation of section 2903.01, 19148
2903.02, 2907.02, 2907.03, or 2907.05 of the Revised Code or to 19149
commit a violation of section 2907.12 of the Revised Code as it 19150
existed prior to September 3, 1996; 19151
- (4) A violation of any law that arose out of the same facts 19152
and circumstances and same act as did a charge against the child 19153
of a violation of section 2903.01, 2903.02, 2905.01, 2907.02, 19154
2907.03, 2907.05, or 2911.11 of the Revised Code that previously 19155
was dismissed or amended or as did a charge against the child of a 19156
violation of section 2907.12 of the Revised Code as it existed 19157
prior to September 3, 1996, that previously was dismissed or 19158
amended; 19159
- (5) A violation of section 2905.02 or 2919.23 of the Revised 19160
Code that would have been a violation of section 2905.04 of the 19161
Revised Code as it existed prior to July 1, 1996, had the 19162
violation been committed prior to that date; 19163
- (6) A felony violation of any law that arose out of the same 19164
facts and circumstances and same act as did a charge against the 19165
child of a violation of section 2903.11, 2911.01, 2911.02, or 19166
2911.12 of the Revised Code that previously was dismissed or 19167
amended; 19168
- (7) A violation of section 2923.01 of the Revised Code 19169
involving a conspiracy to commit a violation of section 2903.01, 19170
2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the 19171
Revised Code; 19172
- (8) A violation of section 2923.03 of the Revised Code 19173
involving complicity in committing a violation of section 2903.01, 19174
2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 19175
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a 19176

violation of section 2907.12 of the Revised Code as it existed 19177
prior to September 3, 1996. 19178

(E) The director of youth services and the chief 19179
administrative officer of a detention facility, district detention 19180
facility, school, camp, institution, or other facility for 19181
delinquent children is not required to comply with this section in 19182
relation to the following acts until the superintendent of the 19183
bureau of criminal identification and investigation gives agencies 19184
in the juvenile justice system, as defined in section ~~181.51~~ 19185
5502.61 of the Revised Code, in the state official notification 19186
that the state DNA laboratory is prepared to accept DNA specimens 19187
of that nature: 19188

(1) A violation of section 2903.11, 2911.01, 2911.02, or 19189
2911.12 of the Revised Code; 19190

(2) An attempt to commit a violation of section 2903.01 or 19191
2903.02 of the Revised Code; 19192

(3) A felony violation of any law that arose out of the same 19193
facts and circumstances and same act as did a charge against the 19194
child of a violation of section 2903.11, 2911.01, 2911.02, or 19195
2911.12 of the Revised Code that previously was dismissed or 19196
amended; 19197

(4) A violation of section 2923.01 of the Revised Code 19198
involving a conspiracy to commit a violation of section 2903.01, 19199
2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the 19200
Revised Code; 19201

(5) A violation of section 2923.03 of the Revised Code 19202
involving complicity in committing a violation of section 2903.01, 19203
2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 19204
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a 19205
violation of section 2907.12 of the Revised Code as it existed 19206
prior to September 3, 1996. 19207

Sec. 2303.201. (A)(1) The court of common pleas of any county 19208
may determine that for the efficient operation of the court 19209
additional funds are required to computerize the court, to make 19210
available computerized legal research services, or to do both. 19211
Upon making a determination that additional funds are required for 19212
either or both of those purposes, the court shall authorize and 19213
direct the clerk of the court of common pleas to charge one 19214
additional fee, not to exceed three dollars, on the filing of each 19215
cause of action or appeal under divisions (A), (Q), and (U) of 19216
section 2303.20 of the Revised Code. 19217

(2) All fees collected under division (A)(1) of this section 19218
shall be paid to the county treasurer. The treasurer shall place 19219
the funds from the fees in a separate fund to be disbursed, upon 19220
an order of the court, in an amount not greater than the actual 19221
cost to the court of procuring and maintaining computerization of 19222
the court, computerized legal research services, or both. 19223

(3) If the court determines that the funds in the fund 19224
described in division (A)(2) of this section are more than 19225
sufficient to satisfy the purpose for which the additional fee 19226
described in division (A)(1) of this section was imposed, the 19227
court may declare a surplus in the fund and expend those surplus 19228
funds for other appropriate technological expenses of the court. 19229

(B)(1) The court of common pleas of any county may determine 19230
that, for the efficient operation of the court, additional funds 19231
are required to computerize the office of the clerk of the court 19232
of common pleas and, upon that determination, authorize and direct 19233
the clerk of the court of common pleas to charge an additional 19234
fee, not to exceed ten dollars, on the filing of each cause of 19235
action or appeal, on the filing, docketing, and endorsing of each 19236
certificate of judgment, or on the docketing and indexing of each 19237
aid in execution or petition to vacate, revive, or modify a 19238

judgment under divisions (A), (P), (Q), (T), and (U) of section 19239
2303.20 of the Revised Code. Subject to division (B)(2) of this 19240
section, all moneys collected under division (B)(1) of this 19241
section shall be paid to the county treasurer to be disbursed, 19242
upon an order of the court of common pleas and subject to 19243
appropriation by the board of county commissioners, in an amount 19244
no greater than the actual cost to the court of procuring and 19245
maintaining computer systems for the office of the clerk of the 19246
court of common pleas. 19247

(2) If the court of common pleas of a county makes the 19248
determination described in division (B)(1) of this section, the 19249
board of county commissioners of that county may issue one or more 19250
general obligation bonds for the purpose of procuring and 19251
maintaining the computer systems for the office of the clerk of 19252
the court of common pleas. In addition to the purposes stated in 19253
division (B)(1) of this section for which the moneys collected 19254
under that division may be expended, the moneys additionally may 19255
be expended to pay debt charges on and financing costs related to 19256
any general obligation bonds issued pursuant to division (B)(2) of 19257
this section as they become due. General obligation bonds issued 19258
pursuant to division (B)(2) of this section are Chapter 133. 19259
securities. 19260

(C) The court of common pleas shall collect the sum of 19261
~~fifteen~~ twenty-six dollars as additional filing fees in each new 19262
civil action or proceeding for the charitable public purpose of 19263
providing financial assistance to legal aid societies that operate 19264
within the state and to support the office of the state public 19265
defender. This division does not apply to proceedings concerning 19266
annulments, dissolutions of marriage, divorces, legal separation, 19267
spousal support, marital property or separate property 19268
distribution, support, or other domestic relations matters; to a 19269
juvenile division of a court of common pleas; to a probate 19270

division of a court of common pleas, except that the additional 19271
filing fees shall apply to name change, guardianship, ~~and~~ 19272
adoption, and decedents' estate proceedings; or to an execution on 19273
a judgment, proceeding in aid of execution, or other post-judgment 19274
proceeding arising out of a civil action. The filing fees required 19275
to be collected under this division shall be in addition to any 19276
other filing fees imposed in the action or proceeding and shall be 19277
collected at the time of the filing of the action or proceeding. 19278
The court shall not waive the payment of the additional filing 19279
fees in a new civil action or proceeding unless the court waives 19280
the advanced payment of all filing fees in the action or 19281
proceeding. All such moneys collected during a month shall be 19282
transmitted on or before the twentieth day of the following month 19283
by the clerk of the court to the treasurer of state in a manner 19284
prescribed by the treasurer of state or by the Ohio legal 19285
assistance foundation. The ~~moneys then shall be deposited by the~~ 19286
treasurer of state shall deposit four per cent of the funds 19287
collected under this division to the credit of the civil case 19288
filing fee fund established under section 120.07 of the Revised 19289
Code and ninety-six per cent of the funds collected under this 19290
division to the credit of the legal aid fund established under 19291
section 120.52 of the Revised Code. 19292

The court may retain up to one per cent of the moneys it 19293
collects under this division to cover administrative costs, 19294
including the hiring of any additional personnel necessary to 19295
implement this division. 19296

(D) On and after the thirtieth day after December 9, 1994, 19297
the court of common pleas shall collect the sum of thirty-two 19298
dollars as additional filing fees in each new action or proceeding 19299
for annulment, divorce, or dissolution of marriage for the purpose 19300
of funding shelters for victims of domestic violence pursuant to 19301
sections 3113.35 to 3113.39 of the Revised Code. The filing fees 19302

required to be collected under this division shall be in addition 19303
to any other filing fees imposed in the action or proceeding and 19304
shall be collected at the time of the filing of the action or 19305
proceeding. The court shall not waive the payment of the 19306
additional filing fees in a new action or proceeding for 19307
annulment, divorce, or dissolution of marriage unless the court 19308
waives the advanced payment of all filing fees in the action or 19309
proceeding. On or before the twentieth day of each month, all 19310
moneys collected during the immediately preceding month pursuant 19311
to this division shall be deposited by the clerk of the court into 19312
the county treasury in the special fund used for deposit of 19313
additional marriage license fees as described in section 3113.34 19314
of the Revised Code. Upon their deposit into the fund, the moneys 19315
shall be retained in the fund and expended only as described in 19316
section 3113.34 of the Revised Code. 19317

(E)(1) The court of common pleas may determine that, for the 19318
efficient operation of the court, additional funds are necessary 19319
to acquire and pay for special projects of the court, including, 19320
but not limited to, the acquisition of additional facilities or 19321
the rehabilitation of existing facilities, the acquisition of 19322
equipment, the hiring and training of staff, community service 19323
programs, mediation or dispute resolution services, the employment 19324
of magistrates, the training and education of judges, acting 19325
judges, and magistrates, and other related services. Upon that 19326
determination, the court by rule may charge a fee, in addition to 19327
all other court costs, on the filing of each criminal cause, civil 19328
action or proceeding, or judgment by confession. 19329

If the court of common pleas offers a special program or 19330
service in cases of a specific type, the court by rule may assess 19331
an additional charge in a case of that type, over and above court 19332
costs, to cover the special program or service. The court shall 19333
adjust the special assessment periodically, but not retroactively, 19334

so that the amount assessed in those cases does not exceed the 19335
actual cost of providing the service or program. 19336

All moneys collected under division (E) of this section shall 19337
be paid to the county treasurer for deposit into either a general 19338
special projects fund or a fund established for a specific special 19339
project. Moneys from a fund of that nature shall be disbursed upon 19340
an order of the court in an amount no greater than the actual cost 19341
to the court of a project. If a specific fund is terminated 19342
because of the discontinuance of a program or service established 19343
under division (E) of this section, the court may order that 19344
moneys remaining in the fund be transferred to an account 19345
established under this division for a similar purpose. 19346

(2) As used in division (E) of this section: 19347

(a) "Criminal cause" means a charge alleging the violation of 19348
a statute or ordinance, or subsection of a statute or ordinance, 19349
that requires a separate finding of fact or a separate plea before 19350
disposition and of which the defendant may be found guilty, 19351
whether filed as part of a multiple charge on a single summons, 19352
citation, or complaint or as a separate charge on a single 19353
summons, citation, or complaint. "Criminal cause" does not include 19354
separate violations of the same statute or ordinance, or 19355
subsection of the same statute or ordinance, unless each charge is 19356
filed on a separate summons, citation, or complaint. 19357

(b) "Civil action or proceeding" means any civil litigation 19358
that must be determined by judgment entry. 19359

Sec. 2305.234. (A) As used in this section: 19360

(1) "Chiropractic claim," "medical claim," and "optometric 19361
claim" have the same meanings as in section 2305.113 of the 19362
Revised Code. 19363

(2) "Dental claim" has the same meaning as in section 19364

2305.113 of the Revised Code, except that it does not include any
claim arising out of a dental operation or any derivative claim
for relief that arises out of a dental operation.

(3) "Governmental health care program" has the same meaning
as in section 4731.65 of the Revised Code.

(4) "Health care facility or location" means a hospital,
clinic, ambulatory surgical facility, office of a health care
professional or associated group of health care professionals,
training institution for health care professionals, or any other
place where medical, dental, or other health-related diagnosis,
care, or treatment is provided to a person.

(5) "Health care professional" means any of the following who
provide medical, dental, or other health-related diagnosis, care,
or treatment:

(a) Physicians authorized under Chapter 4731. of the Revised
Code to practice medicine and surgery or osteopathic medicine and
surgery;

(b) Registered nurses and licensed practical nurses licensed
under Chapter 4723. of the Revised Code and individuals who hold a
certificate of authority issued under that chapter that authorizes
the practice of nursing as a certified registered nurse
anesthetist, clinical nurse specialist, certified nurse-midwife,
or certified nurse practitioner;

(c) Physician assistants authorized to practice under Chapter
4730. of the Revised Code;

(d) Dentists and dental hygienists licensed under Chapter
4715. of the Revised Code;

(e) Physical therapists, physical therapist assistants,
occupational therapists, and occupational therapy assistants
licensed under Chapter 4755. of the Revised Code;

| | |
|--|---|
| (f) Chiropractors licensed under Chapter 4734. of the Revised Code; | 19395 19396 |
| (g) Optometrists licensed under Chapter 4725. of the Revised Code; | 19397 19398 |
| (h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry; | 19399 19400 |
| (i) Dietitians licensed under Chapter 4759. of the Revised Code; | 19401 19402 |
| (j) Pharmacists licensed under Chapter 4729. of the Revised Code; | 19403 19404 |
| (k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code; | 19405 19406 19407 19408 |
| (l) Respiratory care professionals licensed under Chapter 4761. of the Revised Code; | 19409 19410 |
| (m) Speech-language pathologists and audiologists licensed under Chapter 4753. of the Revised Code. | 19411 19412 |
| (6) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities. | 19413 19414 19415 19416 19417 19418 19419 |
| (7) "Indigent and uninsured person" means a person who meets all of the following requirements: | 19420 19421 |
| (a) The person's income is not greater than two hundred per cent of the current poverty line as defined by the United States office of management and budget and revised in accordance with | 19422 19423 19424 |

section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 19425
95 Stat. 511, 42 U.S.C. 9902, as amended. 19426

(b) The person is not eligible to receive medical assistance 19427
under Chapter 5111. ~~disability medical assistance under Chapter~~ 19428
~~5115.~~ of the Revised Code, or assistance under any other 19429
governmental health care program. 19430

(c) Either of the following applies: 19431

(i) The person is not a policyholder, certificate holder, 19432
insured, contract holder, subscriber, enrollee, member, 19433
beneficiary, or other covered individual under a health insurance 19434
or health care policy, contract, or plan. 19435

(ii) The person is a policyholder, certificate holder, 19436
insured, contract holder, subscriber, enrollee, member, 19437
beneficiary, or other covered individual under a health insurance 19438
or health care policy, contract, or plan, but the insurer, policy, 19439
contract, or plan denies coverage or is the subject of insolvency 19440
or bankruptcy proceedings in any jurisdiction. 19441

(8) "Nonprofit health care referral organization" means an 19442
entity that is not operated for profit and refers patients to, or 19443
arranges for the provision of, health-related diagnosis, care, or 19444
treatment by a health care professional or health care worker. 19445

(9) "Operation" means any procedure that involves cutting or 19446
otherwise infiltrating human tissue by mechanical means, including 19447
surgery, laser surgery, ionizing radiation, therapeutic 19448
ultrasound, or the removal of intraocular foreign bodies. 19449
"Operation" does not include the administration of medication by 19450
injection, unless the injection is administered in conjunction 19451
with a procedure infiltrating human tissue by mechanical means 19452
other than the administration of medicine by injection. 19453
"Operation" does not include routine dental restorative 19454
procedures, the scaling of teeth, or extractions of teeth that are 19455

not impacted. 19456

(10) "Tort action" means a civil action for damages for 19457
injury, death, or loss to person or property other than a civil 19458
action for damages for a breach of contract or another agreement 19459
between persons or government entities. 19460

(11) "Volunteer" means an individual who provides any 19461
medical, dental, or other health-care related diagnosis, care, or 19462
treatment without the expectation of receiving and without receipt 19463
of any compensation or other form of remuneration from an indigent 19464
and uninsured person, another person on behalf of an indigent and 19465
uninsured person, any health care facility or location, any 19466
nonprofit health care referral organization, or any other person 19467
or government entity. 19468

(12) "Community control sanction" has the same meaning as in 19469
section 2929.01 of the Revised Code. 19470

(13) "Deep sedation" means a drug-induced depression of 19471
consciousness during which a patient cannot be easily aroused but 19472
responds purposefully following repeated or painful stimulation, a 19473
patient's ability to independently maintain ventilatory function 19474
may be impaired, a patient may require assistance in maintaining a 19475
patent airway and spontaneous ventilation may be inadequate, and 19476
cardiovascular function is usually maintained. 19477

(14) "General anesthesia" means a drug-induced loss of 19478
consciousness during which a patient is not arousable, even by 19479
painful stimulation, the ability to independently maintain 19480
ventilatory function is often impaired, a patient often requires 19481
assistance in maintaining a patent airway, positive pressure 19482
ventilation may be required because of depressed spontaneous 19483
ventilation or drug-induced depression of neuromuscular function, 19484
and cardiovascular function may be impaired. 19485

(B)(1) Subject to divisions (F) and (G)(3) of this section, a 19486

health care professional who is a volunteer and complies with 19487
division (B)(2) of this section is not liable in damages to any 19488
person or government entity in a tort or other civil action, 19489
including an action on a medical, dental, chiropractic, 19490
optometric, or other health-related claim, for injury, death, or 19491
loss to person or property that allegedly arises from an action or 19492
omission of the volunteer in the provision to an indigent and 19493
uninsured person of medical, dental, or other health-related 19494
diagnosis, care, or treatment, including the provision of samples 19495
of medicine and other medical products, unless the action or 19496
omission constitutes willful or wanton misconduct. 19497

(2) To qualify for the immunity described in division (B)(1) 19498
of this section, a health care professional shall do all of the 19499
following prior to providing diagnosis, care, or treatment: 19500

(a) Determine, in good faith, that the indigent and uninsured 19501
person is mentally capable of giving informed consent to the 19502
provision of the diagnosis, care, or treatment and is not subject 19503
to duress or under undue influence; 19504

(b) Inform the person of the provisions of this section, 19505
including notifying the person that, by giving informed consent to 19506
the provision of the diagnosis, care, or treatment, the person 19507
cannot hold the health care professional liable for damages in a 19508
tort or other civil action, including an action on a medical, 19509
dental, chiropractic, optometric, or other health-related claim, 19510
unless the action or omission of the health care professional 19511
constitutes willful or wanton misconduct; 19512

(c) Obtain the informed consent of the person and a written 19513
waiver, signed by the person or by another individual on behalf of 19514
and in the presence of the person, that states that the person is 19515
mentally competent to give informed consent and, without being 19516
subject to duress or under undue influence, gives informed consent 19517
to the provision of the diagnosis, care, or treatment subject to 19518

the provisions of this section. A written waiver under division 19519
(B)(2)(c) of this section shall state clearly and in conspicuous 19520
type that the person or other individual who signs the waiver is 19521
signing it with full knowledge that, by giving informed consent to 19522
the provision of the diagnosis, care, or treatment, the person 19523
cannot bring a tort or other civil action, including an action on 19524
a medical, dental, chiropractic, optometric, or other 19525
health-related claim, against the health care professional unless 19526
the action or omission of the health care professional constitutes 19527
willful or wanton misconduct. 19528

(3) A physician or podiatrist who is not covered by medical 19529
malpractice insurance, but complies with division (B)(2) of this 19530
section, is not required to comply with division (A) of section 19531
4731.143 of the Revised Code. 19532

(C) Subject to divisions (F) and (G)(3) of this section, 19533
health care workers who are volunteers are not liable in damages 19534
to any person or government entity in a tort or other civil 19535
action, including an action upon a medical, dental, chiropractic, 19536
optometric, or other health-related claim, for injury, death, or 19537
loss to person or property that allegedly arises from an action or 19538
omission of the health care worker in the provision to an indigent 19539
and uninsured person of medical, dental, or other health-related 19540
diagnosis, care, or treatment, unless the action or omission 19541
constitutes willful or wanton misconduct. 19542

(D) Subject to divisions (F) and (G)(3) of this section, a 19543
nonprofit health care referral organization is not liable in 19544
damages to any person or government entity in a tort or other 19545
civil action, including an action on a medical, dental, 19546
chiropractic, optometric, or other health-related claim, for 19547
injury, death, or loss to person or property that allegedly arises 19548
from an action or omission of the nonprofit health care referral 19549
organization in referring indigent and uninsured persons to, or 19550

arranging for the provision of, medical, dental, or other 19551
health-related diagnosis, care, or treatment by a health care 19552
professional described in division (B)(1) of this section or a 19553
health care worker described in division (C) of this section, 19554
unless the action or omission constitutes willful or wanton 19555
misconduct. 19556

(E) Subject to divisions (F) and (G)(3) of this section and 19557
to the extent that the registration requirements of section 19558
3701.071 of the Revised Code apply, a health care facility or 19559
location associated with a health care professional described in 19560
division (B)(1) of this section, a health care worker described in 19561
division (C) of this section, or a nonprofit health care referral 19562
organization described in division (D) of this section is not 19563
liable in damages to any person or government entity in a tort or 19564
other civil action, including an action on a medical, dental, 19565
chiropractic, optometric, or other health-related claim, for 19566
injury, death, or loss to person or property that allegedly arises 19567
from an action or omission of the health care professional or 19568
worker or nonprofit health care referral organization relative to 19569
the medical, dental, or other health-related diagnosis, care, or 19570
treatment provided to an indigent and uninsured person on behalf 19571
of or at the health care facility or location, unless the action 19572
or omission constitutes willful or wanton misconduct. 19573

(F)(1) Except as provided in division (F)(2) of this section, 19574
the immunities provided by divisions (B), (C), (D), and (E) of 19575
this section are not available to a health care professional, 19576
health care worker, nonprofit health care referral organization, 19577
or health care facility or location if, at the time of an alleged 19578
injury, death, or loss to person or property, the health care 19579
professionals or health care workers involved are providing one of 19580
the following: 19581

(a) Any medical, dental, or other health-related diagnosis, 19582

care, or treatment pursuant to a community service work order 19583
entered by a court under division (B) of section 2951.02 of the 19584
Revised Code or imposed by a court as a community control 19585
sanction; 19586

(b) Performance of an operation to which any one of the 19587
following applies: 19588

(i) The operation requires the administration of deep 19589
sedation or general anesthesia. 19590

(ii) The operation is a procedure that is not typically 19591
performed in an office. 19592

(iii) The individual involved is a health care professional, 19593
and the operation is beyond the scope of practice or the 19594
education, training, and competence, as applicable, of the health 19595
care professional. 19596

(c) Delivery of a baby or any other purposeful termination of 19597
a human pregnancy. 19598

(2) Division (F)(1) of this section does not apply when a 19599
health care professional or health care worker provides medical, 19600
dental, or other health-related diagnosis, care, or treatment that 19601
is necessary to preserve the life of a person in a medical 19602
emergency. 19603

(G)(1) This section does not create a new cause of action or 19604
substantive legal right against a health care professional, health 19605
care worker, nonprofit health care referral organization, or 19606
health care facility or location. 19607

(2) This section does not affect any immunities from civil 19608
liability or defenses established by another section of the 19609
Revised Code or available at common law to which a health care 19610
professional, health care worker, nonprofit health care referral 19611
organization, or health care facility or location may be entitled 19612

in connection with the provision of emergency or other medical, 19613
dental, or other health-related diagnosis, care, or treatment. 19614

(3) This section does not grant an immunity from tort or 19615
other civil liability to a health care professional, health care 19616
worker, nonprofit health care referral organization, or health 19617
care facility or location for actions that are outside the scope 19618
of authority of health care professionals or health care workers. 19619

(4) This section does not affect any legal responsibility of 19620
a health care professional, health care worker, or nonprofit 19621
health care referral organization to comply with any applicable 19622
law of this state or rule of an agency of this state. 19623

(5) This section does not affect any legal responsibility of 19624
a health care facility or location to comply with any applicable 19625
law of this state, rule of an agency of this state, or local code, 19626
ordinance, or regulation that pertains to or regulates building, 19627
housing, air pollution, water pollution, sanitation, health, fire, 19628
zoning, or safety. 19629

Sec. 2305.2341. (A) The medical liability insurance 19630
reimbursement program is hereby established. Free clinics, 19631
including the clinics' staff and volunteer health care 19632
professionals and volunteer health care workers, may participate 19633
in the medical liability insurance reimbursement program 19634
established by this section. The coverage provided under the 19635
program shall be limited to claims that arise out of the 19636
diagnosis, treatment, and care of patients of free clinics, as 19637
defined in division (D)(1) of this section. 19638

(B) A free clinic is eligible to receive reimbursement under 19639
the medical liability insurance reimbursement program for the 19640
premiums that the clinic pays for medical liability insurance 19641
coverage for the clinic, its staff, and volunteer health care 19642
professionals and health care workers. Free clinics shall register 19643

with the department of health by the thirty-first day of January 19644
of each year in order to participate in and to obtain 19645
reimbursement under the program. Free clinics shall provide all of 19646
the following to the department of health at the time of 19647
registration: 19648

(1) A statement of the number of volunteer and paid health 19649
care professionals and health care workers providing health care 19650
services at the free clinic at that time; 19651

(2) A statement of the number of health care services 19652
rendered by the free clinic during the previous fiscal year; 19653

(3) A signed form acknowledging that the free clinic agrees 19654
to follow its medical liability insurer's risk management and loss 19655
prevention policies; 19656

(4) A copy of the medical liability insurance policy 19657
purchased by the free clinic, or the policy's declaration page, 19658
and documentation of the premiums paid by the clinic. 19659

(C) The department of health shall reimburse free clinics 19660
participating in the professional liability insurance 19661
reimbursement program for eighty per cent of the premiums that the 19662
free clinic pays for medical liability insurance coverage up to 19663
twenty thousand dollars. Appropriations to the department of 19664
health may be made from the general fund of the state for this 19665
purpose. 19666

(D) As used in this section: 19667

(1) "Free clinic" means a nonprofit organization exempt from 19668
federal income taxation under section 501(c)(3) of the "Internal 19669
Revenue Code of 1986," as amended, or a program component of a 19670
nonprofit organization, whose primary mission is to provide health 19671
care services for free or for a minimal administrative fee to 19672
individuals with limited resources. A free clinic facilitates the 19673
delivery of health care services through the use of volunteer 19674

health care professionals and voluntary care networks. For this 19675
purpose, a free clinic shall comply with all of the following: 19676

(a) If a free clinic does request a minimal administrative 19677
fee, a free clinic shall not deny an individual access to its 19678
health care services based on an individual's ability to pay the 19679
fee. 19680

(b) A free clinic shall not bill a patient for health care 19681
services rendered. 19682

(c) Free clinics shall not perform operations, as defined by 19683
divisions (A)(9) and (F)(1)(b) of section 2305.234 of the Revised 19684
Code. 19685

A clinic is not a free clinic if the clinic bills medicaid, 19686
medicare, or other third-party payers for health care services 19687
rendered at the clinic, and receives twenty-five per cent or more 19688
of the clinic's annual revenue from the third-party payments. 19689

(2) "Health care professional" and "health care worker" have 19690
the same meanings as in section 2305.234 of the Revised Code. 19691

Sec. 2307.65. (A) The attorney general may bring a civil 19692
action in the Franklin county court of common pleas on behalf of 19693
the department of job and family services, and the prosecuting 19694
attorney of the county in which a violation of division (B) of 19695
section 2913.401 of the Revised Code occurs may bring a civil 19696
action in the court of common pleas of that county on behalf of 19697
the county department of job and family services, against a person 19698
who violates division (B) of section 2913.401 of the Revised Code 19699
for the recovery of the amount of benefits paid on behalf of a 19700
person that either department would not have paid but for the 19701
violation minus any amounts paid in restitution under division 19702
(C)(2) of section 2913.401 of the Revised Code and for reasonable 19703
attorney's fees and all other fees and costs of litigation. 19704

(B) In a civil action brought under division (A) of this section, if the defendant failed to disclose a transfer of property in violation of division (B)(3) of section 2913.401 of the Revised Code, the court may also grant any of the following relief to the extent permitted by 42 U.S.C. 1396p: 19705
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(1) Avoidance of the transfer of property that was not disclosed in violation of division (B)(3) of section 2913.401 of the Revised Code to the extent of the amount of benefits the department would not have paid but for the violation; 19710
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(2) An order of attachment or garnishment against the property in accordance with Chapter 2715. or 2716. of the Revised Code; 19714
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(3) An injunction against any further disposition by the transferor or transferee, or both, of the property the transfer of which was not disclosed in violation of division (B)(3) of section 2913.401 of the Revised Code or against the disposition of other property by the transferor or transferee; 19717
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(4) Appointment of a receiver to take charge of the property transferred or of other property of the transferee; 19722
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(5) Any other relief that the court considers just and equitable. 19724
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(C) To the extent permitted by 42 U.S.C. 1396p, the department of job and family services or the county department of job and family services may enforce a judgment obtained under this section by levying on property the transfer of which was not disclosed in violation of division (B)(3) of section 2913.401 of the Revised Code or on the proceeds of the transfer of that property in accordance with Chapter 2329. of the Revised Code. 19726
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(D) The remedies provided in divisions (B) and (C) of this section do not apply if the transferee of the property the transfer of which was not disclosed in violation of division 19733
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19735

(B)(3) of section 2913.401 of the Revised Code acquired the 19736
property in good faith and for fair market value. 19737

(E) The remedies provided in this section are not exclusive 19738
and do not preclude the use of any other criminal or civil remedy 19739
for any act that is in violation of section 2913.401 of the 19740
Revised Code. 19741

(F) Amounts of medicaid benefits paid and recovered in an 19742
action brought under this section shall be credited to the general 19743
revenue fund, and any applicable federal share shall be returned 19744
to the appropriate agency or department of the United States. 19745

Sec. 2329.66. (A) Every person who is domiciled in this state 19746
may hold property exempt from execution, garnishment, attachment, 19747
or sale to satisfy a judgment or order, as follows: 19748

(1)(a) In the case of a judgment or order regarding money 19749
owed for health care services rendered or health care supplies 19750
provided to the person or a dependent of the person, one parcel or 19751
item of real or personal property that the person or a dependent 19752
of the person uses as a residence. Division (A)(1)(a) of this 19753
section does not preclude, affect, or invalidate the creation 19754
under this chapter of a judgment lien upon the exempted property 19755
but only delays the enforcement of the lien until the property is 19756
sold or otherwise transferred by the owner or in accordance with 19757
other applicable laws to a person or entity other than the 19758
surviving spouse or surviving minor children of the judgment 19759
debtor. Every person who is domiciled in this state may hold 19760
exempt from a judgment lien created pursuant to division (A)(1)(a) 19761
of this section the person's interest, not to exceed five thousand 19762
dollars, in the exempted property. 19763

(b) In the case of all other judgments and orders, the 19764
person's interest, not to exceed five thousand dollars, in one 19765
parcel or item of real or personal property that the person or a 19766

dependent of the person uses as a residence. 19767

(2) The person's interest, not to exceed one thousand 19768
dollars, in one motor vehicle; 19769

(3) The person's interest, not to exceed two hundred dollars 19770
in any particular item, in wearing apparel, beds, and bedding, and 19771
the person's interest, not to exceed three hundred dollars in each 19772
item, in one cooking unit and one refrigerator or other food 19773
preservation unit; 19774

(4)(a) The person's interest, not to exceed four hundred 19775
dollars, in cash on hand, money due and payable, money to become 19776
due within ninety days, tax refunds, and money on deposit with a 19777
bank, savings and loan association, credit union, public utility, 19778
landlord, or other person. Division (A)(4)(a) of this section 19779
applies only in bankruptcy proceedings. This exemption may include 19780
the portion of personal earnings that is not exempt under division 19781
(A)(13) of this section. 19782

(b) Subject to division (A)(4)(d) of this section, the 19783
person's interest, not to exceed two hundred dollars in any 19784
particular item, in household furnishings, household goods, 19785
appliances, books, animals, crops, musical instruments, firearms, 19786
and hunting and fishing equipment, that are held primarily for the 19787
personal, family, or household use of the person; 19788

(c) Subject to division (A)(4)(d) of this section, the 19789
person's interest in one or more items of jewelry, not to exceed 19790
four hundred dollars in one item of jewelry and not to exceed two 19791
hundred dollars in every other item of jewelry; 19792

(d) Divisions (A)(4)(b) and (c) of this section do not 19793
include items of personal property listed in division (A)(3) of 19794
this section. 19795

If the person does not claim an exemption under division 19796
(A)(1) of this section, the total exemption claimed under division 19797

(A)(4)(b) of this section shall be added to the total exemption
claimed under division (A)(4)(c) of this section, and the total
shall not exceed two thousand dollars. If the person claims an
exemption under division (A)(1) of this section, the total
exemption claimed under division (A)(4)(b) of this section shall
be added to the total exemption claimed under division (A)(4)(c)
of this section, and the total shall not exceed one thousand five
hundred dollars.

(5) The person's interest, not to exceed an aggregate of
seven hundred fifty dollars, in all implements, professional
books, or tools of the person's profession, trade, or business,
including agriculture;

(6)(a) The person's interest in a beneficiary fund set apart,
appropriated, or paid by a benevolent association or society, as
exempted by section 2329.63 of the Revised Code;

(b) The person's interest in contracts of life or endowment
insurance or annuities, as exempted by section 3911.10 of the
Revised Code;

(c) The person's interest in a policy of group insurance or
the proceeds of a policy of group insurance, as exempted by
section 3917.05 of the Revised Code;

(d) The person's interest in money, benefits, charity,
relief, or aid to be paid, provided, or rendered by a fraternal
benefit society, as exempted by section 3921.18 of the Revised
Code;

(e) The person's interest in the portion of benefits under
policies of sickness and accident insurance and in lump sum
payments for dismemberment and other losses insured under those
policies, as exempted by section 3923.19 of the Revised Code.

(7) The person's professionally prescribed or medically
necessary health aids;

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| (8) The person's interest in a burial lot, including, but not limited to, exemptions under section 517.09 or 1721.07 of the Revised Code; | 19829 19830 19831 |
| (9) The person's interest in the following: | 19832 |
| (a) Moneys paid or payable for living maintenance or rights, as exempted by section 3304.19 of the Revised Code; | 19833 19834 |
| (b) Workers' compensation, as exempted by section 4123.67 of the Revised Code; | 19835 19836 |
| (c) Unemployment compensation benefits, as exempted by section 4141.32 of the Revised Code; | 19837 19838 |
| (d) Cash assistance payments under the Ohio works first program, as exempted by section 5107.75 of the Revised Code; | 19839 19840 |
| (e) Benefits and services under the prevention, retention, and contingency program, as exempted by section 5108.08 of the Revised Code; | 19841 19842 19843 |
| (f) Disability financial assistance payments, as exempted by section 5115.06 of the Revised Code. | 19844 19845 |
| (10)(a) Except in cases in which the person was convicted of or pleaded guilty to a violation of section 2921.41 of the Revised Code and in which an order for the withholding of restitution from payments was issued under division (C)(2)(b) of that section or in cases in which an order for withholding was issued under section 2907.15 of the Revised Code, and only to the extent provided in the order, and except as provided in sections 3105.171, 3105.63, 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right to a pension, benefit, annuity, retirement allowance, or accumulated contributions, the person's right to a participant account in any deferred compensation program offered by the Ohio public employees deferred compensation board, a government unit, or a municipal corporation, or the | 19846 19847 19848 19849 19850 19851 19852 19853 19854 19855 19856 19857 19858 |

person's other accrued or accruing rights, as exempted by section 19859
145.56, 146.13, 148.09, 742.47, 3307.41, 3309.66, or 5505.22 of 19860
the Revised Code, and the person's right to benefits from the Ohio 19861
public safety officers death benefit fund; 19862

(b) Except as provided in sections 3119.80, 3119.81, 3121.02, 19863
3121.03, and 3123.06 of the Revised Code, the person's right to 19864
receive a payment under any pension, annuity, or similar plan or 19865
contract, not including a payment from a stock bonus or 19866
profit-sharing plan or a payment included in division (A)(6)(b) or 19867
(10)(a) of this section, on account of illness, disability, death, 19868
age, or length of service, to the extent reasonably necessary for 19869
the support of the person and any of the person's dependents, 19870
except if all the following apply: 19871

(i) The plan or contract was established by or under the 19872
auspices of an insider that employed the person at the time the 19873
person's rights under the plan or contract arose. 19874

(ii) The payment is on account of age or length of service. 19875

(iii) The plan or contract is not qualified under the 19876
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as 19877
amended. 19878

(c) Except for any portion of the assets that were deposited 19879
for the purpose of evading the payment of any debt and except as 19880
provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 19881
3123.06 of the Revised Code, the person's right in the assets held 19882
in, or to receive any payment under, any individual retirement 19883
account, individual retirement annuity, "Roth IRA," or education 19884
individual retirement account that provides benefits by reason of 19885
illness, disability, death, or age, to the extent that the assets, 19886
payments, or benefits described in division (A)(10)(c) of this 19887
section are attributable to any of the following: 19888

(i) Contributions of the person that were less than or equal 19889

to the applicable limits on deductible contributions to an individual retirement account or individual retirement annuity in the year that the contributions were made, whether or not the person was eligible to deduct the contributions on the person's federal tax return for the year in which the contributions were made;

(ii) Contributions of the person that were less than or equal to the applicable limits on contributions to a Roth IRA or education individual retirement account in the year that the contributions were made;

(iii) Contributions of the person that are within the applicable limits on rollover contributions under subsections 219, 402(c), 403(a)(4), 403(b)(8), 408(b), 408(d)(3), 408A(c)(3)(B), 408A(d)(3), and 530(d)(5) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(d) Except for any portion of the assets that were deposited for the purpose of evading the payment of any debt and except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right in the assets held in, or to receive any payment under, any Keogh or "H.R. 10" plan that provides benefits by reason of illness, disability, death, or age, to the extent reasonably necessary for the support of the person and any of the person's dependents.

(11) The person's right to receive spousal support, child support, an allowance, or other maintenance to the extent reasonably necessary for the support of the person and any of the person's dependents;

(12) The person's right to receive, or moneys received during the preceding twelve calendar months from, any of the following:

(a) An award of reparations under sections 2743.51 to 2743.72 of the Revised Code, to the extent exempted by division (D) of

section 2743.66 of the Revised Code; 19921

(b) A payment on account of the wrongful death of an 19922
individual of whom the person was a dependent on the date of the 19923
individual's death, to the extent reasonably necessary for the 19924
support of the person and any of the person's dependents; 19925

(c) Except in cases in which the person who receives the 19926
payment is an inmate, as defined in section 2969.21 of the Revised 19927
Code, and in which the payment resulted from a civil action or 19928
appeal against a government entity or employee, as defined in 19929
section 2969.21 of the Revised Code, a payment, not to exceed five 19930
thousand dollars, on account of personal bodily injury, not 19931
including pain and suffering or compensation for actual pecuniary 19932
loss, of the person or an individual for whom the person is a 19933
dependent; 19934

(d) A payment in compensation for loss of future earnings of 19935
the person or an individual of whom the person is or was a 19936
dependent, to the extent reasonably necessary for the support of 19937
the debtor and any of the debtor's dependents. 19938

(13) Except as provided in sections 3119.80, 3119.81, 19939
3121.02, 3121.03, and 3123.06 of the Revised Code, personal 19940
earnings of the person owed to the person for services in an 19941
amount equal to the greater of the following amounts: 19942

(a) If paid weekly, thirty times the current federal minimum 19943
hourly wage; if paid biweekly, sixty times the current federal 19944
minimum hourly wage; if paid semimonthly, sixty-five times the 19945
current federal minimum hourly wage; or if paid monthly, one 19946
hundred thirty times the current federal minimum hourly wage that 19947
is in effect at the time the earnings are payable, as prescribed 19948
by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 19949
U.S.C. 206(a)(1), as amended; 19950

(b) Seventy-five per cent of the disposable earnings owed to 19951

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| the person. | 19952 |
| (14) The person's right in specific partnership property, as exempted by division (B)(3) of section 1775.24 of the Revised Code; | 19953 19954 19955 |
| (15) A seal and official register of a notary public, as exempted by section 147.04 of the Revised Code; | 19956 19957 |
| (16) The person's interest in a tuition credit <u>unit</u> or a payment under section 3334.09 of the Revised Code pursuant to a tuition credit <u>payment</u> contract, as exempted by section 3334.15 of the Revised Code; | 19958 19959 19960 19961 |
| (17) Any other property that is specifically exempted from execution, attachment, garnishment, or sale by federal statutes other than the "Bankruptcy Reform Act of 1978," 92 Stat. 2549, 11 U.S.C.A. 101, as amended; | 19962 19963 19964 19965 |
| (18) The person's interest, not to exceed four hundred dollars, in any property, except that division (A)(18) of this section applies only in bankruptcy proceedings. | 19966 19967 19968 |
| (B) As used in this section: | 19969 |
| (1) "Disposable earnings" means net earnings after the garnishee has made deductions required by law, excluding the deductions ordered pursuant to section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the Revised Code. | 19970 19971 19972 19973 |
| (2) "Insider" means: | 19974 |
| (a) If the person who claims an exemption is an individual, a relative of the individual, a relative of a general partner of the individual, a partnership in which the individual is a general partner, a general partner of the individual, or a corporation of which the individual is a director, officer, or in control; | 19975 19976 19977 19978 19979 |
| (b) If the person who claims an exemption is a corporation, a director or officer of the corporation; a person in control of the | 19980 19981 |

corporation; a partnership in which the corporation is a general partner; a general partner of the corporation; or a relative of a general partner, director, officer, or person in control of the corporation;

(c) If the person who claims an exemption is a partnership, a general partner in the partnership; a general partner of the partnership; a person in control of the partnership; a partnership in which the partnership is a general partner; or a relative in, a general partner of, or a person in control of the partnership;

(d) An entity or person to which or whom any of the following applies:

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

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

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

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

(e) An insider, as otherwise defined in this section, of a

person or entity to which division (B)(2)(d)(i), (ii), (iii), or 20013
(iv) of this section applies, as if the person or entity were a 20014
person who claims an exemption; 20015

(f) A managing agent of the person who claims an exemption. 20016

(3) "Participant account" has the same meaning as in section 20017
148.01 of the Revised Code. 20018

(4) "Government unit" has the same meaning as in section 20019
148.06 of the Revised Code. 20020

(C) For purposes of this section, "interest" shall be 20021
determined as follows: 20022

(1) In bankruptcy proceedings, as of the date a petition is 20023
filed with the bankruptcy court commencing a case under Title 11 20024
of the United States Code; 20025

(2) In all cases other than bankruptcy proceedings, as of the 20026
date of an appraisal, if necessary under section 2329.68 of the 20027
Revised Code, or the issuance of a writ of execution. 20028

An interest, as determined under division (C)(1) or (2) of 20029
this section, shall not include the amount of any lien otherwise 20030
valid pursuant to section 2329.661 of the Revised Code. 20031

Sec. 2743.191. (A)(1) There is hereby created in the state 20032
treasury the reparations fund, which shall be used only for the 20033
following purposes: 20034

(a) The payment of awards of reparations that are granted by 20035
the attorney general; 20036

(b) The compensation of any personnel needed by the attorney 20037
general to administer sections 2743.51 to 2743.72 of the Revised 20038
Code; 20039

(c) The compensation of witnesses as provided in division (J) 20040
of section 2743.65 of the Revised Code; 20041

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| (d) Other administrative costs of hearing and determining claims for an award of reparations by the attorney general; | 20042 20043 |
| (e) The costs of administering sections 2907.28 and 2969.01 to 2969.06 of the Revised Code; | 20044 20045 |
| (f) The costs of investigation and decision-making as certified by the attorney general; | 20046 20047 |
| (g) The provision of state financial assistance to victim assistance programs in accordance with sections 109.91 and 109.92 of the Revised Code; | 20048 20049 20050 |
| (h) The costs of paying the expenses of sex offense-related examinations and antibiotics pursuant to section 2907.28 of the Revised Code; | 20051 20052 20053 |
| (i) The cost of printing and distributing the pamphlet prepared by the attorney general pursuant to section 109.42 of the Revised Code; | 20054 20055 20056 |
| (j) Subject to division (D) of section 2743.71 of the Revised Code, the costs associated with the printing and providing of information cards or other printed materials to law enforcement agencies and prosecuting authorities and with publicizing the availability of awards of reparations pursuant to section 2743.71 of the Revised Code; | 20057 20058 20059 20060 20061 20062 |
| (k) The payment of costs of administering a DNA specimen collection procedure pursuant to sections 2152.74 and 2901.07 of the Revised Code, of performing DNA analysis of those DNA specimens, and of entering the resulting DNA records regarding those analyses into the DNA database pursuant to section 109.573 of the Revised Code; | 20063 20064 20065 20066 20067 20068 |
| (l) The payment of actual costs associated with initiatives by the attorney general for the apprehension, prosecution, and accountability of offenders, and the enhancing of services to | 20069 20070 20071 |

crime victims. The amount of payments made pursuant to division 20072
(A)(1)(1) of this section during any given fiscal year shall not 20073
exceed five per cent of the balance of the reparations fund at the 20074
close of the immediately previous fiscal year; 20075

(m) The costs of administering the adult parole authority's 20076
supervision of sexually violent predators with an active global 20077
positioning system device pursuant to section 2971.05 of the 20078
Revised Code. 20079

(2) All costs paid pursuant to section 2743.70 of the Revised 20080
Code, the portions of license reinstatement fees mandated by 20081
division (F)(2)(b) of section 4511.191 of the Revised Code to be 20082
credited to the fund, the portions of the proceeds of the sale of 20083
a forfeited vehicle specified in division (C)(2) of section 20084
4503.234 of the Revised Code, payments collected by the department 20085
of rehabilitation and correction from prisoners who voluntarily 20086
participate in an approved work and training program pursuant to 20087
division (C)(8)(b)(ii) of section 5145.16 of the Revised Code, and 20088
all moneys collected by the state pursuant to its right of 20089
subrogation provided in section 2743.72 of the Revised Code shall 20090
be deposited in the fund. 20091

(B) In making an award of reparations, the attorney general 20092
shall render the award against the state. The award shall be 20093
accomplished only through the following procedure, and the 20094
following procedure may be enforced by writ of mandamus directed 20095
to the appropriate official: 20096

(1) The attorney general shall provide for payment of the 20097
claimant or providers in the amount of the award only if the 20098
amount of the award is fifty dollars or more. 20099

(2) The expense shall be charged against all available 20100
unencumbered moneys in the fund. 20101

(3) If sufficient unencumbered moneys do not exist in the 20102

fund, the attorney general shall make application for payment of 20103
the award out of the emergency purposes account or any other 20104
appropriation for emergencies or contingencies, and payment out of 20105
this account or other appropriation shall be authorized if there 20106
are sufficient moneys greater than the sum total of then pending 20107
emergency purposes account requests or requests for releases from 20108
the other appropriations. 20109

(4) If sufficient moneys do not exist in the account or any 20110
other appropriation for emergencies or contingencies to pay the 20111
award, the attorney general shall request the general assembly to 20112
make an appropriation sufficient to pay the award, and no payment 20113
shall be made until the appropriation has been made. The attorney 20114
general shall make this appropriation request during the current 20115
biennium and during each succeeding biennium until a sufficient 20116
appropriation is made. If, prior to the time that an appropriation 20117
is made by the general assembly pursuant to this division, the 20118
fund has sufficient unencumbered funds to pay the award or part of 20119
the award, the available funds shall be used to pay the award or 20120
part of the award, and the appropriation request shall be amended 20121
to request only sufficient funds to pay that part of the award 20122
that is unpaid. 20123

(C) The attorney general shall not make payment on a decision 20124
or order granting an award until all appeals have been determined 20125
and all rights to appeal exhausted, except as otherwise provided 20126
in this section. If any party to a claim for an award of 20127
reparations appeals from only a portion of an award, and a 20128
remaining portion provides for the payment of money by the state, 20129
that part of the award calling for the payment of money by the 20130
state and not a subject of the appeal shall be processed for 20131
payment as described in this section. 20132

(D) The attorney general shall prepare itemized bills for the 20133
costs of printing and distributing the pamphlet the attorney 20134

general prepares pursuant to section 109.42 of the Revised Code. 20135
The itemized bills shall set forth the name and address of the 20136
persons owed the amounts set forth in them. 20137

(E) As used in this section, "DNA analysis" and "DNA 20138
specimen" have the same meanings as in section 109.573 of the 20139
Revised Code. 20140

Sec. 2744.05. Notwithstanding any other provisions of the 20141
Revised Code or rules of a court to the contrary, in an action 20142
against a political subdivision to recover damages for injury, 20143
death, or loss to person or property caused by an act or omission 20144
in connection with a governmental or proprietary function: 20145

(A) Punitive or exemplary damages shall not be awarded. 20146

(B)(1) If a claimant receives or is entitled to receive 20147
benefits for injuries or loss allegedly incurred from a policy or 20148
policies of insurance or any other source, the benefits shall be 20149
disclosed to the court, and the amount of the benefits shall be 20150
deducted from any award against a political subdivision recovered 20151
by that claimant. No insurer or other person is entitled to bring 20152
an action under a subrogation provision in an insurance or other 20153
contract against a political subdivision with respect to those 20154
benefits. 20155

The amount of the benefits shall be deducted from an award 20156
against a political subdivision under division (B)(1) of this 20157
section regardless of whether the claimant may be under an 20158
obligation to pay back the benefits upon recovery, in whole or in 20159
part, for the claim. A claimant whose benefits have been deducted 20160
from an award under division (B)(1) of this section is not 20161
considered fully compensated and shall not be required to 20162
reimburse a subrogated claim for benefits deducted from an award 20163
pursuant to division (B)(1) of this section. 20164

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| (2) Nothing in division (B)(1) of this section shall be construed to do either of the following: | 20165 20166 |
| (a) Limit the rights of a beneficiary under a life insurance policy or the rights of sureties under fidelity or surety bonds; | 20167 20168 |
| (b) Prohibit the department of job and family services from recovering from the political subdivision, pursuant to section 5101.58 of the Revised Code, the cost of medical assistance benefits provided under Chapter 5107. 7 <u>or</u> 5111. 7 or 5115. of the Revised Code. | 20169 20170 20171 20172 20173 |
| (C)(1) There shall not be any limitation on compensatory damages that represent the actual loss of the person who is awarded the damages. However, except in wrongful death actions brought pursuant to Chapter 2125. of the Revised Code, damages that arise from the same cause of action, transaction or occurrence, or series of transactions or occurrences and that do not represent the actual loss of the person who is awarded the damages shall not exceed two hundred fifty thousand dollars in favor of any one person. The limitation on damages that do not represent the actual loss of the person who is awarded the damages provided in this division does not apply to court costs that are awarded to a plaintiff, or to interest on a judgment rendered in favor of a plaintiff, in an action against a political subdivision. | 20174 20175 20176 20177 20178 20179 20180 20181 20182 20183 20184 20185 20186 20187 |
| (2) As used in this division, "the actual loss of the person who is awarded the damages" includes all of the following: | 20188 20189 |
| (a) All wages, salaries, or other compensation lost by the person injured as a result of the injury, including wages, salaries, or other compensation lost as of the date of a judgment and future expected lost earnings of the person injured; | 20190 20191 20192 20193 |
| (b) All expenditures of the person injured or another person on behalf of the person injured for medical care or treatment, for | 20194 20195 |

rehabilitation services, or for other care, treatment, services, 20196
products, or accommodations that were necessary because of the 20197
injury; 20198

(c) All expenditures to be incurred in the future, as 20199
determined by the court, by the person injured or another person 20200
on behalf of the person injured for medical care or treatment, for 20201
rehabilitation services, or for other care, treatment, services, 20202
products, or accommodations that will be necessary because of the 20203
injury; 20204

(d) All expenditures of a person whose property was injured 20205
or destroyed or of another person on behalf of the person whose 20206
property was injured or destroyed in order to repair or replace 20207
the property that was injured or destroyed; 20208

(e) All expenditures of the person injured or of the person 20209
whose property was injured or destroyed or of another person on 20210
behalf of the person injured or of the person whose property was 20211
injured or destroyed in relation to the actual preparation or 20212
presentation of the claim involved; 20213

(f) Any other expenditures of the person injured or of the 20214
person whose property was injured or destroyed or of another 20215
person on behalf of the person injured or of the person whose 20216
property was injured or destroyed that the court determines 20217
represent an actual loss experienced because of the personal or 20218
property injury or property loss. 20219

"The actual loss of the person who is awarded the damages" 20220
does not include any fees paid or owed to an attorney for any 20221
services rendered in relation to a personal or property injury or 20222
property loss, and does not include any damages awarded for pain 20223
and suffering, for the loss of society, consortium, companionship, 20224
care, assistance, attention, protection, advice, guidance, 20225
counsel, instruction, training, or education of the person 20226

injured, for mental anguish, or for any other intangible loss. 20227

Sec. 2744.08. (A)(1) A political subdivision may use public 20228
funds to secure insurance with respect to its and its employees' 20229
potential liability in damages in civil actions for injury, death, 20230
or loss to persons or property allegedly caused by an act or 20231
omission of the political subdivision or any of its employees in 20232
connection with a governmental or proprietary function. The 20233
insurance may be at the limits, for the circumstances, and subject 20234
to the terms and conditions, that are determined by the political 20235
subdivision in its discretion. 20236

The insurance may be for the period of time that is set forth 20237
in specifications for competitive bids or, when competitive 20238
bidding is not required, for the period of time that is mutually 20239
agreed upon by the political subdivision and insurance company. 20240
The period of time does not have to be, but can be, limited to the 20241
fiscal cycle under which the political subdivision is funded and 20242
operates. 20243

(2)(a) Regardless of whether a political subdivision procures 20244
a policy or policies of liability insurance pursuant to division 20245
(A)(1) of this section or otherwise, the political subdivision may 20246
establish and maintain a self-insurance program relative to its 20247
and its employees' potential liability in damages in civil actions 20248
for injury, death, or loss to persons or property allegedly caused 20249
by an act or omission of the political subdivision or any of its 20250
employees in connection with a governmental or proprietary 20251
function. The political subdivision may reserve such funds as it 20252
deems appropriate in a special fund that may be established 20253
pursuant to an ordinance or resolution of the political 20254
subdivision and not subject to section 5705.12 of the Revised 20255
Code. The political subdivision may allocate the costs of 20256
insurance or a self-insurance program, or both, among the funds or 20257

accounts in the subdivision's treasury on the basis of relative 20258
exposure and loss experience. The political subdivision may 20259
require any deductibles under an insurance or self-insurance 20260
program, or both, to be paid from funds or accounts in the 20261
subdivision's treasury from which a loss was directly 20262
attributable. If it so chooses, the political subdivision may 20263
contract with any person, other political subdivision, or regional 20264
council of governments for purposes of the administration of such 20265
a program. 20266

(b) Political subdivisions that have established 20267
self-insurance programs relative to their and their employees' 20268
potential liability as described in division (A)(2)(a) of this 20269
section may mutually agree that their self-insurance programs will 20270
be jointly administered in a specified manner. 20271

(B) The purchase of liability insurance, or the establishment 20272
and maintenance of a self-insurance program, by a political 20273
subdivision does not constitute a waiver of any immunity or 20274
defense of the political subdivision or its employees, except that 20275
the political subdivision may specifically waive any immunity or 20276
defense to which it or its employees may be entitled if a 20277
provision to that effect is specifically included in the policy of 20278
insurance or in a written plan of operation of the self-insurance 20279
program, or, if any, the legislative enactment of the political 20280
subdivision authorizing the purchase of the insurance or the 20281
establishment and maintenance of the self-insurance program. Such 20282
a specific waiver shall be only to the extent of the insurance or 20283
self-insurance program coverage. 20284

(C) The authorizations for political subdivisions to secure 20285
insurance and to establish and maintain self-insurance programs in 20286
this section are in addition to any other authority to secure 20287
insurance or to establish and maintain self-insurance programs 20288
that is granted pursuant to the Revised Code or the constitution 20289

of this state, and they are not in derogation of any other 20290
authorization. 20291

Sec. 2744.082. (A) If a political subdivision, pursuant to 20292
division (A)(2)(a) of section 2744.08 of the Revised Code, has 20293
allocated costs to, or required the payment of deductibles from, 20294
funds or accounts in the subdivision's treasury, the subdivision's 20295
fiscal officer, pursuant to an ordinance or resolution of the 20296
subdivision's legislative authority, shall transfer amounts equal 20297
to those costs or deductibles from the funds or accounts to the 20298
subdivision's general fund if both of the following occur: 20299

(1) The subdivision requests payment from the employee 20300
responsible for the funds or accounts for those costs or 20301
deductibles; 20302

(2) The employee receiving the request fails to remit payment 20303
within forty-five days after the date of receipt of the request. 20304

(B) Sections 5705.14, 5705.15, and 5705.16 of the Revised 20305
Code do not apply to transfers made pursuant to this section. 20306

Sec. 2901.07. (A) As used in this section: 20307

(1) "DNA analysis" and "DNA specimen" have the same meanings 20308
as in section 109.573 of the Revised Code. 20309

(2) "Jail" and "community-based correctional facility" have 20310
the same meanings as in section 2929.01 of the Revised Code. 20311

(3) "Post-release control" has the same meaning as in section 20312
2967.01 of the Revised Code. 20313

(B)(1) A person who is convicted of or pleads guilty to a 20314
felony offense listed in division (D) of this section and who is 20315
sentenced to a prison term or to a community residential sanction 20316
in a jail or community-based correctional facility pursuant to 20317
section 2929.16 of the Revised Code, and a person who is convicted 20318

of or pleads guilty to a misdemeanor offense listed in division 20319
(D) of this section and who is sentenced to a term of imprisonment 20320
shall submit to a DNA specimen collection procedure administered 20321
by the director of rehabilitation and correction or the chief 20322
administrative officer of the jail or other detention facility in 20323
which the person is serving the term of imprisonment. If the 20324
person serves the prison term in a state correctional institution, 20325
the director of rehabilitation and correction shall cause the DNA 20326
specimen to be collected from the person during the intake process 20327
at the reception facility designated by the director. If the 20328
person serves the community residential sanction or term of 20329
imprisonment in a jail, a community-based correctional facility, 20330
or another county, multicounty, municipal, municipal-county, or 20331
multicounty-municipal detention facility, the chief administrative 20332
officer of the jail, community-based correctional facility, or 20333
detention facility shall cause the DNA specimen to be collected 20334
from the person during the intake process at the jail, 20335
community-based correctional facility, or detention facility. In 20336
accordance with division (C) of this section, the director or the 20337
chief administrative officer shall cause the DNA specimen to be 20338
forwarded to the bureau of criminal identification and 20339
investigation no later than fifteen days after the date of the 20340
collection of the DNA specimen. The DNA specimen shall be 20341
collected in accordance with division (C) of this section. 20342

(2) If a person is convicted of or pleads guilty to an 20343
offense listed in division (D) of this section, is serving a 20344
prison term, community residential sanction, or term of 20345
imprisonment for that offense, and does not provide a DNA specimen 20346
pursuant to division (B)(1) of this section, prior to the person's 20347
release from the prison term, community residential sanction, or 20348
imprisonment, the person shall submit to, and the director of 20349
rehabilitation and correction or the chief administrative officer 20350
of the jail, community-based correctional facility, or detention 20351

facility in which the person is serving the prison term, community 20352
residential sanction, or term of imprisonment shall administer, a 20353
DNA specimen collection procedure at the state correctional 20354
institution, jail, community-based correctional facility, or 20355
detention facility in which the person is serving the prison term, 20356
community residential sanction, or term of imprisonment. In 20357
accordance with division (C) of this section, the director or the 20358
chief administrative officer shall cause the DNA specimen to be 20359
forwarded to the bureau of criminal identification and 20360
investigation no later than fifteen days after the date of the 20361
collection of the DNA specimen. The DNA specimen shall be 20362
collected in accordance with division (C) of this section. 20363

(3) If a person sentenced to a term of imprisonment or 20364
serving a prison term or community residential sanction for 20365
committing an offense listed in division (D) of this section is on 20366
probation, is released on parole, under transitional control, or 20367
on another type of release, or is on post-release control, if the 20368
person is under the supervision of a probation department or the 20369
adult parole authority, if the person is sent to jail or is 20370
returned to a jail, community-based correctional facility, or 20371
state correctional institution for a violation of the terms and 20372
conditions of the probation, parole, transitional control, other 20373
release, or post-release control, if the person was or will be 20374
serving a term of imprisonment, prison term, or community 20375
residential sanction for committing an offense listed in division 20376
(D) of this section, and if the person did not provide a DNA 20377
specimen pursuant to division (B)(1) or (2) of this section, the 20378
person shall submit to, and the director of rehabilitation and 20379
correction or the chief administrative officer of the jail or 20380
community-based correctional facility shall administer, a DNA 20381
specimen collection procedure at the jail, community-based 20382
correctional facility, or state correctional institution in which 20383
the person is serving the term of imprisonment, prison term, or 20384

community residential sanction. In accordance with division (C) of 20385
this section, the director or the chief administrative officer 20386
shall cause the DNA specimen to be forwarded to the bureau of 20387
criminal identification and investigation no later than fifteen 20388
days after the date of the collection of the DNA specimen. The DNA 20389
specimen shall be collected from the person in accordance with 20390
division (C) of this section. 20391

(C) If the DNA specimen is collected by withdrawing blood 20392
from the person or a similarly invasive procedure, a physician, 20393
registered nurse, licensed practical nurse, duly licensed clinical 20394
laboratory technician, or other qualified medical practitioner 20395
shall collect in a medically approved manner the DNA specimen 20396
required to be collected pursuant to division (B) of this section. 20397
If the DNA specimen is collected by swabbing for buccal cells or a 20398
similarly noninvasive procedure, this section does not require 20399
that the DNA specimen be collected by a qualified medical 20400
practitioner of that nature. No later than fifteen days after the 20401
date of the collection of the DNA specimen, the director of 20402
rehabilitation and correction or the chief administrative officer 20403
of the jail, community-based correctional facility, or other 20404
county, multicounty, municipal, municipal-county, or 20405
multicounty-municipal detention facility, in which the person is 20406
serving the prison term, community residential sanction, or term 20407
of imprisonment shall cause the DNA specimen to be forwarded to 20408
the bureau of criminal identification and investigation in 20409
accordance with procedures established by the superintendent of 20410
the bureau under division (H) of section 109.573 of the Revised 20411
Code. The bureau shall provide the specimen vials, mailing tubes, 20412
labels, postage, and instructions needed for the collection and 20413
forwarding of the DNA specimen to the bureau. 20414

(D) The director of rehabilitation and correction and the 20415
chief administrative officer of the jail, community-based 20416

correctional facility, or other county, multicounty, municipal, 20417
municipal-county, or multicounty-municipal detention facility 20418
shall cause a DNA specimen to be collected in accordance with 20419
divisions (B) and (C) of this section from a person in its custody 20420
who is convicted of or pleads guilty to any of the following 20421
offenses: 20422

(1) A violation of section 2903.01, 2903.02, 2903.11, 20423
2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 20424
2911.11, or 2911.12 of the Revised Code; 20425

(2) A violation of section 2907.12 of the Revised Code as it 20426
existed prior to September 3, 1996; 20427

(3) An attempt to commit a violation of section 2903.01, 20428
2903.02, 2907.02, 2907.03, 2907.04, or 2907.05 of the Revised Code 20429
or to commit a violation of section 2907.12 of the Revised Code as 20430
it existed prior to September 3, 1996; 20431

(4) A violation of any law that arose out of the same facts 20432
and circumstances and same act as did a charge against the person 20433
of a violation of section 2903.01, 2903.02, 2905.01, 2907.02, 20434
2907.03, 2907.04, 2907.05, or 2911.11 of the Revised Code that 20435
previously was dismissed or amended or as did a charge against the 20436
person of a violation of section 2907.12 of the Revised Code as it 20437
existed prior to September 3, 1996, that previously was dismissed 20438
or amended; 20439

(5) A violation of section 2905.02 or 2919.23 of the Revised 20440
Code that would have been a violation of section 2905.04 of the 20441
Revised Code as it existed prior to July 1, 1996, had it been 20442
committed prior to that date; 20443

(6) A sexually oriented offense or a child-victim oriented 20444
offense, both as defined in section 2950.01 of the Revised Code, 20445
if, in relation to that offense, the offender has been adjudicated 20446
a sexual predator or a child-victim predator, both as defined in 20447

section 2950.01 of the Revised Code; 20448

(7) A felony violation of any law that arose out of the same 20449
facts and circumstances and same act as did a charge against the 20450
person of a violation of section 2903.11, 2911.01, 2911.02, or 20451
2911.12 of the Revised Code that previously was dismissed or 20452
amended; 20453

(8) A conspiracy to commit a violation of section 2903.01, 20454
2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the 20455
Revised Code; 20456

(9) Complicity in committing a violation of section 2903.01, 20457
2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 20458
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a 20459
violation of section 2907.12 of the Revised Code as it existed 20460
prior to September 3, 1996. 20461

(E) The director of rehabilitation and correction or a chief 20462
administrative officer of a jail, community-based correctional 20463
facility, or other detention facility described in division (B) of 20464
this section in relation to the following offenses is not required 20465
to comply with this section until the superintendent of the bureau 20466
of criminal identification and investigation gives agencies in the 20467
criminal justice system, as defined in section ~~181.51~~ 5502.61 of 20468
the Revised Code, in the state official notification that the 20469
state DNA laboratory is prepared to accept DNA specimens of that 20470
nature: 20471

(1) A violation of section 2903.11, 2911.01, 2911.02, or 20472
2911.12 of the Revised Code; 20473

(2) An attempt to commit a violation of section 2903.01 or 20474
2903.02 of the Revised Code; 20475

(3) A felony violation of any law that arose out of the same 20476
facts and circumstances and same act as did a charge against the 20477
person of a violation of section 2903.11, 2911.01, 2911.02, or 20478

| | |
|---|---|
| 2911.12 of the Revised Code that previously was dismissed or amended; | 20479 20480 |
| (4) A conspiracy to commit a violation of section 2903.01, 2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code; | 20481 20482 20483 |
| (5) Complicity in committing a violation of section 2903.01, 2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996. | 20484 20485 20486 20487 20488 |
| Sec. 2913.40. (A) As used in this section: | 20489 |
| (1) "Statement or representation" means any oral, written, electronic, electronic impulse, or magnetic communication that is used to identify an item of goods or a service for which reimbursement may be made under the medical assistance program or that states income and expense and is or may be used to determine a rate of reimbursement under the medical assistance program. | 20490 20491 20492 20493 20494 20495 |
| (2) "Medical assistance program" means the program established by the department of job and family services to provide medical assistance under section 5111.01 of the Revised Code and the medicaid program of Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. | 20496 20497 20498 20499 20500 |
| (3) "Provider" means any person who has signed a provider agreement with the department of job and family services to provide goods or services pursuant to the medical assistance program or any person who has signed an agreement with a party to such a provider agreement under which the person agrees to provide goods or services that are reimbursable under the medical assistance program. | 20501 20502 20503 20504 20505 20506 20507 |
| (4) "Provider agreement" means an oral or written agreement | 20508 |

between the department of job and family services and a person in 20509
which the person agrees to provide goods or services under the 20510
medical assistance program. 20511

(5) "Recipient" means any individual who receives goods or 20512
services from a provider under the medical assistance program. 20513

(6) "Records" means any medical, professional, financial, or 20514
business records relating to the treatment or care of any 20515
recipient, to goods or services provided to any recipient, or to 20516
rates paid for goods or services provided to any recipient and any 20517
records that are required by the rules of the director of job and 20518
family services to be kept for the medical assistance program. 20519

(B) No person shall knowingly make or cause to be made a 20520
false or misleading statement or representation for use in 20521
obtaining reimbursement from the medical assistance program. 20522

(C) No person, with purpose to commit fraud or knowing that 20523
the person is facilitating a fraud, shall do either of the 20524
following: 20525

(1) Contrary to the terms of the person's provider agreement, 20526
charge, solicit, accept, or receive for goods or services that the 20527
person provides under the medical assistance program any property, 20528
money, or other consideration in addition to the amount of 20529
reimbursement under the medical assistance program and the 20530
person's provider agreement for the goods or services and any 20531
deductibles or co-payments authorized by ~~rules adopted under~~ 20532
section 5111.0112 of the Revised Code or ~~by any~~ rules adopted 20533
pursuant to ~~that~~ section 5111.01, 5111.011, or 5111.02 of the 20534
Revised Code. 20535

(2) Solicit, offer, or receive any remuneration, other than 20536
any deductibles or co-payments authorized by section 5111.0112 of 20537
the Revised Code or rules adopted under section ~~5111.0112~~ 5111.01, 20538
5111.011, or 5111.02 of the Revised Code ~~or by any rules adopted~~ 20539

~~pursuant to that section~~, in cash or in kind, including, but not 20540
limited to, a kickback or rebate, in connection with the 20541
furnishing of goods or services for which whole or partial 20542
reimbursement is or may be made under the medical assistance 20543
program. 20544

(D) No person, having submitted a claim for or provided goods 20545
or services under the medical assistance program, shall do either 20546
of the following for a period of at least six years after a 20547
reimbursement pursuant to that claim, or a reimbursement for those 20548
goods or services, is received under the medical assistance 20549
program: 20550

(1) Knowingly alter, falsify, destroy, conceal, or remove any 20551
records that are necessary to fully disclose the nature of all 20552
goods or services for which the claim was submitted, or for which 20553
reimbursement was received, by the person; 20554

(2) Knowingly alter, falsify, destroy, conceal, or remove any 20555
records that are necessary to disclose fully all income and 20556
expenditures upon which rates of reimbursements were based for the 20557
person. 20558

(E) Whoever violates this section is guilty of medicaid 20559
fraud. Except as otherwise provided in this division, medicaid 20560
fraud is a misdemeanor of the first degree. If the value of 20561
property, services, or funds obtained in violation of this section 20562
is five hundred dollars or more and is less than five thousand 20563
dollars, medicaid fraud is a felony of the fifth degree. If the 20564
value of property, services, or funds obtained in violation of 20565
this section is five thousand dollars or more and is less than one 20566
hundred thousand dollars, medicaid fraud is a felony of the fourth 20567
degree. If the value of the property, services, or funds obtained 20568
in violation of this section is one hundred thousand dollars or 20569
more, medicaid fraud is a felony of the third degree. 20570

(F) Upon application of the governmental agency, office, or
other entity that conducted the investigation and prosecution in a
case under this section, the court shall order any person who is
convicted of a violation of this section for receiving any
reimbursement for furnishing goods or services under the medical
assistance program to which the person is not entitled to pay to
the applicant its cost of investigating and prosecuting the case.
The costs of investigation and prosecution that a defendant is
ordered to pay pursuant to this division shall be in addition to
any other penalties for the receipt of that reimbursement that are
provided in this section, section 5111.03 of the Revised Code, or
any other provision of law.

(G) The provisions of this section are not intended to be
exclusive remedies and do not preclude the use of any other
criminal or civil remedy for any act that is in violation of this
section.

Sec. 2913.401. (A) As used in this section:

(1) "Medicaid benefits" means benefits under the medical
assistance program established under Chapter 5111. of the Revised
Code.

(2) "Property" means any real or personal property or other
asset in which a person has any legal title or interest.

(B) No person shall knowingly do any of the following in an
application for medicaid benefits or in a document that requires a
disclosure of assets for the purpose of determining eligibility to
receive medicaid benefits:

(1) Make or cause to be made a false or misleading statement;

(2) Conceal an interest in property;

(3)(a) Except as provided in division (B)(3)(b) of this
section, fail to disclose a transfer of property that occurred

during the period beginning thirty-six months before submission of 20601
the application or document and ending on the date the application 20602
or document was submitted; 20603

(b) Fail to disclose a transfer of property that occurred 20604
during the period beginning sixty months before submission of the 20605
application or document and ending on the date the application or 20606
document was submitted and that was made to an irrevocable trust a 20607
portion of which is not distributable to the applicant for 20608
medicaid benefits or the recipient of medicaid benefits or to a 20609
revocable trust. 20610

(C)(1) Whoever violates this section is guilty of medicaid 20611
eligibility fraud. Except as otherwise provided in this division, 20612
a violation of this section is a misdemeanor of the first degree. 20613
If the value of the medicaid benefits paid as a result of the 20614
violation is five hundred dollars or more and is less than five 20615
thousand dollars, a violation of this section is a felony of the 20616
fifth degree. If the value of the medicaid benefits paid as a 20617
result of the violation is five thousand dollars or more and is 20618
less than one hundred thousand dollars, a violation of this 20619
section is a felony of the fourth degree. If the value of the 20620
medicaid benefits paid as a result of the violation is one hundred 20621
thousand dollars or more, a violation of this section is a felony 20622
of the third degree. 20623

(2) In addition to imposing a sentence under division (C)(1) 20624
of this section, the court shall order that a person who is guilty 20625
of medicaid eligibility fraud make restitution in the full amount 20626
of any medicaid benefits paid on behalf of an applicant for or 20627
recipient of medicaid benefits for which the applicant or 20628
recipient was not eligible, plus interest at the rate applicable 20629
to judgments on unreimbursed amounts from the date on which the 20630
benefits were paid to the date on which restitution is made. 20631

(3) The remedies and penalties provided in this section are 20632

not exclusive and do not preclude the use of any other criminal or 20633
civil remedy for any act that is in violation of this section. 20634

(D) This section does not apply to a person who fully 20635
disclosed in an application for medicaid benefits or in a document 20636
that requires a disclosure of assets for the purpose of 20637
determining eligibility to receive medicaid benefits all of the 20638
interests in property of the applicant for or recipient of 20639
medicaid benefits, all transfers of property by the applicant for 20640
or recipient of medicaid benefits, and the circumstances of all 20641
those transfers. 20642

(E) Any amounts of medicaid benefits recovered as restitution 20643
under this section and any interest on those amounts shall be 20644
credited to the general revenue fund, and any applicable federal 20645
share shall be returned to the appropriate agency or department of 20646
the United States. 20647

Sec. 2921.13. (A) No person shall knowingly make a false 20648
statement, or knowingly swear or affirm the truth of a false 20649
statement previously made, when any of the following applies: 20650

(1) The statement is made in any official proceeding. 20651

(2) The statement is made with purpose to incriminate 20652
another. 20653

(3) The statement is made with purpose to mislead a public 20654
official in performing the public official's official function. 20655

(4) The statement is made with purpose to secure the payment 20656
of unemployment compensation; Ohio works first; prevention, 20657
retention, and contingency benefits and services; disability 20658
financial assistance; retirement benefits; economic development 20659
assistance, as defined in section 9.66 of the Revised Code; or 20660
other benefits administered by a governmental agency or paid out 20661
of a public treasury. 20662

- (5) The statement is made with purpose to secure the issuance 20663
by a governmental agency of a license, permit, authorization, 20664
certificate, registration, release, or provider agreement. 20665
- (6) The statement is sworn or affirmed before a notary public 20666
or another person empowered to administer oaths. 20667
- (7) The statement is in writing on or in connection with a 20668
report or return that is required or authorized by law. 20669
- (8) The statement is in writing and is made with purpose to 20670
induce another to extend credit to or employ the offender, to 20671
confer any degree, diploma, certificate of attainment, award of 20672
excellence, or honor on the offender, or to extend to or bestow 20673
upon the offender any other valuable benefit or distinction, when 20674
the person to whom the statement is directed relies upon it to 20675
that person's detriment. 20676
- (9) The statement is made with purpose to commit or 20677
facilitate the commission of a theft offense. 20678
- (10) The statement is knowingly made to a probate court in 20679
connection with any action, proceeding, or other matter within its 20680
jurisdiction, either orally or in a written document, including, 20681
but not limited to, an application, petition, complaint, or other 20682
pleading, or an inventory, account, or report. 20683
- (11) The statement is made on an account, form, record, 20684
stamp, label, or other writing that is required by law. 20685
- (12) The statement is made in connection with the purchase of 20686
a firearm, as defined in section 2923.11 of the Revised Code, and 20687
in conjunction with the furnishing to the seller of the firearm of 20688
a fictitious or altered driver's or commercial driver's license or 20689
permit, a fictitious or altered identification card, or any other 20690
document that contains false information about the purchaser's 20691
identity. 20692

(13) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the secretary of state, a county recorder, or the clerk of a court of record.

(14) The statement is made with purpose to obtain an Ohio's best Rx program enrollment card under section 5110.09 of the Revised Code or a payment from the department of job and family services under section 5110.17 of the Revised Code.

~~(14)~~(15) The statement is made in an application filed with a county sheriff pursuant to section 2923.125 of the Revised Code in order to obtain or renew a license to carry a concealed handgun or is made in an affidavit submitted to a county sheriff to obtain a temporary emergency license to carry a concealed handgun under section 2923.1213 of the Revised Code.

(16) The statement is required under section 5743.72 of the Revised Code in connection with the person's purchase of cigarettes or tobacco products in a delivery sale.

(B) No person, in connection with the purchase of a firearm, as defined in section 2923.11 of the Revised Code, shall knowingly furnish to the seller of the firearm a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.

(C) No person, in an attempt to obtain a license to carry a concealed handgun under section 2923.125 of the Revised Code, shall knowingly present to a sheriff a fictitious or altered document that purports to be certification of the person's competence in handling a handgun as described in division (B)(3) of section 2923.125 of the Revised Code.

(D) It is no defense to a charge under division (A)(6) of this section that the oath or affirmation was administered or

taken in an irregular manner. 20724

(E) If contradictory statements relating to the same fact are 20725
made by the offender within the period of the statute of 20726
limitations for falsification, it is not necessary for the 20727
prosecution to prove which statement was false but only that one 20728
or the other was false. 20729

(F)(1) Whoever violates division (A)(1), (2), (3), (4), (5), 20730
(6), (7), (8), (10), (11), (13), ~~or (14)~~, or (16) of this section 20731
is guilty of falsification, a misdemeanor of the first degree. 20732

(2) Whoever violates division (A)(9) of this section is 20733
guilty of falsification in a theft offense. Except as otherwise 20734
provided in this division, falsification in a theft offense is a 20735
misdemeanor of the first degree. If the value of the property or 20736
services stolen is five hundred dollars or more and is less than 20737
five thousand dollars, falsification in a theft offense is a 20738
felony of the fifth degree. If the value of the property or 20739
services stolen is five thousand dollars or more and is less than 20740
one hundred thousand dollars, falsification in a theft offense is 20741
a felony of the fourth degree. If the value of the property or 20742
services stolen is one hundred thousand dollars or more, 20743
falsification in a theft offense is a felony of the third degree. 20744

(3) Whoever violates division (A)(12) or (B) of this section 20745
is guilty of falsification to purchase a firearm, a felony of the 20746
fifth degree. 20747

(4) Whoever violates division (A)~~(14)~~(15) or (C) of this 20748
section is guilty of falsification to obtain a concealed handgun 20749
license, a felony of the fourth degree. 20750

(G) A person who violates this section is liable in a civil 20751
action to any person harmed by the violation for injury, death, or 20752
loss to person or property incurred as a result of the commission 20753
of the offense and for reasonable attorney's fees, court costs, 20754

and other expenses incurred as a result of prosecuting the civil 20755
action commenced under this division. A civil action under this 20756
division is not the exclusive remedy of a person who incurs 20757
injury, death, or loss to person or property as a result of a 20758
violation of this section. 20759

Sec. 2923.25. Each federally licensed firearms dealer who 20760
sells any firearm, at the time of the sale of the firearm, shall 20761
offer for sale to the purchaser of the firearm a trigger lock, gun 20762
lock, or gun locking device that is appropriate for that firearm. 20763
Each federally licensed firearms dealer shall post in a 20764
conspicuous location in the dealer's place of business the poster 20765
furnished to the dealer pursuant to section ~~181.521~~ 5502.63 of the 20766
Revised Code and shall make available to all purchasers of 20767
firearms from the dealer the brochure furnished to the dealer 20768
pursuant to that section. 20769

As used in this section, "federally licensed firearms dealer" 20770
has the same meaning as in section ~~181.251~~ 5502.63 of the Revised 20771
Code. 20772

Sec. 2923.35. (A)(1) With respect to property ordered 20773
forfeited under section 2923.32 of the Revised Code, with respect 20774
to any fine or civil penalty imposed in any criminal or civil 20775
proceeding under section 2923.32 or 2923.34 of the Revised Code, 20776
and with respect to any fine imposed for a violation of section 20777
2923.01 of the Revised Code for conspiracy to violate section 20778
2923.32 of the Revised Code, the court, upon petition of the 20779
prosecuting attorney, may do any of the following: 20780

(a) Authorize the prosecuting attorney to settle claims; 20781

(b) Award compensation to persons who provide information 20782
that results in a forfeiture, fine, or civil penalty under section 20783
2923.32 or 2923.34 of the Revised Code; 20784

(c) Grant petitions for mitigation or remission of 20785
forfeiture, fines, or civil penalties, or restore forfeited 20786
property, imposed fines, or imposed civil penalties to persons 20787
injured by the violation; 20788

(d) Take any other action to protect the rights of innocent 20789
persons that is in the interest of justice and that is consistent 20790
with the purposes of sections 2923.31 to 2923.36 of the Revised 20791
Code. 20792

(2) The court shall maintain an accurate record of the 20793
actions it takes under division (A)(1) of this section with 20794
respect to the property ordered forfeited or the fine or civil 20795
penalty. The record is a public record open for inspection under 20796
section 149.43 of the Revised Code. 20797

(B)(1) After the application of division (A) of this section, 20798
any person who prevails in a civil action pursuant to section 20799
2923.34 of the Revised Code has a right to any property, or the 20800
proceeds of any property, criminally forfeited to the state 20801
pursuant to section 2923.32 of the Revised Code or against which 20802
any fine under that section or civil penalty under division (I) of 20803
section 2923.34 of the Revised Code may be imposed. 20804

The right of any person who prevails in a civil action 20805
pursuant to section 2923.34 of the Revised Code, other than a 20806
prosecuting attorney performing official duties under that 20807
section, to forfeited property, property against which fines and 20808
civil penalties may be imposed, and the proceeds of that property 20809
is superior to any right of the state, a municipal corporation, or 20810
a county to the property or the proceeds of the property, if the 20811
civil action is brought within one hundred eighty days after the 20812
entry of a sentence of forfeiture or a fine pursuant to section 20813
2923.32 of the Revised Code or the entry of a civil penalty 20814
pursuant to division (I) of section 2923.34 of the Revised Code. 20815

The right is limited to the total value of the treble damages, civil penalties, attorney's fees, and costs awarded to the prevailing party in an action pursuant to section 2923.34 of the Revised Code, less any restitution received by the person.

(2) If the aggregate amount of claims of persons who have prevailed in a civil action pursuant to section 2923.34 of the Revised Code against any one defendant is greater than the total value of the treble fines, civil penalties, and forfeited property paid by the person against whom the actions were brought, all of the persons who brought their actions within one hundred eighty days after the entry of a sentence or disposition of forfeiture or a fine pursuant to section 2923.32 of the Revised Code or the entry of a civil penalty pursuant to division (I) of section 2923.34 of the Revised Code, first shall receive a pro rata share of the total amount of the fines, civil penalties, and forfeited property. After the persons who brought their actions within the specified one-hundred-eighty-day period have satisfied their claims out of the fines, civil penalties, and forfeited property, all other persons who prevailed in civil actions pursuant to section 2923.34 of the Revised Code shall receive a pro rata share of the total amount of the fines, civil penalties, and forfeited property that remains in the custody of the law enforcement agency or in the corrupt activity investigation and prosecution fund.

(C)(1) Subject to divisions (A) and (B) of this section and notwithstanding any contrary provision of section 2933.41 of the Revised Code, the prosecuting attorney shall order the disposal of property ordered forfeited in any proceeding under sections 2923.32 and 2923.34 of the Revised Code as soon as feasible, making due provisions for the rights of innocent persons, by any of the following methods:

(a) Transfer to any person who prevails in a civil action pursuant to section 2923.34 of the Revised Code, subject to the

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| limit set forth in division (B)(1) of this section; | 20848 |
| (b) Public sale; | 20849 |
| (c) Transfer to a state governmental agency for official use; | 20850 |
| (d) Sale or transfer to an innocent person; | 20851 |
| (e) If the property is contraband and is not needed for | 20852 |
| evidence in any pending criminal or civil proceeding, pursuant to | 20853 |
| section 2933.41 or any other applicable section of the Revised | 20854 |
| Code. | 20855 |
| (2) Any interest in personal or real property not disposed of | 20856 |
| pursuant to this division and not exercisable by, or transferable | 20857 |
| for value to, the state shall expire and shall not revert to the | 20858 |
| person found guilty of or adjudicated a delinquent child for a | 20859 |
| violation of section 2923.32 of the Revised Code. No person found | 20860 |
| guilty of or adjudicated a delinquent child for a violation of | 20861 |
| that section and no person acting in concert with a person found | 20862 |
| guilty of or adjudicated a delinquent child for a violation of | 20863 |
| that section is eligible to purchase forfeited property from the | 20864 |
| state. | 20865 |
| (3) Upon application of a person, other than the defendant, | 20866 |
| the adjudicated delinquent child, or a person acting in concert | 20867 |
| with or on behalf of either the defendant or the adjudicated | 20868 |
| delinquent child, the court may restrain or stay the disposal of | 20869 |
| the property pursuant to this division pending the conclusion of | 20870 |
| any appeal of the criminal case or delinquency case giving rise to | 20871 |
| the forfeiture or pending the determination of the validity of a | 20872 |
| claim to or interest in the property pursuant to division (E) of | 20873 |
| section 2923.32 of the Revised Code, if the applicant demonstrates | 20874 |
| that proceeding with the disposal of the property will result in | 20875 |
| irreparable injury, harm, or loss to the applicant. | 20876 |
| (4) The prosecuting attorney shall maintain an accurate | 20877 |
| record of each item of property disposed of pursuant to this | 20878 |

division, which record shall include the date on which each item 20879
came into the prosecuting attorney's custody, the manner and date 20880
of disposition, and, if applicable, the name of the person who 20881
received the item. The record shall not identify or enable the 20882
identification of the individual officer who seized the property, 20883
and the record is a public record open for inspection under 20884
section 149.43 of the Revised Code. 20885

Each prosecuting attorney who disposes in any calendar year 20886
of any item of property pursuant to this division shall prepare a 20887
report covering the calendar year that cumulates all of the 20888
information contained in all of the records kept by the 20889
prosecuting attorney pursuant to this division for that calendar 20890
year and shall send the cumulative report, no later than the first 20891
day of March in the calendar year following the calendar year 20892
covered by the report, to the attorney general. Each report 20893
received by the attorney general is a public record open for 20894
inspection under section 149.43 of the Revised Code. Not later 20895
than the fifteenth day of April in the calendar year following the 20896
calendar year covered by the reports, the attorney general shall 20897
send to the president of the senate and the speaker of the house 20898
of representatives a written notification that does all of the 20899
following: 20900

(a) Indicates that the attorney general has received from 20901
prosecuting attorneys reports of the type described in this 20902
division that cover the previous calendar year and indicates that 20903
the reports were received under this division; 20904

(b) Indicates that the reports are open for inspection under 20905
section 149.43 of the Revised Code; 20906

(c) Indicates that the attorney general will provide a copy 20907
of any or all of the reports to the president of the senate or the 20908
speaker of the house of representatives upon request. 20909

(D)(1)(a) Ten per cent of the proceeds of all property 20910
ordered forfeited by a juvenile court pursuant to section 2923.32 20911
of the Revised Code shall be applied to one or more alcohol and 20912
drug addiction treatment programs that are certified by the 20913
department of alcohol and drug addiction services under section 20914
3793.06 of the Revised Code and that are specified in the order of 20915
forfeiture. A juvenile court shall not specify an alcohol or drug 20916
addiction treatment program in the order of forfeiture unless the 20917
program is a certified alcohol and drug addiction treatment 20918
program and, except as provided in division (D)(1)(a) of this 20919
section, unless the program is located in the county in which the 20920
court that orders the forfeiture is located or in a contiguous 20921
county. If no certified alcohol and drug addiction treatment 20922
program is located in any of those counties, the juvenile court 20923
may specify in the order a certified alcohol and drug addiction 20924
treatment program located anywhere within this state. The 20925
remaining ninety per cent of the proceeds shall be disposed of as 20926
provided in divisions (D)(1)(b) and (D)(2) of this section. 20927

All of the proceeds of all property ordered forfeited by a 20928
court other than a juvenile court pursuant to section 2923.32 of 20929
the Revised Code shall be disposed of as provided in divisions 20930
(D)(1)(b) and (D)(2) of this section. 20931

(b) The remaining proceeds of all property ordered forfeited 20932
pursuant to section 2923.32 of the Revised Code, after compliance 20933
with division (D)(1)(a) of this section when that division is 20934
applicable, and all fines and civil penalties imposed pursuant to 20935
sections 2923.32 and 2923.34 of the Revised Code shall be 20936
deposited into the state treasury and credited to the corrupt 20937
activity investigation and prosecution fund, which is hereby 20938
created. 20939

(2) The proceeds, fines, and penalties credited to the 20940
corrupt activity investigation and prosecution fund pursuant to 20941

division (D)(1) of this section shall be disposed of in the 20942
following order: 20943

(a) To a civil plaintiff in an action brought within the 20944
one-hundred-eighty-day time period specified in division (B)(1) of 20945
this section, subject to the limit set forth in that division; 20946

(b) To the payment of the fees and costs of the forfeiture 20947
and sale, including expenses of seizure, maintenance, and custody 20948
of the property pending its disposition, advertising, and court 20949
costs; 20950

(c) Except as otherwise provided in division (D)(2)(c) of 20951
this section, the remainder shall be paid to the law enforcement 20952
trust fund of the prosecuting attorney that is established 20953
pursuant to division (D)(1)(c) of section 2933.43 of the Revised 20954
Code and to the law enforcement trust fund of the county sheriff 20955
that is established pursuant to that division if the county 20956
sheriff substantially conducted the investigation, to the law 20957
enforcement trust fund of a municipal corporation that is 20958
established pursuant to that division if its police department 20959
substantially conducted the investigation, to the law enforcement 20960
trust fund of a township that is established pursuant to that 20961
division if the investigation was substantially conducted by a 20962
township police department, township police district police force, 20963
or office of a township constable, or to the law enforcement trust 20964
fund of a park district created pursuant to section 511.18 or 20965
1545.01 of the Revised Code that is established pursuant to that 20966
division if the investigation was substantially conducted by its 20967
park district police force or law enforcement department. The 20968
prosecuting attorney may decline to accept any of the remaining 20969
proceeds, fines, and penalties, and, if the prosecuting attorney 20970
so declines, they shall be applied to the fund described in 20971
division (D)(2)(c) of this section that relates to the appropriate 20972
law enforcement agency that substantially conducted the 20973

investigation. 20974

If the state highway patrol substantially conducted the 20975
investigation, the director of budget and management shall 20976
transfer the remaining proceeds, fines, and penalties to the state 20977
highway patrol for deposit into the ~~state~~ highway patrol state 20978
contraband, forfeiture, and other fund that is created by division 20979
(D)(1)(c) of section 2933.43 of the Revised Code. If the 20980
department of taxation substantially conducted the investigation, 20981
the director, shall transfer the remaining proceeds, fines, and 20982
penalties to the department for deposit into the department of 20983
taxation enforcement fund. If the state board of pharmacy 20984
substantially conducted the investigation, the director shall 20985
transfer the remaining proceeds, fines, and penalties to the board 20986
for deposit into the board of pharmacy drug law enforcement fund 20987
that is created by division (B)(1) of section 4729.65 of the 20988
Revised Code. If a state law enforcement agency, other than the 20989
state highway patrol, the department of taxation, or the state 20990
board of pharmacy, substantially conducted the investigation, the 20991
director shall transfer the remaining proceeds, fines, and 20992
penalties to the treasurer of state for deposit into the peace 20993
officer training commission fund. 20994

The remaining proceeds, fines, and penalties that are paid to 20995
a law enforcement trust fund or that are deposited into the ~~state~~ 20996
highway patrol state contraband, forfeiture, and other fund, the 20997
department of taxation enforcement fund, the board of pharmacy 20998
drug law enforcement fund, or the peace officer training 20999
commission fund pursuant to division (D)(2)(c) of this section 21000
shall be allocated, used, and expended only in accordance with 21001
division (D)(1)(c) of section 2933.43 of the Revised Code, only in 21002
accordance with a written internal control policy adopted under 21003
division (D)(3) of that section, and, if applicable, only in 21004
accordance with division (B) of section 4729.65 of the Revised 21005

Code. The annual reports that pertain to the funds and that are 21006
required by divisions (D)(1)(c) and (3)(b) of section 2933.43 of 21007
the Revised Code also shall address the remaining proceeds, fines, 21008
and penalties that are paid or deposited into the funds pursuant 21009
to division (D)(2)(c) of this section. 21010

(3) If more than one law enforcement agency substantially 21011
conducted the investigation, the court ordering the forfeiture 21012
shall equitably divide the remaining proceeds, fines, and 21013
penalties among the law enforcement agencies that substantially 21014
conducted the investigation, in the manner described in division 21015
(D)(2) of section 2933.43 of the Revised Code for the equitable 21016
division of contraband proceeds and forfeited moneys. The 21017
equitable shares of the proceeds, fines, and penalties so 21018
determined by the court shall be paid or deposited into the 21019
appropriate funds specified in division (D)(2)(c) of this section. 21020

(E) As used in this section, "law enforcement agency" 21021
includes, but is not limited to, the state board of pharmacy and 21022
the department of taxation. 21023

Sec. 2923.46. (A) If property is seized pursuant to section 21024
2923.44 or 2923.45 of the Revised Code, it is considered to be in 21025
the custody of the head of the law enforcement agency that seized 21026
it, and the head of that agency may do any of the following with 21027
respect to that property prior to its disposition in accordance 21028
with division (A)(4) or (B) of this section: 21029

(1) Place the property under seal; 21030

(2) Remove the property to a place that the head of that 21031
agency designates; 21032

(3) Request the issuance of a court order that requires any 21033
other appropriate municipal corporation, county, township, park 21034
district created pursuant to section 511.18 or 1545.01 of the 21035

Revised Code, or state law enforcement officer or other officer to 21036
take custody of the property and, if practicable, remove it to an 21037
appropriate location for eventual disposition in accordance with 21038
division (B) of this section; 21039

(4)(a) Seek forfeiture of the property pursuant to federal 21040
law. If the head of that agency seeks its forfeiture pursuant to 21041
federal law, the law enforcement agency shall deposit, use, and 21042
account for proceeds from a sale of the property upon its 21043
forfeiture, proceeds from another disposition of the property upon 21044
its forfeiture, or forfeited moneys it receives, in accordance 21045
with the applicable federal law and otherwise shall comply with 21046
that law. 21047

(b) If the state highway patrol seized the property and if 21048
the superintendent of the state highway patrol seeks its 21049
forfeiture pursuant to federal law, the appropriate governmental 21050
officials shall deposit into the ~~state~~ highway patrol federal 21051
contraband, forfeiture, and other fund all interest or other 21052
earnings derived from the investment of the proceeds from a sale 21053
of the property upon its forfeiture, the proceeds from another 21054
disposition of the property upon its forfeiture, or the forfeited 21055
moneys. The state highway patrol shall use and account for that 21056
interest or other earnings in accordance with the applicable 21057
federal law. 21058

(c) Division (B) of this section and divisions (D)(1) to (3) 21059
of section 2933.43 of the Revised Code do not apply to proceeds or 21060
forfeited moneys received pursuant to federal law or to the 21061
interest or other earnings that are derived from the investment of 21062
proceeds or forfeited moneys received pursuant to federal law and 21063
that are described in division (A)(4)(b) of this section. 21064

(B) In addition to complying with any requirements imposed by 21065
a court pursuant to section 2923.44 or 2923.45 of the Revised 21066
Code, and the requirements imposed by those sections, in relation 21067

to the disposition of property forfeited to the state under either 21068
of those sections, the prosecuting attorney who is responsible for 21069
its disposition shall dispose of the property as follows: 21070

(1) Any vehicle that was used in a violation of section 21071
2923.42 of the Revised Code or in an act of a juvenile that is a 21072
violation of section 2923.42 of the Revised Code shall be given to 21073
the law enforcement agency of the municipal corporation or county 21074
in which the offense or act occurred if that agency desires to 21075
have the vehicle, except that, if the offense or act occurred in a 21076
township or in a park district created pursuant to section 511.18 21077
or 1545.01 of the Revised Code and a law enforcement officer 21078
employed by the township or the park district was involved in the 21079
seizure of the vehicle, the vehicle may be given to the law 21080
enforcement agency of that township or park district if that 21081
agency desires to have the vehicle, and except that, if the state 21082
highway patrol made the seizure of the vehicle, the vehicle may be 21083
given to the state highway patrol if it desires to have the 21084
vehicle. 21085

(2) Drugs shall be disposed of pursuant to section 3719.11 of 21086
the Revised Code or placed in the custody of the secretary of the 21087
treasury of the United States for disposal or use for medical or 21088
scientific purposes under applicable federal law. 21089

(3) Firearms and dangerous ordnance suitable for police work 21090
may be given to a law enforcement agency for that purpose. 21091
Firearms suitable for sporting use, or as museum pieces or 21092
collectors' items, may be disposed of by sale pursuant to division 21093
(B)(7) of this section. Other firearms and dangerous ordnance 21094
shall be destroyed by a law enforcement agency or shall be sent to 21095
the bureau of criminal identification and investigation for 21096
destruction by it. 21097

(4) Computers, computer networks, computer systems, and 21098
computer software suitable for police work may be given to a law 21099

enforcement agency for that purpose. Other computers, computer 21100
networks, computer systems, and computer software shall be 21101
disposed of by sale pursuant to division (B)(7) of this section or 21102
disposed of in another manner that the court that issued the order 21103
of forfeiture considers proper under the circumstances. 21104

(5) Obscene materials shall be destroyed. 21105

(6) Beer, intoxicating liquor, and alcohol shall be disposed 21106
of in accordance with division (D)(4) of section 2933.41 of the 21107
Revised Code. 21108

(7) In the case of property not described in divisions (B)(1) 21109
to (6) of this section and of property described in those 21110
divisions but not disposed of pursuant to them, the property shall 21111
be sold in accordance with division (B)(7) of this section or, in 21112
the case of forfeited moneys, disposed of in accordance with 21113
division (B)(7) of this section. If the property is to be sold, 21114
the prosecuting attorney shall cause a notice of the proposed sale 21115
of the property to be given in accordance with law, and the 21116
property shall be sold, without appraisal, at a public auction to 21117
the highest bidder for cash. The proceeds of a sale and forfeited 21118
moneys shall be applied in the following order: 21119

(a) First, to the payment of the costs incurred in connection 21120
with the seizure of, storage of, maintenance of, and provision of 21121
security for the property, the forfeiture proceeding or civil 21122
action, and, if any, the sale; 21123

(b) Second, the remaining proceeds or forfeited moneys after 21124
compliance with division (B)(7)(a) of this section, to the payment 21125
of the value of any legal right, title, or interest in the 21126
property that is possessed by a person who, pursuant to division 21127
(F) of section 2923.44 of the Revised Code or division (E) of 21128
section 2923.45 of the Revised Code, established the validity of 21129
and consequently preserved that legal right, title, or interest, 21130

including, but not limited to, any mortgage, perfected or other security interest, or other lien in the property. The value of these rights, titles, or interests shall be paid according to their record or other order of priority.

(c) Third, the remaining proceeds or forfeited moneys after compliance with divisions (B)(7)(a) and (b) of this section, as follows:

(i) If the forfeiture was ordered in a juvenile court, ten per cent to one or more alcohol and drug addiction treatment programs that are certified by the department of alcohol and drug addiction services under section 3793.06 of the Revised Code and that are specified in the order of forfeiture. A juvenile court shall not specify an alcohol or drug addiction treatment program in the order of forfeiture unless the program is a certified alcohol and drug addiction treatment program and, except as provided in division (B)(7)(c)(i) of this section, unless the program is located in the county in which the court that orders the forfeiture is located or in a contiguous county. If no certified alcohol and drug addiction treatment program is located in any of those counties, the juvenile court may specify in the order a certified alcohol and drug addiction treatment program located anywhere within this state.

(ii) If the forfeiture was ordered in a juvenile court, ninety per cent, and if the forfeiture was ordered in a court other than a juvenile court, one hundred per cent to appropriate funds in accordance with divisions (D)(1)(c) and (2) of section 2933.43 of the Revised Code. The remaining proceeds or forfeited moneys so deposited shall be used only for the purposes authorized by those divisions and division (D)(3)(a)(ii) of that section.

(C)(1) Sections 2923.44 to 2923.47 of the Revised Code do not preclude a financial institution that possessed a valid mortgage, security interest, or lien that is not satisfied prior to a sale

under division (B)(7) of this section or following a sale by 21163
application of division (B)(7)(b) of this section, from commencing 21164
a civil action in any appropriate court in this or another state 21165
to obtain a deficiency judgment against the debtor if the 21166
financial institution otherwise would have been entitled to do so 21167
in this or another state. 21168

(2) Any law enforcement agency that obtains any vehicle 21169
pursuant to division (B)(1) of this section shall take the vehicle 21170
subject to the outstanding amount of any security interest or lien 21171
that attaches to the vehicle. 21172

(3) Nothing in this section impairs a mortgage, security 21173
interest, lien, or other interest of a financial institution in 21174
property that was the subject of a forfeiture order under section 21175
2923.44 or 2923.45 of the Revised Code and that was sold or 21176
otherwise disposed of in a manner that does not conform to the 21177
requirements of division (B) of this section, or any right of a 21178
financial institution of that nature to commence a civil action in 21179
any appropriate court in this or another state to obtain a 21180
deficiency judgment against the debtor. 21181

(4) Following the sale under division (B)(7) of this section 21182
of any property that is required to be titled or registered under 21183
the law of this state, the prosecuting attorney responsible for 21184
the disposition of the property shall cause the state to issue an 21185
appropriate certificate of title or registration to the purchaser 21186
of the property. If, in a disposition of property pursuant to 21187
division (B) of this section, the state or a political subdivision 21188
is given any property that is required to be titled or registered 21189
under the law of this state, the prosecuting attorney responsible 21190
for the disposition of the property shall cause the state to issue 21191
an appropriate certificate of title or registration to itself or 21192
to the political subdivision. 21193

(D) Property that has been forfeited to the state pursuant to 21194

an order of criminal forfeiture under section 2923.44 of the Revised Code or an order of civil forfeiture under section 2923.45 of the Revised Code shall not be available for use to pay any fine imposed upon a person who is convicted of or pleads guilty to a violation of section 2923.42 of the Revised Code or upon a juvenile who is found by a juvenile court to be a delinquent child for an act that is a violation of section 2923.42 of the Revised Code.

(E) Sections 2923.44 to 2923.47 of the Revised Code do not prohibit a law enforcement officer from seeking the forfeiture of contraband associated with a violation of section 2923.42 of the Revised Code pursuant to section 2933.43 of the Revised Code.

Sec. 2925.44. (A) If property is seized pursuant to section 2925.42 or 2925.43 of the Revised Code, it is deemed to be in the custody of the head of the law enforcement agency that seized it, and the head of that agency may do any of the following with respect to that property prior to its disposition in accordance with division (A)(4) or (B) of this section:

(1) Place the property under seal;

(2) Remove the property to a place that the head of that agency designates;

(3) Request the issuance of a court order that requires any other appropriate municipal corporation, county, township, park district created pursuant to section 511.18 or 1545.01 of the Revised Code, or state law enforcement officer or other officer to take custody of the property and, if practicable, remove it to an appropriate location for eventual disposition in accordance with division (B) of this section;

(4)(a) Seek forfeiture of the property pursuant to federal law. If the head of that agency seeks its forfeiture pursuant to

federal law, the law enforcement agency shall deposit, use, and 21225
account for proceeds from a sale of the property upon its 21226
forfeiture, proceeds from another disposition of the property upon 21227
its forfeiture, or forfeited moneys it receives, in accordance 21228
with the applicable federal law and otherwise shall comply with 21229
that law. 21230

(b) If the state highway patrol seized the property and if 21231
the superintendent of the state highway patrol seeks its 21232
forfeiture pursuant to federal law, the appropriate governmental 21233
officials shall deposit into the ~~state~~ highway patrol federal 21234
contraband, forfeiture, and other fund all interest or other 21235
earnings derived from the investment of the proceeds from a sale 21236
of the property upon its forfeiture, the proceeds from another 21237
disposition of the property upon its forfeiture, or the forfeited 21238
moneys. The state highway patrol shall use and account for that 21239
interest or other earnings in accordance with the applicable 21240
federal law. 21241

(c) If the investigative unit of the department of public 21242
safety seized the property and if the director of public safety 21243
seeks its forfeiture pursuant to federal law, the appropriate 21244
governmental officials shall deposit into the department of public 21245
safety investigative unit ~~contraband, forfeiture, and other~~ 21246
federal equitable share account fund all interest or other 21247
earnings derived from the investment of the proceeds from a sale 21248
of the property upon its forfeiture, the proceeds from another 21249
disposition of the property upon its forfeiture, or the forfeited 21250
moneys. The department shall use and account for that interest or 21251
other earnings in accordance with the applicable federal law. 21252

(d) If the enforcement division of the department of taxation 21253
seized the property and if the tax commissioner seeks its 21254
forfeiture pursuant to federal law, the appropriate governmental 21255
officials shall ~~7~~ deposit into the department of taxation 21256

enforcement fund all interest or other earnings derived from the 21257
investment of the proceeds from a sale of the property upon its 21258
forfeiture, the proceeds from another disposition of the property 21259
upon its forfeiture, or the forfeited moneys. The department shall 21260
use and account for that interest or other earnings in accordance 21261
with the applicable federal law. 21262

(e) Division (B) of this section and divisions (D)(1) to (3) 21263
of section 2933.43 of the Revised Code do not apply to proceeds or 21264
forfeited moneys received pursuant to federal law or to the 21265
interest or other earnings that are derived from the investment of 21266
proceeds or forfeited moneys received pursuant to federal law and 21267
that are described in division (A)(4)(b) or (d) of this section. 21268

(B) In addition to complying with any requirements imposed by 21269
a court pursuant to section 2925.42 or 2925.43 of the Revised 21270
Code, and the requirements imposed by those sections, in relation 21271
to the disposition of property forfeited to the state under either 21272
of those sections, the prosecuting attorney who is responsible for 21273
its disposition shall dispose of the property as follows: 21274

(1) Any vehicle, as defined in section 4501.01 of the Revised 21275
Code, that was used in a felony drug abuse offense or in an act 21276
that, if committed by an adult, would be a felony drug abuse 21277
offense shall be given to the law enforcement agency of the 21278
municipal corporation or county in which the offense occurred if 21279
that agency desires to have the vehicle, except that, if the 21280
offense occurred in a township or in a park district created 21281
pursuant to section 511.18 or 1545.01 of the Revised Code and a 21282
law enforcement officer employed by the township or the park 21283
district was involved in the seizure of the vehicle, the vehicle 21284
may be given to the law enforcement agency of that township or 21285
park district if that agency desires to have the vehicle, and 21286
except that, if the state highway patrol made the seizure of the 21287
vehicle, the vehicle may be given to the state highway patrol if 21288

it desires to have the vehicle. 21289

(2) Any drug paraphernalia that was used, possessed, sold, or 21290
manufactured in a violation of section 2925.14 of the Revised Code 21291
that would be a felony drug abuse offense or in a violation of 21292
that section committed by a juvenile that, if committed by an 21293
adult, would be a felony drug abuse offense, may be given to the 21294
law enforcement agency of the municipal corporation or county in 21295
which the offense occurred if that agency desires to have and can 21296
use the drug paraphernalia, except that, if the offense occurred 21297
in a township or in a park district created pursuant to section 21298
511.18 or 1545.01 of the Revised Code and a law enforcement 21299
officer employed by the township or the park district was involved 21300
in the seizure of the drug paraphernalia, the drug paraphernalia 21301
may be given to the law enforcement agency of that township or 21302
park district if that agency desires to have and can use the drug 21303
paraphernalia. If the drug paraphernalia is not so given, it shall 21304
be disposed of by sale pursuant to division (B)(8) of this section 21305
or disposed of in another manner that the court that issued the 21306
order of forfeiture considers proper under the circumstances. 21307

(3) Drugs shall be disposed of pursuant to section 3719.11 of 21308
the Revised Code or placed in the custody of the secretary of the 21309
treasury of the United States for disposal or use for medical or 21310
scientific purposes under applicable federal law. 21311

(4) Firearms and dangerous ordnance suitable for police work 21312
may be given to a law enforcement agency for that purpose. 21313
Firearms suitable for sporting use, or as museum pieces or 21314
collectors' items, may be disposed of by sale pursuant to division 21315
(B)(8) of this section. Other firearms and dangerous ordnance 21316
shall be destroyed by a law enforcement agency or shall be sent to 21317
the bureau of criminal identification and investigation for 21318
destruction by it. As used in this division, "firearms" and 21319
"dangerous ordnance" have the same meanings as in section 2923.11 21320

of the Revised Code. 21321

(5) Computers, computer networks, computer systems, and 21322
computer software suitable for police work may be given to a law 21323
enforcement agency for that purpose. Other computers, computer 21324
networks, computer systems, and computer software shall be 21325
disposed of by sale pursuant to division (B)(8) of this section or 21326
disposed of in another manner that the court that issued the order 21327
of forfeiture considers proper under the circumstances. As used in 21328
this division, "computers," "computer networks," "computer 21329
systems," and "computer software" have the same meanings as in 21330
section 2913.01 of the Revised Code. 21331

(6) Obscene materials shall be destroyed. 21332

(7) Beer, intoxicating liquor, and alcohol shall be disposed 21333
of in accordance with division (D)(4) of section 2933.41 of the 21334
Revised Code. 21335

(8) In the case of property not described in divisions (B)(1) 21336
to (7) of this section and of property described in those 21337
divisions but not disposed of pursuant to them, the property shall 21338
be sold in accordance with division (B)(8) of this section or, in 21339
the case of forfeited moneys, disposed of in accordance with 21340
division (B)(8) of this section. If the property is to be sold, 21341
the prosecuting attorney shall cause a notice of the proposed sale 21342
of the property to be given in accordance with law, and the 21343
property shall be sold, without appraisal, at a public auction to 21344
the highest bidder for cash. The proceeds of a sale and forfeited 21345
moneys shall be applied in the following order: 21346

(a) First, to the payment of the costs incurred in connection 21347
with the seizure of, storage of, maintenance of, and provision of 21348
security for the property, the forfeiture proceeding or civil 21349
action, and, if any, the sale; 21350

(b) Second, the remaining proceeds or forfeited moneys after 21351

compliance with division (B)(8)(a) of this section, to the payment 21352
of the value of any legal right, title, or interest in the 21353
property that is possessed by a person who, pursuant to division 21354
(F) of section 2925.42 of the Revised Code or division (E) of 21355
section 2925.43 of the Revised Code, established the validity of 21356
and consequently preserved that legal right, title, or interest, 21357
including, but not limited to, any mortgage, perfected or other 21358
security interest, or other lien in the property. The value of 21359
these rights, titles, or interests shall be paid according to 21360
their record or other order of priority. 21361

(c) Third, the remaining proceeds or forfeited moneys after 21362
compliance with divisions (B)(8)(a) and (b) of this section, as 21363
follows: 21364

(i) If the forfeiture was ordered in a juvenile court, ten 21365
per cent to one or more alcohol and drug addiction treatment 21366
programs that are certified by the department of alcohol and drug 21367
addiction services under section 3793.06 of the Revised Code and 21368
that are specified in the order of forfeiture. A juvenile court 21369
shall not specify an alcohol or drug addiction treatment program 21370
in the order of forfeiture unless the program is a certified 21371
alcohol and drug addiction treatment program and, except as 21372
provided in division (B)(8)(c)(i) of this section, unless the 21373
program is located in the county in which the court that orders 21374
the forfeiture is located or in a contiguous county. If no 21375
certified alcohol and drug addiction treatment program is located 21376
in any of those counties, the juvenile court may specify in the 21377
order a certified alcohol and drug addiction treatment program 21378
located anywhere within this state. 21379

(ii) If the forfeiture was ordered in a juvenile court, 21380
ninety per cent, and if the forfeiture was ordered in a court 21381
other than a juvenile court, one hundred per cent to appropriate 21382
funds in accordance with divisions (D)(1)(c) and (2) of section 21383

2933.43 of the Revised Code. The remaining proceeds or forfeited 21384
moneys so deposited shall be used only for the purposes authorized 21385
by those divisions and division (D)(3)(a)(ii) of that section. 21386

(C)(1) Sections 2925.41 to 2925.45 of the Revised Code do not 21387
preclude a financial institution that possessed a valid mortgage, 21388
security interest, or lien that is not satisfied prior to a sale 21389
under division (B)(8) of this section or following a sale by 21390
application of division (B)(8)(b) of this section, from commencing 21391
a civil action in any appropriate court in this or another state 21392
to obtain a deficiency judgment against the debtor if the 21393
financial institution otherwise would have been entitled to do so 21394
in this or another state. 21395

(2) Any law enforcement agency that obtains any vehicle 21396
pursuant to division (B)(1) of this section shall take the vehicle 21397
subject to the outstanding amount of any security interest or lien 21398
that attaches to the vehicle. 21399

(3) Nothing in this section impairs a mortgage, security 21400
interest, lien, or other interest of a financial institution in 21401
property that was the subject of a forfeiture order under section 21402
2925.42 or 2925.43 of the Revised Code and that was sold or 21403
otherwise disposed of in a manner that does not conform to the 21404
requirements of division (B) of this section, or any right of a 21405
financial institution of that nature to commence a civil action in 21406
any appropriate court in this or another state to obtain a 21407
deficiency judgment against the debtor. 21408

(4) Following the sale under division (B)(8) of this section 21409
of any property that is required to be titled or registered under 21410
the law of this state, the prosecuting attorney responsible for 21411
the disposition of the property shall cause the state to issue an 21412
appropriate certificate of title or registration to the purchaser 21413
of the property. Additionally, if, in a disposition of property 21414
pursuant to division (B) of this section, the state or a political 21415

subdivision is given any property that is required to be titled or 21416
registered under the law of this state, the prosecuting attorney 21417
responsible for the disposition of the property shall cause the 21418
state to issue an appropriate certificate of title or registration 21419
to itself or to the political subdivision. 21420

(D) Property that has been forfeited to the state pursuant to 21421
an order of criminal forfeiture under section 2925.42 of the 21422
Revised Code or an order of civil forfeiture under section 2925.43 21423
of the Revised Code shall not be available for use to pay any fine 21424
imposed upon a person who is convicted of or pleads guilty to a 21425
felony drug abuse offense or upon any juvenile who is found by a 21426
juvenile court to be a delinquent child for an act that, if 21427
committed by an adult, would be a felony drug abuse offense. 21428

(E) Sections 2925.41 to 2925.45 of the Revised Code do not 21429
prohibit a law enforcement officer from seeking the forfeiture of 21430
contraband associated with a felony drug abuse offense pursuant to 21431
section 2933.43 of the Revised Code. 21432

Sec. 2927.023. (A) As used in this section "authorized 21433
recipient of tobacco products" means a person who is: 21434

(1) Licensed as a cigarette wholesale dealer under section 21435
5743.15 of the Revised Code; 21436

(2) Licensed as a distributor of tobacco products under 21437
section 5743.61 of the Revised Code; 21438

(3) An export warehouse proprietor as defined in section 5702 21439
of the Internal Revenue Code; 21440

(4) An operator of a customs bonded warehouse under 19 U.S.C. 21441
1311 or 19 U.S.C. 1555; 21442

(5) An officer, employee, or agent of the federal government 21443
or of this state acting in the person's official capacity; 21444

(6) A department, agency, instrumentality, or political 21445

subdivision of the federal government or of this state; 21446

(7) A person having a consent for consumer shipment issued by 21447
the tax commissioner under section 5743.71 of the Revised Code. 21448

The purpose of this section is to prevent the sale of 21449
cigarettes to minors and to ensure compliance with the Master 21450
Settlement Agreement, as defined in section 1346.01 of the Revised 21451
Code. 21452

(B)(1) No person shall cause to be shipped any cigarettes to 21453
any person in this state other than an authorized recipient of 21454
tobacco products. 21455

(2) No common carrier, contract carrier, or other person 21456
shall knowingly transport cigarettes to any person in this state 21457
that the carrier or other person reasonably believes is not an 21458
authorized recipient of tobacco products. If cigarettes are 21459
transported to a home or residence, it shall be presumed that the 21460
common carrier, contract carrier, or other person knew that the 21461
person to whom the cigarettes were delivered was not an authorized 21462
recipient of tobacco products. 21463

(C) No person engaged in the business of selling cigarettes 21464
who ships or causes to be shipped cigarettes to any person in this 21465
state in any container or wrapping other than the original 21466
container or wrapping of the cigarettes shall fail to plainly and 21467
visibly mark the exterior of the container or wrapping in which 21468
the cigarettes are shipped with the words "cigarettes." 21469

(D) A court shall impose a fine of up to one thousand dollars 21470
for each violation of division (B)(1), (B)(2), or (C) of this 21471
section. 21472

Sec. 2933.43. (A)(1) Except as provided in this division or 21473
in section 2913.34 or sections 2923.44 to 2923.47 or 2925.41 to 21474
2925.45 of the Revised Code, a law enforcement officer shall seize 21475

any contraband that has been, is being, or is intended to be used 21476
in violation of division (A) of section 2933.42 of the Revised 21477
Code. A law enforcement officer shall seize contraband that is a 21478
watercraft, motor vehicle, or aircraft and that has been, is 21479
being, or is intended to be used in violation of division (A) of 21480
section 2933.42 of the Revised Code only if the watercraft, motor 21481
vehicle, or aircraft is contraband because of its relationship to 21482
an underlying criminal offense that is a felony. 21483

Additionally, a law enforcement officer shall seize any 21484
watercraft, motor vehicle, aircraft, or other personal property 21485
that is classified as contraband under division (B) of section 21486
2933.42 of the Revised Code if the underlying offense involved in 21487
the violation of division (A) of that section that resulted in the 21488
watercraft, motor vehicle, aircraft, or personal property being 21489
classified as contraband, is a felony. 21490

(2) If a law enforcement officer seizes property that is 21491
titled or registered under law, including a motor vehicle, 21492
pursuant to division (A)(1) of this section, the officer or the 21493
officer's employing law enforcement agency shall notify the owner 21494
of the seizure. The notification shall be given to the owner at 21495
the owner's last known address within seventy-two hours after the 21496
seizure, and may be given orally by any means, including 21497
telephone, or by certified mail, return receipt requested. 21498

If the officer or the officer's agency is unable to provide 21499
the notice required by this division despite reasonable, good 21500
faith efforts to do so, the exercise of the reasonable, good faith 21501
efforts constitutes fulfillment of the notice requirement imposed 21502
by this division. 21503

(B)(1) A motor vehicle seized pursuant to division (A)(1) of 21504
this section and the contents of the vehicle may be retained for a 21505
reasonable period of time, not to exceed seventy-two hours, for 21506
the purpose of inspection, investigation, and the gathering of 21507

evidence of any offense or illegal use. 21508

At any time prior to the expiration of the seventy-two-hour 21509
period, the law enforcement agency that seized the motor vehicle 21510
may petition the court of common pleas of the county that has 21511
jurisdiction over the underlying criminal case or administrative 21512
proceeding involved in the forfeiture for an extension of the 21513
seventy-two-hour period if the motor vehicle or its contents are 21514
needed as evidence or if additional time is needed for the 21515
inspection, investigation, or gathering of evidence. Upon the 21516
filing of such a petition, the court immediately shall schedule a 21517
hearing to be held at a time as soon as possible after the filing, 21518
but in no event at a time later than the end of the next business 21519
day subsequent to the day on which the petition was filed, and 21520
upon scheduling the hearing, immediately shall notify the owner of 21521
the vehicle, at the address at which notification of the seizure 21522
was provided under division (A) of this section, of the date, 21523
time, and place of the hearing. If the court, at the hearing, 21524
determines that the vehicle or its contents, or both, are needed 21525
as evidence or that additional time is needed for the inspection, 21526
investigation, or gathering of evidence, the court may grant the 21527
petition and issue an order authorizing the retention of the 21528
vehicle or its contents, or both, for an extended period as 21529
specified by the court in its order. An order extending a period 21530
of retention issued under this division may be renewed. 21531

If no petition for the extension of the initial 21532
seventy-two-hour period has been filed, prior to the expiration of 21533
that period, under this division, if the vehicle was not in the 21534
custody and control of the owner at the time of its seizure, and 21535
if, at the end of that seventy-two-hour period, the owner of the 21536
vehicle has not been charged with an offense or administrative 21537
violation that includes the use of the vehicle as an element and 21538
has not been charged with any other offense or administrative 21539

violation in the actual commission of which the motor vehicle was 21540
used, the vehicle and its contents shall be released to its owner 21541
or the owner's agent, provided that the law enforcement agency 21542
that seized the vehicle may require proof of ownership of the 21543
vehicle, proof of ownership or legal possession of the contents, 21544
and an affidavit of the owner that the owner neither knew of nor 21545
expressly or impliedly consented to the use of the vehicle that 21546
resulted in its forfeiture as conditions precedent to release. If 21547
a petition for the extension of the initial seventy-two-hour 21548
period has been filed, prior to the expiration of that period, 21549
under this division but the court does not grant the petition, if 21550
the vehicle was not in the custody and control of the owner at the 21551
time of its seizure, and if, at the end of that seventy-two-hour 21552
period, the owner of the vehicle has not been charged with an 21553
offense or administrative violation that includes the use of the 21554
vehicle as an element and has not been charged with any other 21555
offense or administrative violation in the actual commission of 21556
which the motor vehicle was used, the vehicle and its contents 21557
shall be released to its owner or the owner's agent, provided that 21558
the court may require the proof and affidavit described in the 21559
preceding sentence as conditions precedent to release. If the 21560
initial seventy-two-hour period has been extended under this 21561
division, the vehicle and its contents to which the extension 21562
applies may be retained in accordance with the extension order. 21563
If, at the end of that extended period, the owner of the vehicle 21564
has not been charged with an offense or administrative violation 21565
that includes the use of the vehicle as an element and has not 21566
been charged with any other offense or administrative violation in 21567
the actual commission of which the motor vehicle was used, and if 21568
the vehicle was not in the custody and control of the owner at the 21569
time of its seizure, the vehicle and its contents shall be 21570
released to its owner or the owner's agent, provided that the 21571
court may require the proof and affidavit described in the third 21572

preceding sentence as conditions precedent to release. In cases in 21573
which the court may require proof and affidavits as conditions 21574
precedent to release, the court also may require the posting of a 21575
bond, with sufficient sureties approved by the court, in an amount 21576
equal to the value of the property to be released, as determined 21577
by the court, and conditioned upon the return of the property to 21578
the court if it is forfeited under this section, as a further 21579
condition to release. If, at the end of the initial 21580
seventy-two-hour period or at the end of any extended period 21581
granted under this section, the owner has been charged with an 21582
offense or administrative violation that includes the use of the 21583
vehicle as an element or has been charged with another offense or 21584
administrative violation in the actual commission of which the 21585
motor vehicle was used, or if the vehicle was in the custody and 21586
control of the owner at the time of its seizure, the vehicle and 21587
its contents shall be retained pending disposition of the charge, 21588
provided that upon the filing of a motion for release by the 21589
owner, if the court determines that the motor vehicle or its 21590
contents, or both, are not needed as evidence in the underlying 21591
criminal case or administrative proceeding, the court may permit 21592
the release of the property that is not needed as evidence to the 21593
owner; as a condition precedent to a release of that nature, the 21594
court may require the owner to execute a bond with the court. Any 21595
bond so required shall be in an amount equal to the value of the 21596
property to be released, as determined by the court, shall have 21597
sufficient sureties approved by the court, and shall be 21598
conditioned upon the return of the property to the court to which 21599
it is forfeited under this section. 21600

The final disposition of a motor vehicle seized pursuant to 21601
division (A)(1) of this section shall be determined in accordance 21602
with division (C) of this section. 21603

(2) Pending a hearing pursuant to division (C) of this 21604

section, and subject to divisions (B)(1) and (C) of this section, 21605
any property lawfully seized pursuant to division (A) of this 21606
section because it was contraband of a type described in division 21607
(A)(13)(b), (d), (e), (f), (g), (h), (i), or (j) of section 21608
2901.01 of the Revised Code shall not be subject to replevin or 21609
other action in any court and shall not be subject to release upon 21610
request of the owner, and no judgment shall be enforced against 21611
the property. Pending the hearing, and subject to divisions (B)(1) 21612
and (C) of this section, the property shall be kept in the custody 21613
of the law enforcement agency responsible for its seizure. 21614

Pending a hearing pursuant to division (C) of this section, 21615
and notwithstanding any provisions of division (B)(1) or (C) of 21616
this section to the contrary, any property lawfully seized 21617
pursuant to division (A) of this section because it was contraband 21618
of a type described in division (A)(13)(a) or (c) of section 21619
2901.01 of the Revised Code shall not be subject to replevin or 21620
other action in any court and shall not be subject to release upon 21621
request of the owner, and no judgment shall be enforced against 21622
the property. Pending the hearing, and notwithstanding any 21623
provisions of division (B)(1) or (C) of this section to the 21624
contrary, the property shall be kept in the custody of the law 21625
enforcement agency responsible for its seizure. 21626

A law enforcement agency that seizes property under division 21627
(A) of this section because it was contraband of any type 21628
described in division (A)(13) of section 2901.01 or division (B) 21629
of section 2933.42 of the Revised Code shall maintain an accurate 21630
record of each item of property so seized, which record shall 21631
include the date on which each item was seized, the manner and 21632
date of its disposition, and if applicable, the name of the person 21633
who received the item; however, the record shall not identify or 21634
enable the identification of the individual officer who seized the 21635
item. The record of property of that nature that no longer is 21636

needed as evidence shall be open to public inspection during the 21637
agency's regular business hours. Each law enforcement agency that, 21638
during any calendar year, seizes property under division (A) of 21639
this section because it was contraband shall prepare a report 21640
covering the calendar year that cumulates all of the information 21641
contained in all of the records kept by the agency pursuant to 21642
this division for that calendar year, and shall send a copy of the 21643
cumulative report, no later than the first day of March in the 21644
calendar year following the calendar year covered by the report, 21645
to the attorney general. Each report received by the attorney 21646
general is a public record open for inspection under section 21647
149.43 of the Revised Code. Not later than the fifteenth day of 21648
April in the calendar year in which the reports are received, the 21649
attorney general shall send to the president of the senate and the 21650
speaker of the house of representatives a written notification 21651
that does all of the following: 21652

(a) Indicates that the attorney general has received from law 21653
enforcement agencies reports of the type described in this 21654
division that cover the previous calendar year and indicates that 21655
the reports were received under this division; 21656

(b) Indicates that the reports are open for inspection under 21657
section 149.43 of the Revised Code; 21658

(c) Indicates that the attorney general will provide a copy 21659
of any or all of the reports to the president of the senate or the 21660
speaker of the house of representatives upon request. 21661

(C) The prosecuting attorney, village solicitor, city 21662
director of law, or similar chief legal officer who has 21663
responsibility for the prosecution of the underlying criminal case 21664
or administrative proceeding, or the attorney general if the 21665
attorney general has that responsibility, shall file a petition 21666
for the forfeiture, to the seizing law enforcement agency of the 21667
contraband seized pursuant to division (A) of this section. The 21668

petition shall be filed in the court that has jurisdiction over 21669
the underlying criminal case or administrative proceeding involved 21670
in the forfeiture. If the property was seized on the basis of both 21671
a criminal violation and an administrative regulation violation, 21672
the petition shall be filed by the officer and in the court that 21673
is appropriate in relation to the criminal case. 21674

The petitioner shall conduct or cause to be conducted a 21675
search of the appropriate public records that relate to the seized 21676
property for the purpose of determining, and shall make or cause 21677
to be made reasonably diligent inquiries for the purpose of 21678
determining, any person having an ownership or security interest 21679
in the property. The petitioner then shall give notice of the 21680
forfeiture proceedings by personal service or by certified mail, 21681
return receipt requested, to any persons known, because of the 21682
conduct of the search, the making of the inquiries, or otherwise, 21683
to have an ownership or security interest in the property, and 21684
shall publish notice of the proceedings once each week for two 21685
consecutive weeks in a newspaper of general circulation in the 21686
county in which the seizure occurred. The notices shall be 21687
personally served, mailed, and first published at least four weeks 21688
before the hearing. They shall describe the property seized; state 21689
the date and place of seizure; name the law enforcement agency 21690
that seized the property and, if applicable, that is holding the 21691
property; list the time, date, and place of the hearing; and state 21692
that any person having an ownership or security interest in the 21693
property may contest the forfeiture. 21694

If the property seized was determined by the seizing law 21695
enforcement officer to be contraband because of its relationship 21696
to an underlying criminal offense or administrative violation, no 21697
forfeiture hearing shall be held under this section unless the 21698
person pleads guilty to or is convicted of the commission of, or 21699
an attempt or conspiracy to commit, the offense or a different 21700

offense arising out of the same facts and circumstances or unless 21701
the person admits or is adjudicated to have committed the 21702
administrative violation or a different violation arising out of 21703
the same facts and circumstances; a forfeiture hearing shall be 21704
held in a case of that nature no later than forty-five days after 21705
the conviction or the admission or adjudication of the violation, 21706
unless the time for the hearing is extended by the court for good 21707
cause shown. The owner of any property seized because of its 21708
relationship to an underlying criminal offense or administrative 21709
violation may request the court to release the property to the 21710
owner. Upon receipt of a request of that nature, if the court 21711
determines that the property is not needed as evidence in the 21712
underlying criminal case or administrative proceeding, the court 21713
may permit the release of the property to the owner. As a 21714
condition precedent to a release of that nature, the court may 21715
require the owner to execute a bond with the court. Any bond so 21716
required shall have sufficient sureties approved by the court, 21717
shall be in a sum equal to the value of the property, as 21718
determined by the court, and shall be conditioned upon the return 21719
of the property to the court if the property is forfeited under 21720
this section. Any property seized because of its relationship to 21721
an underlying criminal offense or administrative violation shall 21722
be returned to its owner if charges are not filed in relation to 21723
that underlying offense or violation within thirty days after the 21724
seizure, if charges of that nature are filed and subsequently are 21725
dismissed, or if charges of that nature are filed and the person 21726
charged does not plead guilty to and is not convicted of the 21727
offense or does not admit and is not found to have committed the 21728
violation. 21729

If the property seized was determined by the seizing law 21730
enforcement officer to be contraband other than because of a 21731
relationship to an underlying criminal offense or administrative 21732
violation, the forfeiture hearing under this section shall be held 21733

no later than forty-five days after the seizure, unless the time 21734
for the hearing is extended by the court for good cause shown. 21735

Where possible, a court holding a forfeiture hearing under 21736
this section shall follow the Rules of Civil Procedure. When a 21737
hearing is conducted under this section, property shall be 21738
forfeited upon a showing, by a preponderance of the evidence, by 21739
the petitioner that the person from which the property was seized 21740
was in violation of division (A) of section 2933.42 of the Revised 21741
Code. If that showing is made, the court shall issue an order of 21742
forfeiture. If an order of forfeiture is issued in relation to 21743
contraband that was released to the owner or the owner's agent 21744
pursuant to this division or division (B)(1) of this section, the 21745
order shall require the owner to deliver the property, by a 21746
specified date, to the law enforcement agency that employed the 21747
law enforcement officer who made the seizure of the property, and 21748
the court shall deliver a copy of the order to the owner or send a 21749
copy of it by certified mail, return receipt requested, to the 21750
owner at the address to which notice of the seizure was given 21751
under division (A)(2) of this section. Except as otherwise 21752
provided in this division, all rights, interest, and title to the 21753
forfeited contraband vests in the state, effective from the date 21754
of seizure. 21755

No property shall be forfeited pursuant to this division if 21756
the owner of the property establishes, by a preponderance of the 21757
evidence, that the owner neither knew, nor should have known after 21758
a reasonable inquiry, that the property was used, or was likely to 21759
be used, in a crime or administrative violation. No bona fide 21760
security interest shall be forfeited pursuant to this division if 21761
the holder of the interest establishes, by a preponderance of the 21762
evidence, that the holder of the interest neither knew, nor should 21763
have known after a reasonable inquiry, that the property was used, 21764
or likely to be used, in a crime or administrative violation, that 21765

the holder of the interest did not expressly or impliedly consent 21766
to the use of the property in a crime or administrative violation, 21767
and that the security interest was perfected pursuant to law prior 21768
to the seizure. If the holder of the interest satisfies the court 21769
that these requirements are met, the interest shall be preserved 21770
by the court. In a case of that nature, the court shall either 21771
order that the agency to which the property is forfeited reimburse 21772
the holder of the interest to the extent of the preserved interest 21773
or order that the holder be paid for the interest from the 21774
proceeds of any sale pursuant to division (D) of this section. 21775

(D)(1) Contraband ordered forfeited pursuant to this section 21776
shall be disposed of pursuant to divisions (D)(1) to (7) of 21777
section 2933.41 of the Revised Code or, if the contraband is not 21778
described in those divisions, may be used, with the approval of 21779
the court, by the law enforcement agency that has custody of the 21780
contraband pursuant to division (D)(8) of that section. In the 21781
case of contraband not described in any of those divisions and of 21782
contraband not disposed of pursuant to any of those divisions, the 21783
contraband shall be sold in accordance with this division or, in 21784
the case of forfeited moneys, disposed of in accordance with this 21785
division. If the contraband is to be sold, the prosecuting 21786
attorney shall cause a notice of the proposed sale of the 21787
contraband to be given in accordance with law, and the property 21788
shall be sold, without appraisal, at a public auction to the 21789
highest bidder for cash. The proceeds of a sale and forfeited 21790
moneys shall be applied in the following order: 21791

(a) First, to the payment of the costs incurred in connection 21792
with the seizure of, storage of, maintenance of, and provision of 21793
security for the contraband, the forfeiture proceeding, and, if 21794
any, the sale; 21795

(b) Second, the remaining proceeds or forfeited moneys after 21796
compliance with division (D)(1)(a) of this section, to the payment 21797

of the balance due on any security interest preserved pursuant to 21798
division (C) of this section; 21799

(c) Third, the remaining proceeds or forfeited moneys after 21800
compliance with divisions (D)(1)(a) and (b) of this section, as 21801
follows: 21802

(i) If the forfeiture was ordered in a juvenile court, ten 21803
per cent to one or more alcohol and drug addiction treatment 21804
programs that are certified by the department of alcohol and drug 21805
addiction services under section 3793.06 of the Revised Code and 21806
that are specified in the order of forfeiture. A juvenile court 21807
shall not certify an alcohol or drug addiction treatment program 21808
in the order of forfeiture unless the program is a certified 21809
alcohol and drug addiction treatment program and, except as 21810
provided in division (D)(1)(c)(i) of this section, unless the 21811
program is located in the county in which the court that orders 21812
the forfeiture is located or in a contiguous county. If no 21813
certified alcohol and drug addiction treatment program is located 21814
in any of those counties, the juvenile court may specify in the 21815
order a certified alcohol and drug addiction treatment program 21816
located anywhere within this state. 21817

(ii) If the forfeiture was ordered in a juvenile court, 21818
ninety per cent, and if the forfeiture was ordered in a court 21819
other than a juvenile court, one hundred per cent to the law 21820
enforcement trust fund of the prosecuting attorney and to the law 21821
enforcement trust fund of the county sheriff if the county sheriff 21822
made the seizure, to the law enforcement trust fund of a municipal 21823
corporation if its police department made the seizure, to the law 21824
enforcement trust fund of a township if the seizure was made by a 21825
township police department, township police district police force, 21826
or office of a township constable, to the law enforcement trust 21827
fund of a park district created pursuant to section 511.18 or 21828
1545.01 of the Revised Code if the seizure was made by the park 21829

district police force or law enforcement department, to the ~~state~~ 21830
highway patrol state contraband, forfeiture, and other fund if the 21831
state highway patrol made the seizure, to the department of public 21832
safety investigative unit contraband, forfeiture, and other fund 21833
if the investigative unit of the department of public safety made 21834
the seizure, to the department of taxation enforcement fund if the 21835
department of taxation made the seizure, to the board of pharmacy 21836
drug law enforcement fund created by division (B)(1) of section 21837
4729.65 of the Revised Code if the board made the seizure, or to 21838
the treasurer of state for deposit into the peace officer training 21839
commission fund if a state law enforcement agency, other than the 21840
state highway patrol, the investigative unit of the department of 21841
public safety, the enforcement division of the department of 21842
taxation, or the state board of pharmacy, made the seizure. The 21843
prosecuting attorney may decline to accept any of the remaining 21844
proceeds or forfeited moneys, and, if the prosecuting attorney so 21845
declines, the remaining proceeds or forfeited moneys shall be 21846
applied to the fund described in this division that relates to the 21847
law enforcement agency that made the seizure. 21848

A law enforcement trust fund shall be established by the 21849
prosecuting attorney of each county who intends to receive any 21850
remaining proceeds or forfeited moneys pursuant to this division, 21851
by the sheriff of each county, by the legislative authority of 21852
each municipal corporation, by the board of township trustees of 21853
each township that has a township police department, township 21854
police district police force, or office of the constable, and by 21855
the board of park commissioners of each park district created 21856
pursuant to section 511.18 or 1545.01 of the Revised Code that has 21857
a park district police force or law enforcement department, for 21858
the purposes of this division. There is hereby created in the 21859
state treasury the ~~state~~ highway patrol state contraband, 21860
forfeiture, and other fund, the department of public safety 21861
investigative unit contraband, forfeiture, and other fund, the 21862

department of taxation enforcement fund, and the peace officer 21863
training commission fund, for the purposes described in this 21864
division. 21865

Proceeds or forfeited moneys distributed to any municipal 21866
corporation, township, or park district law enforcement trust fund 21867
shall be allocated from the fund by the legislative authority only 21868
to the police department of the municipal corporation, by the 21869
board of township trustees only to the township police department, 21870
township police district police force, or office of the constable, 21871
and by the board of park commissioners only to the park district 21872
police force or law enforcement department. 21873

Additionally, no proceeds or forfeited moneys shall be 21874
allocated to or used by the state highway patrol, the department 21875
of public safety, the department of taxation, the state board of 21876
pharmacy, or a county sheriff, prosecuting attorney, municipal 21877
corporation police department, township police department, 21878
township police district police force, office of the constable, or 21879
park district police force or law enforcement department unless 21880
the state highway patrol, department of public safety, department 21881
of taxation, state board of pharmacy, sheriff, prosecuting 21882
attorney, municipal corporation police department, township police 21883
department, township police district police force, office of the 21884
constable, or park district police force or law enforcement 21885
department has adopted a written internal control policy under 21886
division (D)(3) of this section that addresses the use of moneys 21887
received from the ~~state~~ highway patrol state contraband, 21888
forfeiture, and other fund, the department of public safety 21889
investigative unit contraband, forfeiture, and other fund, the 21890
department of taxation enforcement fund, the board of pharmacy 21891
drug law enforcement fund, or the appropriate law enforcement 21892
trust fund. 21893

The ~~state~~ highway patrol state contraband, forfeiture, and 21894

other fund, the department of public safety investigative unit 21895
contraband, forfeiture, and other fund, the department of taxation 21896
enforcement fund, and a law enforcement trust fund shall be 21897
expended only in accordance with the written internal control 21898
policy so adopted by the recipient, and, subject to the 21899
requirements specified in division (D)(3)(a)(ii) of this section, 21900
only to pay the costs of protracted or complex investigations or 21901
prosecutions, to provide reasonable technical training or 21902
expertise, to provide matching funds to obtain federal grants to 21903
aid law enforcement, in the support of DARE programs or other 21904
programs designed to educate adults or children with respect to 21905
the dangers associated with the use of drugs of abuse, to pay the 21906
costs of emergency action taken under section 3745.13 of the 21907
Revised Code relative to the operation of an illegal 21908
methamphetamine laboratory if the forfeited property or money 21909
involved was that of a person responsible for the operation of the 21910
laboratory, or for other law enforcement purposes that the 21911
superintendent of the state highway patrol, department of public 21912
safety, department of taxation, prosecuting attorney, county 21913
sheriff, legislative authority, board of township trustees, or 21914
board of park commissioners determines to be appropriate. The 21915
board of pharmacy drug law enforcement fund shall be expended only 21916
in accordance with the written internal control policy so adopted 21917
by the board and only in accordance with section 4729.65 of the 21918
Revised Code, except that it also may be expended to pay the costs 21919
of emergency action taken under section 3745.13 of the Revised 21920
Code relative to the operation of an illegal methamphetamine 21921
laboratory if the forfeited property or money involved was that of 21922
a person responsible for the operation of the laboratory. The 21923
~~state~~ highway patrol state contraband, forfeiture, and other fund, 21924
the department of public safety investigative unit contraband, 21925
forfeiture, and other fund, the department of taxation enforcement 21926
fund, the board of pharmacy drug law enforcement fund, and a law 21927

enforcement trust fund shall not be used to meet the operating 21928
costs of the state highway patrol, of the investigative unit of 21929
the department of public safety, of the department of taxation 21930
enforcement division, of the state board of pharmacy, of any 21931
political subdivision, or of any office of a prosecuting attorney 21932
or county sheriff that are unrelated to law enforcement. 21933

Proceeds and forfeited moneys that are paid into the state 21934
treasury to be deposited into the peace officer training 21935
commission fund shall be used by the commission only to pay the 21936
costs of peace officer training. 21937

Any sheriff or prosecuting attorney who receives proceeds or 21938
forfeited moneys pursuant to this division during any calendar 21939
year shall file a report with the county auditor, no later than 21940
the thirty-first day of January of the next calendar year, 21941
verifying that the proceeds and forfeited moneys were expended 21942
only for the purposes authorized by this division and division 21943
(D)(3)(a)(ii) of this section and specifying the amounts expended 21944
for each authorized purpose. Any municipal corporation police 21945
department that is allocated proceeds or forfeited moneys from a 21946
municipal corporation law enforcement trust fund pursuant to this 21947
division during any calendar year shall file a report with the 21948
legislative authority of the municipal corporation, no later than 21949
the thirty-first day of January of the next calendar year, 21950
verifying that the proceeds and forfeited moneys were expended 21951
only for the purposes authorized by this division and division 21952
(D)(3)(a)(ii) of this section and specifying the amounts expended 21953
for each authorized purpose. Any township police department, 21954
township police district police force, or office of the constable 21955
that is allocated proceeds or forfeited moneys from a township law 21956
enforcement trust fund pursuant to this division during any 21957
calendar year shall file a report with the board of township 21958
trustees of the township, no later than the thirty-first day of 21959

January of the next calendar year, verifying that the proceeds and 21960
forfeited moneys were expended only for the purposes authorized by 21961
this division and division (D)(3)(a)(ii) of this section and 21962
specifying the amounts expended for each authorized purpose. Any 21963
park district police force or law enforcement department that is 21964
allocated proceeds or forfeited moneys from a park district law 21965
enforcement trust fund pursuant to this division during any 21966
calendar year shall file a report with the board of park 21967
commissioners of the park district, no later than the thirty-first 21968
day of January of the next calendar year, verifying that the 21969
proceeds and forfeited moneys were expended only for the purposes 21970
authorized by this division and division (D)(3)(a)(ii) of this 21971
section and specifying the amounts expended for each authorized 21972
purpose. The superintendent of the state highway patrol shall file 21973
a report with the attorney general, no later than the thirty-first 21974
day of January of each calendar year, verifying that proceeds and 21975
forfeited moneys paid into the ~~state~~ highway patrol state 21976
contraband, forfeiture, and other fund pursuant to this division 21977
during the prior calendar year were used by the state highway 21978
patrol during the prior calendar year only for the purposes 21979
authorized by this division and specifying the amounts expended 21980
for each authorized purpose. The executive director of the state 21981
board of pharmacy shall file a report with the attorney general, 21982
no later than the thirty-first day of January of each calendar 21983
year, verifying that proceeds and forfeited moneys paid into the 21984
board of pharmacy drug law enforcement fund during the prior 21985
calendar year were used only in accordance with section 4729.65 of 21986
the Revised Code and specifying the amounts expended for each 21987
authorized purpose. The peace officer training commission shall 21988
file a report with the attorney general, no later than the 21989
thirty-first day of January of each calendar year, verifying that 21990
proceeds and forfeited moneys paid into the peace officer training 21991
commission fund pursuant to this division during the prior 21992

calendar year were used by the commission during the prior 21993
calendar year only to pay the costs of peace officer training and 21994
specifying the amount used for that purpose. 21995

The tax commissioner shall file a report with the attorney 21996
general, not later than the thirty-first day of January of each 21997
calendar year, verifying that proceeds and forfeited moneys paid 21998
into the department of taxation enforcement fund pursuant to this 21999
division during the prior calendar year were used by the 22000
enforcement division during the prior calendar year to pay only 22001
the costs of enforcing the tax laws and specifying the amount used 22002
for that purpose. 22003

(2) If more than one law enforcement agency is substantially 22004
involved in the seizure of contraband that is forfeited pursuant 22005
to this section, the court ordering the forfeiture shall equitably 22006
divide the proceeds or forfeited moneys, after calculating any 22007
distribution to the law enforcement trust fund of the prosecuting 22008
attorney pursuant to division (D)(1)(c) of this section, among any 22009
county sheriff whose office is determined by the court to be 22010
substantially involved in the seizure, any legislative authority 22011
of a municipal corporation whose police department is determined 22012
by the court to be substantially involved in the seizure, any 22013
board of township trustees whose law enforcement agency is 22014
determined by the court to be substantially involved in the 22015
seizure, any board of park commissioners of a park district whose 22016
police force or law enforcement department is determined by the 22017
court to be substantially involved in the seizure, the state board 22018
of pharmacy if it is determined by the court to be substantially 22019
involved in the seizure, the investigative unit of the department 22020
of public safety if it is determined by the court to be 22021
substantially involved in the seizure, the enforcement division of 22022
the department of taxation if it is determined by the court to be 22023
substantially involved in the seizure and the state highway patrol 22024

if it is determined by the court to be substantially involved in 22025
the seizure. The proceeds or forfeited moneys shall be deposited 22026
in the respective law enforcement trust funds of the county 22027
sheriff, municipal corporation, township, and park district, the 22028
board of pharmacy drug law enforcement fund, the department of 22029
public safety investigative unit contraband, forfeiture, and other 22030
fund, the department of taxation enforcement fund, or the ~~state~~ 22031
highway patrol state contraband, forfeiture, and other fund, in 22032
accordance with division (D)(1)(c) of this section. If a state law 22033
enforcement agency, other than the state highway patrol, the 22034
investigative unit of the department of public safety, the 22035
department of taxation, or the state board of pharmacy, is 22036
determined by the court to be substantially involved in the 22037
seizure, the state agency's equitable share of the proceeds and 22038
forfeited moneys shall be paid to the treasurer of state for 22039
deposit into the peace officer training commission fund. 22040

(3)(a)(i) Prior to being allocated or using any proceeds or 22041
forfeited moneys out of the ~~state~~ highway patrol state contraband, 22042
forfeiture, and other fund, the department of public safety 22043
investigative unit contraband, forfeiture, and other fund, the 22044
department of taxation enforcement fund, the board of pharmacy 22045
drug law enforcement fund, or a law enforcement trust fund under 22046
division (D)(1)(c) of this section, the state highway patrol, the 22047
department of public safety, the department of taxation, the state 22048
board of pharmacy, and a county sheriff, prosecuting attorney, 22049
municipal corporation police department, township police 22050
department, township police district police force, office of the 22051
constable, or park district police force or law enforcement 22052
department shall adopt a written internal control policy that 22053
addresses the state highway patrol's, department of public 22054
safety's, department of taxation's, state board of pharmacy's, 22055
sheriff's, prosecuting attorney's, police department's, police 22056
force's, office of the constable's, or law enforcement 22057

department's use and disposition of all the proceeds and forfeited 22058
moneys received and that provides for the keeping of detailed 22059
financial records of the receipts of the proceeds and forfeited 22060
moneys, the general types of expenditures made out of the proceeds 22061
and forfeited moneys, the specific amount of each general type of 22062
expenditure, and the amounts, portions, and programs described in 22063
division (D)(3)(a)(ii) of this section. The policy shall not 22064
provide for or permit the identification of any specific 22065
expenditure that is made in an ongoing investigation. 22066

All financial records of the receipts of the proceeds and 22067
forfeited moneys, the general types of expenditures made out of 22068
the proceeds and forfeited moneys, the specific amount of each 22069
general type of expenditure by the state highway patrol, by the 22070
department of public safety, by the department of taxation, by the 22071
state board of pharmacy, and by a sheriff, prosecuting attorney, 22072
municipal corporation police department, township police 22073
department, township police district police force, office of the 22074
constable, or park district police force or law enforcement 22075
department, and the amounts, portions, and programs described in 22076
division (D)(3)(a)(ii) of this section are public records open for 22077
inspection under section 149.43 of the Revised Code. Additionally, 22078
a written internal control policy adopted under this division is a 22079
public record of that nature, and the state highway patrol, the 22080
department of public safety, the department of taxation, the state 22081
board of pharmacy, or the sheriff, prosecuting attorney, municipal 22082
corporation police department, township police department, 22083
township police district police force, office of the constable, or 22084
park district police force or law enforcement department that 22085
adopted it shall comply with it. 22086

(ii) The written internal control policy of a county sheriff, 22087
prosecuting attorney, municipal corporation police department, 22088
township police department, township police district police force, 22089

office of the constable, or park district police force or law 22090
enforcement department shall provide that at least ten per cent of 22091
the first one hundred thousand dollars of proceeds and forfeited 22092
moneys deposited during each calendar year in the sheriff's, 22093
prosecuting attorney's, municipal corporation's, township's, or 22094
park district's law enforcement trust fund pursuant to division 22095
(B)(7)(c)(ii) of section 2923.46 or division (B)(8)(c)(ii) of 22096
section 2925.44 of the Revised Code, and at least twenty per cent 22097
of the proceeds and forfeited moneys exceeding one hundred 22098
thousand dollars that are so deposited, shall be used in 22099
connection with community preventive education programs. The 22100
manner in which the described percentages are so used shall be 22101
determined by the sheriff, prosecuting attorney, department, 22102
police force, or office of the constable after the receipt and 22103
consideration of advice on appropriate community preventive 22104
education programs from the county's board of alcohol, drug 22105
addiction, and mental health services, from the county's alcohol 22106
and drug addiction services board, or through appropriate 22107
community dialogue. The financial records described in division 22108
(D)(3)(a)(i) of this section shall specify the amount of the 22109
proceeds and forfeited moneys deposited during each calendar year 22110
in the sheriff's, prosecuting attorney's, municipal corporation's, 22111
township's, or park district's law enforcement trust fund pursuant 22112
to division (B)(7)(c)(ii) of section 2923.46 or division 22113
(B)(8)(c)(ii) of section 2925.44 of the Revised Code, the portion 22114
of that amount that was used pursuant to the requirements of this 22115
division, and the community preventive education programs in 22116
connection with which the portion of that amount was so used. 22117

As used in this division, "community preventive education 22118
programs" includes, but is not limited to, DARE programs and other 22119
programs designed to educate adults or children with respect to 22120
the dangers associated with the use of drugs of abuse. 22121

(b) Each sheriff, prosecuting attorney, municipal corporation 22122
police department, township police department, township police 22123
district police force, office of the constable, or park district 22124
police force or law enforcement department that receives in any 22125
calendar year any proceeds or forfeited moneys out of a law 22126
enforcement trust fund under division (D)(1)(c) of this section or 22127
uses any proceeds or forfeited moneys in its law enforcement trust 22128
fund in any calendar year shall prepare a report covering the 22129
calendar year that cumulates all of the information contained in 22130
all of the public financial records kept by the sheriff, 22131
prosecuting attorney, municipal corporation police department, 22132
township police department, township police district police force, 22133
office of the constable, or park district police force or law 22134
enforcement department pursuant to division (D)(3)(a) of this 22135
section for that calendar year, and shall send a copy of the 22136
cumulative report, no later than the first day of March in the 22137
calendar year following the calendar year covered by the report, 22138
to the attorney general. 22139

The superintendent of the state highway patrol shall prepare 22140
a report covering each calendar year in which the state highway 22141
patrol uses any proceeds or forfeited moneys in the ~~state~~ highway 22142
patrol state contraband, forfeiture, and other fund under division 22143
(D)(1)(c) of this section, that cumulates all of the information 22144
contained in all of the public financial records kept by the state 22145
highway patrol pursuant to division (D)(3)(a) of this section for 22146
that calendar year, and shall send a copy of the cumulative 22147
report, no later than the first day of March in the calendar year 22148
following the calendar year covered by the report, to the attorney 22149
general. 22150

The department of public safety shall prepare a report 22151
covering each fiscal year in which the department uses any 22152
proceeds or forfeited moneys in the department of public safety 22153

investigative unit contraband, forfeiture, and other fund under 22154
division (D)(1)(c) of this section that cumulates all of the 22155
information contained in all of the public financial records kept 22156
by the department pursuant to division (D)(3)(a) of this section 22157
for that fiscal year. The department shall send a copy of the 22158
cumulative report to the attorney general no later than the first 22159
day of August in the fiscal year following the fiscal year covered 22160
by the report. The director of public safety shall include in the 22161
report a verification that proceeds and forfeited moneys paid into 22162
the department of public safety investigative unit contraband, 22163
forfeiture, and other fund under division (D)(1)(c) of this 22164
section during the preceding fiscal year were used by the 22165
department during that fiscal year only for the purposes 22166
authorized by that division and shall specify the amount used for 22167
each authorized purpose. 22168

The tax commissioner shall prepare a report covering each 22169
calendar year in which the department of taxation enforcement 22170
division uses any proceeds or forfeited moneys in the department 22171
of taxation enforcement fund under division (D)(1)(c) of this 22172
section, that cumulates all of the information contained in all of 22173
the public financial records kept by the department of taxation 22174
enforcement division pursuant to division (D)(3)(a) of this 22175
section for that calendar year, and shall send a copy of the 22176
cumulative report, not later than the first day of March in the 22177
calendar year following the calendar year covered by the report, 22178
to the attorney general. 22179

The executive director of the state board of pharmacy shall 22180
prepare a report covering each calendar year in which the board 22181
uses any proceeds or forfeited moneys in the board of pharmacy 22182
drug law enforcement fund under division (D)(1)(c) of this 22183
section, that cumulates all of the information contained in all of 22184
the public financial records kept by the board pursuant to 22185

division (D)(3)(a) of this section for that calendar year, and 22186
shall send a copy of the cumulative report, no later than the 22187
first day of March in the calendar year following the calendar 22188
year covered by the report, to the attorney general. Each report 22189
received by the attorney general is a public record open for 22190
inspection under section 149.43 of the Revised Code. Not later 22191
than the fifteenth day of April in the calendar year in which the 22192
reports are received, the attorney general shall send to the 22193
president of the senate and the speaker of the house of 22194
representatives a written notification that does all of the 22195
following: 22196

(i) Indicates that the attorney general has received from 22197
entities or persons specified in this division reports of the type 22198
described in this division that cover the previous calendar year 22199
and indicates that the reports were received under this division; 22200

(ii) Indicates that the reports are open for inspection under 22201
section 149.43 of the Revised Code; 22202

(iii) Indicates that the attorney general will provide a copy 22203
of any or all of the reports to the president of the senate or the 22204
speaker of the house of representatives upon request. 22205

(4)(a) A law enforcement agency that receives pursuant to 22206
federal law proceeds from a sale of forfeited contraband, proceeds 22207
from another disposition of forfeited contraband, or forfeited 22208
contraband moneys shall deposit, use, and account for the proceeds 22209
or forfeited moneys in accordance with, and otherwise comply with, 22210
the applicable federal law. 22211

(b) If the state highway patrol receives pursuant to federal 22212
law proceeds from a sale of forfeited contraband, proceeds from 22213
another disposition of forfeited contraband, or forfeited 22214
contraband moneys, the appropriate governmental officials shall 22215
deposit the proceeds into the ~~state~~ highway patrol federal 22216

contraband, forfeiture, and other fund ~~all~~, which is hereby 22217
created in the state treasury. All interest or other earnings 22218
derived from the investment of the proceeds or forfeited moneys 22219
shall be credited to the fund. The state highway patrol shall use 22220
and account for that interest or other earnings in accordance with 22221
the applicable federal law. 22222

(c) If the investigative unit of the department of public 22223
safety receives pursuant to federal law proceeds from a sale of 22224
forfeited contraband, proceeds from another disposition of 22225
forfeited contraband, or forfeited contraband moneys, the 22226
appropriate governmental officials shall deposit the proceeds into 22227
the department of public safety investigative unit ~~contraband,~~ 22228
~~forfeiture, and other~~ federal equitable share account fund ~~all,~~ 22229
which is hereby created in the state treasury. All interest or 22230
other earnings derived from the investment of the proceeds or 22231
forfeited moneys shall be credited to the fund. The department 22232
shall use and account for that interest or other earnings in 22233
accordance with the applicable federal law. 22234

(d) If the tax commissioner receives pursuant to federal law 22235
proceeds from a sale of forfeited contraband, proceeds from 22236
another disposition of forfeited contraband, or forfeited 22237
contraband moneys, the appropriate governmental officials, shall 22238
deposit into the department of taxation enforcement fund all 22239
interest or other earnings derived from the investment of the 22240
proceeds or forfeited moneys. The department shall use and account 22241
for that interest or other earnings in accordance with the 22242
applicable federal law. 22243

(e) Divisions (D)(1) to (3) of this section do not apply to 22244
proceeds or forfeited moneys received pursuant to federal law or 22245
to the interest or other earnings that are derived from the 22246
investment of proceeds or forfeited moneys received pursuant to 22247
federal law and that are described in division (D)(4)(b) of this 22248

section. 22249

(E) Upon the sale pursuant to this section of any property 22250
that is required to be titled or registered under law, the state 22251
shall issue an appropriate certificate of title or registration to 22252
the purchaser. If the state is vested with title pursuant to 22253
division (C) of this section and elects to retain property that is 22254
required to be titled or registered under law, the state shall 22255
issue an appropriate certificate of title or registration. 22256

(F) Notwithstanding any provisions of this section to the 22257
contrary, any property that is lawfully seized in relation to a 22258
violation of section 2923.32 of the Revised Code shall be subject 22259
to forfeiture and disposition in accordance with sections 2923.32 22260
to 2923.36 of the Revised Code; any property that is forfeited 22261
pursuant to section 2923.44 or 2923.45 of the Revised Code in 22262
relation to a violation of section 2923.42 of the Revised Code or 22263
in relation to an act of a juvenile that is a violation of section 22264
2923.42 of the Revised Code may be subject to forfeiture and 22265
disposition in accordance with sections 2923.44 to 2923.47 of the 22266
Revised Code; and any property that is forfeited pursuant to 22267
section 2925.42 or 2925.43 of the Revised Code in relation to a 22268
felony drug abuse offense, as defined in section 2925.01 of the 22269
Revised Code, or in relation to an act that, if committed by an 22270
adult, would be a felony drug abuse offense of that nature, may be 22271
subject to forfeiture and disposition in accordance with sections 22272
2925.41 to 2925.45 of the Revised Code or this section. 22273

(G) Any failure of a law enforcement officer or agency, a 22274
prosecuting attorney, village solicitor, city director of law, or 22275
similar chief legal officer, a court, or the attorney general to 22276
comply with any duty imposed by this section in relation to any 22277
property seized or with any other provision of this section in 22278
relation to any property seized does not affect the validity of 22279
the seizure of the property, provided the seizure itself was made 22280

in accordance with law, and is not and shall not be considered to 22281
be the basis for the suppression of any evidence resulting from 22282
the seizure of the property, provided the seizure itself was made 22283
in accordance with law. 22284

(H) Contraband that has been forfeited pursuant to division 22285
(C) of this section shall not be available for use to pay any fine 22286
imposed upon a person who is convicted of or pleads guilty to an 22287
underlying criminal offense or a different offense arising out of 22288
the same facts and circumstances. 22289

Sec. 2933.74. (A)(1) With respect to forfeitable property 22290
ordered forfeited under section 2933.73 of the Revised Code, the 22291
court that issued the order, upon petition of the prosecuting 22292
attorney or attorney general who prosecuted the case, may do any 22293
of the following: 22294

(a) Authorize the prosecuting attorney or the attorney 22295
general to settle claims; 22296

(b) Award compensation to persons who provide information 22297
that results in a forfeiture under section 2933.73 of the Revised 22298
Code; 22299

(c) Take any other action to protect the rights of innocent 22300
persons that is in the interest of justice and that is consistent 22301
with the purposes of sections 2933.71 to 2933.75 of the Revised 22302
Code. ~~(2)~~ 22303

(2) The court shall maintain an accurate record of the 22304
actions it takes under division (A)(1) of this section with 22305
respect to the forfeitable property ordered forfeited. The record 22306
is a public record open for inspection under section 149.43 of the 22307
Revised Code. 22308

(B)(1) Subject to division (A) of this section and 22309
notwithstanding any contrary provision of section 2933.41 of the 22310

Revised Code, the prosecuting attorney or attorney general who 22311
prosecuted the case shall order the disposal of forfeitable 22312
property ordered forfeited in any proceeding under section 2933.73 22313
of the Revised Code as soon as feasible, making due provisions for 22314
the rights of innocent persons, by any of the following methods: 22315

- (a) Public sale; 22316
- (b) Transfer to a state governmental agency for official use; 22317
- (c) Sale or transfer to an innocent person; 22318
- (d) If the property is contraband and is not needed for 22319
evidence in any pending criminal or civil proceeding, pursuant to 22320
section 2933.41 or any other applicable section of the Revised 22321
Code. 22322

(2) Any interest in personal or real property not disposed of 22323
pursuant to division (B) of this section and not exercisable by, 22324
or transferable for value to, the state shall expire and shall not 22325
revert to the person who was convicted of or pleaded guilty to the 22326
medicaid fraud offense. No person who was convicted of or pleaded 22327
guilty to the medicaid fraud offense and no person acting in 22328
concert with a person who was convicted of or pleaded guilty to 22329
the medicaid fraud offense is eligible to purchase forfeited 22330
property from the state. 22331

(3) Upon application of a person, other than the person who 22332
was convicted of or pleaded guilty to the medicaid fraud offense 22333
or a person acting in concert with or on behalf of the person who 22334
was convicted of or pleaded guilty to the medicaid fraud offense, 22335
the court may restrain or stay the disposal of the forfeitable 22336
property pursuant to this division pending the conclusion of any 22337
appeal of the criminal case giving rise to the forfeiture or 22338
pending the determination of the validity of a claim to or 22339
interest in the property pursuant to division (F) of section 22340
2933.73 of the Revised Code, if the applicant demonstrates that 22341

proceeding with the disposal of the property will result in 22342
irreparable injury, harm, or loss to the applicant. 22343

(4) The prosecuting attorney or attorney general who 22344
prosecuted the case shall maintain an accurate record of each item 22345
of property disposed of pursuant to division (B) of this section, 22346
which record shall include the date on which each item came into 22347
the prosecuting attorney's or attorney general's custody, the 22348
manner and date of disposition, and, if applicable, the name of 22349
the person who received the item. The record shall not identify or 22350
enable the identification of the individual officer who seized the 22351
property, and the record is a public record open for inspection 22352
under section 149.43 of the Revised Code. 22353

Each prosecuting attorney who disposes in any calendar year 22354
of any item of property pursuant to division (B) of this section 22355
shall prepare a report covering the calendar year that cumulates 22356
all of the information contained in all of the records the 22357
prosecuting attorney kept pursuant to this division for that 22358
calendar year and shall send the cumulative report, no later than 22359
the first day of March in the calendar year following the calendar 22360
year covered by the report, to the attorney general. No later than 22361
the first day of March in the calendar year following the calendar 22362
year covered by the report, the attorney general shall prepare a 22363
report covering the calendar year that cumulates all of the 22364
records the attorney general kept pursuant to this division for 22365
that calendar year. Each report received or prepared by the 22366
attorney general is a public record open for inspection under 22367
section 149.43 of the Revised Code. Not later than the fifteenth 22368
day of April in the calendar year following the calendar year 22369
covered by the reports, the attorney general shall send to the 22370
president of the senate and the speaker of the house of 22371
representatives a written notification that does all of the 22372
following: 22373

| | |
|---|--|
| (a) Indicates that the attorney general has received from prosecuting attorneys reports of the type described in this division that cover the previous calendar year and indicates that the reports were received under this division; | 22374 22375 22376 22377 |
| (b) Lists the attorney general's own cumulative report covering the previous calendar year; | 22378 22379 |
| (c) Indicates that the reports are open for inspection under section 149.43 of the Revised Code; | 22380 22381 |
| (d) Indicates that the attorney general will provide a copy of any or all of the reports to the president of the senate or the speaker of the house of representatives upon request. | 22382 22383 22384 |
| (C)(1) The proceeds of the sale of all forfeitable property ordered forfeited pursuant to section 2933.73 of the Revised Code shall be deposited into the state treasury and credited to the medicaid fraud investigation and prosecution fund, which is hereby created. | 22385 22386 22387 22388 22389 |
| (2) The proceeds credited to the medicaid fraud investigation and prosecution fund pursuant to division (C)(1) of this section shall be disposed of in the following order: | 22390 22391 22392 |
| (a) To the payment of the fees and costs of the forfeiture and sale, including expenses of seizure, maintenance, and custody of the property pending its disposition, advertising, and court costs; | 22393 22394 22395 22396 |
| (b) Except as otherwise provided in division (C)(2)(b) of this section, the remainder shall be paid to the law enforcement trust fund of the prosecuting attorney that is established pursuant to division (D)(1)(c) of section 2933.43 of the Revised Code or to the attorney general, and to the law enforcement trust fund of the county sheriff that is established pursuant to that division if the county sheriff substantially conducted the investigation, to the law enforcement trust fund of a municipal | 22397 22398 22399 22400 22401 22402 22403 22404 |

corporation that is established pursuant to that division if its 22405
police department substantially conducted the investigation, to 22406
the law enforcement trust fund of a township that is established 22407
pursuant to that division if the investigation was substantially 22408
conducted by a township police department, township police 22409
district police force, or office of a township constable, or to 22410
the law enforcement trust fund of a park district created pursuant 22411
to section 511.18 or 1545.01 of the Revised Code that is 22412
established pursuant to that division if the investigation was 22413
substantially conducted by its park district police force or law 22414
enforcement department. The prosecuting attorney or attorney 22415
general may decline to accept any of the remaining proceeds, and, 22416
if the prosecuting attorney or attorney general so declines, they 22417
shall be applied to the fund described in division (C)(2)(b) of 22418
this section that relates to the appropriate law enforcement 22419
agency that substantially conducted the investigation. 22420

If the state highway patrol substantially conducted the 22421
investigation, the director of budget and management shall 22422
transfer the remaining proceeds to the state highway patrol for 22423
deposit into the ~~state~~ highway patrol state contraband, 22424
forfeiture, and other fund that is created by division (D)(1)(c) 22425
of section 2933.43 of the Revised Code. If the state board of 22426
pharmacy substantially conducted the investigation, the director 22427
shall transfer the remaining proceeds to the board for deposit 22428
into the board of pharmacy drug law enforcement fund that is 22429
created by division (B)(1) of section 4729.65 of the Revised Code. 22430
If a state law enforcement agency, other than the state highway 22431
patrol, the board, or the attorney general, substantially 22432
conducted the investigation, the director shall transfer the 22433
remaining proceeds to the treasurer of state for deposit into the 22434
peace officer training commission fund that is created by division 22435
(D)(1)(c) of section 2933.43 of the Revised Code. 22436

The remaining proceeds that are paid to the attorney general 22437
shall be used and expended only in relation to the investigation 22438
and prosecution of medicaid fraud offenses or the activities 22439
identified in section 109.85 of the Revised Code, and those that 22440
are paid to a law enforcement trust fund or that are deposited 22441
into the ~~state~~ highway patrol state contraband, forfeiture, and 22442
other fund, the board of pharmacy drug law enforcement fund, or 22443
the peace officer training commission fund pursuant to division 22444
(C)(2)(b) of this section shall be allocated, used, and expended 22445
only in accordance with division (D)(1)(c) of section 2933.43 of 22446
the Revised Code, only in accordance with a written internal 22447
control policy adopted under division (D)(3) of that section, and, 22448
if applicable, only in accordance with division (B)(1) of section 22449
4729.65 of the Revised Code. The annual reports that pertain to 22450
the funds and that are required by divisions (D)(1)(c) and (3)(b) 22451
of section 2933.43 of the Revised Code also shall address the 22452
remaining proceeds that are paid or deposited into the funds 22453
pursuant to division (C)(2)(b) of this section. 22454

(3) If more than one law enforcement agency substantially 22455
conducted the investigation, the court ordering the forfeiture 22456
shall equitably divide the remaining proceeds among the law 22457
enforcement agencies that substantially conducted the 22458
investigation, in the manner described in division (D)(2) of 22459
section 2933.43 of the Revised Code for the equitable division of 22460
contraband proceeds and forfeited moneys. The equitable shares of 22461
the proceeds so determined by the court shall be paid or deposited 22462
into the appropriate funds specified in division (C)(2)(b) of this 22463
section. 22464

(D) As used in this section, "law enforcement agency" 22465
includes, but is not limited to, the state board of pharmacy. 22466

Sec. 2949.092. If a person is convicted of or pleads guilty 22467

to an offense and the court specifically is required, pursuant to 22468
section 2743.70 ~~or~~, 2949.091, or 2949.093 of the Revised Code or 22469
pursuant to any other section of the Revised Code, to impose a 22470
specified sum of money as costs in the case in addition to any 22471
other costs that the court is required or permitted by law to 22472
impose in the case, the court shall not waive the payment of the 22473
specified additional court costs that the section of the Revised 22474
Code specifically requires the court to impose unless the court 22475
determines that the offender is indigent and the court waives the 22476
payment of all court costs imposed upon the offender. 22477

Sec. 2949.093. (A) A board of county commissioners of any 22478
county containing fifty-five or more law enforcement agencies by 22479
resolution may elect to participate in a criminal justice regional 22480
information system, either by creating and maintaining a new 22481
criminal justice regional information system or by participating 22482
in an existing criminal justice regional information system. 22483

(B) A county is not eligible to participate in any criminal 22484
justice regional information system unless it creates in its 22485
county treasury, pursuant to section 305.28 of the Revised Code, a 22486
criminal justice regional information fund. 22487

(C) A county that elects to participate in a criminal justice 22488
regional information system shall obtain revenues to fund its 22489
participation by establishing an additional court cost not 22490
exceeding five dollars to be imposed for moving violations that 22491
occur in that county. The board of county commissioners of that 22492
county shall establish the amount of the additional court cost by 22493
resolution. The board shall give written notice to all courts 22494
located in that county that adjudicate or otherwise process moving 22495
violations that occur in that county of the county's election to 22496
participate in the system and of the amount of the additional 22497
court cost. Upon receipt of such notice, each recipient court 22498

shall impose that amount as an additional court cost for all 22499
moving violations the court adjudicates or otherwise processes, in 22500
accordance with divisions (D) and (E) of this section. 22501

(D)(1) The court in which any person is convicted of or 22502
pleads guilty to any moving violation that occurs in a county that 22503
has elected to participate in a criminal justice regional 22504
information system shall impose the sum established by the board 22505
pursuant to division (C) of this section as costs in the case in 22506
addition to any other court costs that the court is required by 22507
law to impose upon the offender. The court shall not waive the 22508
payment of the additional court cost established by the board 22509
pursuant to division (C) of this section unless the court 22510
determines that the offender is indigent and waives the payment of 22511
all court costs imposed upon the indigent offender. 22512

All such money collected during a month shall be transmitted 22513
on the first business day of the following month by the clerk of 22514
the court to the county treasurer of the county in which the court 22515
is located and thereafter the county treasurer shall deposit the 22516
money in that county's criminal justice regional information fund. 22517

(2) The juvenile court in which a child is found to be a 22518
juvenile traffic offender for an act that is a moving violation 22519
occurring in a county participating in a criminal justice regional 22520
information system shall impose the sum established by the board 22521
pursuant to division (C) of this section as costs in the case in 22522
addition to any other court costs that the court is required by 22523
law to impose upon the juvenile traffic offender. The juvenile 22524
court shall not waive the payment of the additional court cost 22525
established by the board pursuant to division (C) of this section 22526
unless the court determines that the juvenile is indigent and 22527
waives the payment of all court costs imposed upon the indigent 22528
offender. 22529

All such money collected during a month shall be transmitted 22530

on the first business day of the following month by the clerk of 22531
the court to the county treasurer of the county in which the 22532
juvenile court is located and thereafter the county treasurer 22533
shall deposit the money in that county's criminal justice regional 22534
information fund. 22535

(E) Whenever a person is charged with any offense that is a 22536
moving violation and posts bail, the court shall add to the amount 22537
of the bail the set sum required to be paid by division (D)(1) of 22538
this section. The clerk of the court shall retain that set sum 22539
until the person is convicted, pleads guilty, forfeits bail, is 22540
found not guilty, or has the charges dismissed. If the person is 22541
convicted, pleads guilty, or forfeits bail, the clerk shall 22542
transmit the set sum to the county treasurer, who shall deposit it 22543
in the county criminal justice regional information fund. If the 22544
person is found not guilty or the charges are dismissed, the clerk 22545
shall return the set sum to the person. 22546

(F) No person shall be placed or held in a detention facility 22547
as defined in section 2921.01 of the Revised Code for failing to 22548
pay the court cost or bail that is required to be paid by this 22549
section. 22550

(G)(1) Except as provided in division (G)(2) of this section, 22551
all funds collected by a county under this section shall be used 22552
by that county only to pay the costs it incurs in creating and 22553
maintaining a new criminal justice regional information system or 22554
to pay the costs it incurs in participating in an existing 22555
criminal justice regional information system. 22556

(2) If the board of county commissioners of a county 22557
determines that the funds in that county's criminal justice 22558
regional information fund are more than sufficient to satisfy the 22559
purpose for which the additional court cost described in division 22560
(C) of this section was imposed, the board may declare a surplus 22561
in the fund. The county may expend the surplus only to pay the 22562

costs it incurs in improving the law enforcement computer 22563
technology of local law enforcement agencies located in that 22564
county. 22565

(H) As used in this section: 22566

(1) "Moving violation" means any violation of any statute or 22567
ordinance, other than section 4513.263 of the Revised Code or an 22568
ordinance that is substantially equivalent to that section, that 22569
regulates the operation of vehicles, streetcars, or trackless 22570
trolleys on highways or streets or that regulates size or load 22571
limitations or fitness requirements of vehicles. "Moving 22572
violation" does not include the violation of any statute or 22573
ordinance that regulates pedestrians or the parking of vehicles. 22574

(2) "Bail" means cash, a check, a money order, a credit card, 22575
or any other form of money that is posted by or for an offender 22576
pursuant to sections 2937.22 to 2937.46 of the Revised Code, 22577
Criminal Rule 46, or Traffic Rule 4 to prevent the offender from 22578
being placed or held in a detention facility, as defined in 22579
section 2921.01 of the Revised Code. 22580

(3) "Criminal justice regional information system" means a 22581
governmental computer system that serves as a cooperative between 22582
political subdivisions in a particular region for the purpose of 22583
providing a consolidated computerized information system for 22584
criminal justice agencies in that region. 22585

Sec. 2971.05. (A)(1) After control over an offender's service 22586
of a prison term imposed pursuant to division (A)(3) of section 22587
2971.03 of the Revised Code has been transferred pursuant to 22588
section 2971.04 of the Revised Code to the court, the court shall 22589
schedule, within thirty days of any of the following, a hearing on 22590
whether to modify in accordance with division (C) of this section 22591
the requirement that the offender serve the entire prison term in 22592
a state correctional institution or to terminate the prison term 22593

in accordance with division (D) of this section: 22594

(a) Control over the offender's service of a prison term is 22595
transferred pursuant to section 2971.04 of the Revised Code to the 22596
court, and no hearing to modify the requirement has been held; 22597

(b) Two years elapse after the most recent prior hearing held 22598
pursuant to division (A)(1) or (2) of this section; 22599

(c) The prosecuting attorney, the department of 22600
rehabilitation and correction, or the adult parole authority 22601
requests the hearing, and recommends that the requirement be 22602
modified or that the offender's prison term be terminated. 22603

(2) After control over the offender's service of a prison 22604
term has been transferred pursuant to section 2971.04 of the 22605
Revised Code to the court, the court, within thirty days of either 22606
of the following, shall conduct a hearing on whether to modify in 22607
accordance with division (C) of this section the requirement that 22608
the offender serve the entire prison term in a state correctional 22609
institution, whether to continue, revise, or revoke an existing 22610
modification of that requirement, or whether to terminate the term 22611
in accordance with division (D) of this section: 22612

(a) The requirement that the offender serve the entire prison 22613
term in a state correctional institution has been modified, and 22614
the offender is taken into custody for any reason. 22615

(b) The department of rehabilitation and correction or the 22616
prosecuting attorney notifies the court pursuant to section 22617
2971.06 of the Revised Code regarding a known or suspected 22618
violation of a term or condition of the modification or a belief 22619
that there is a substantial likelihood that the offender has 22620
committed or is about to commit a sexually violent offense. 22621

(3) After control over the offender's service of a prison 22622
term has been transferred pursuant to section 2971.04 of the 22623
Revised Code to the court, the court, in any of the following 22624

circumstances, may conduct a hearing within thirty days to 22625
determine whether to modify in accordance with division (C) of 22626
this section the requirement that the offender serve the entire 22627
prison term in a state correctional institution, whether to 22628
continue, revise, or revoke an existing modification of that 22629
requirement, or whether to terminate the sentence in accordance 22630
with division (D) of this section: 22631

(a) The offender requests the hearing; 22632

(b) Upon the court's own motion; 22633

(c) One or more examiners who have conducted a psychological 22634
examination and assessment of the offender file a statement that 22635
states that there no longer is a likelihood that the offender will 22636
engage in the future in a sexually violent offense. 22637

(B)(1) Before a court holds a hearing pursuant to division 22638
(A) of this section, the court shall provide notice of the date, 22639
time, place, and purpose of the hearing to the offender, the 22640
prosecuting attorney, the department of rehabilitation and 22641
correction, and the adult parole authority and shall request the 22642
department to prepare pursuant to section 5120.61 of the Revised 22643
Code an update of the most recent risk assessment and report 22644
relative to the offender. The offender has the right to be present 22645
at any hearing held under this section. At the hearing, the 22646
offender and the prosecuting attorney may make a statement and 22647
present evidence as to whether the requirement should or should 22648
not be modified, whether the existing modification of the 22649
requirement should be continued, revised, or revoked, and whether 22650
the prison term should or should not be terminated. 22651

(2) At a hearing held pursuant to division (A) of this 22652
section, the court may and, if the hearing is held pursuant to 22653
division (A)(1)(a), (1)(b), or (3)(c) of this section, shall 22654
determine by clear and convincing evidence whether the offender is 22655

unlikely to commit a sexually violent offense in the future. 22656

(3) At the conclusion of the hearing held pursuant to 22657
division (A) of this section, the court may order that the 22658
requirement that the offender serve the entire prison term in a 22659
state correctional institution be continued, that the requirement 22660
be modified pursuant to division (C) of this section, that an 22661
existing modification be continued, revised, or revoked pursuant 22662
to division (C) of this section, or that the prison term be 22663
terminated pursuant to division (D) of this section. 22664

(C)(1) If, at the conclusion of a hearing held pursuant to 22665
division (A) of this section, the court determines by clear and 22666
convincing evidence that the offender will not represent a 22667
substantial risk of physical harm to others, the court may modify 22668
the requirement that the offender serve the entire prison term in 22669
a state correctional institution in a manner that the court 22670
considers appropriate. If the court modifies the requirement, the 22671
offender is subject to supervision under division (E) of this 22672
section. 22673

(2) The modification of the requirement does not terminate 22674
the prison term but serves only to suspend the requirement that 22675
the offender serve the entire term in a state correctional 22676
institution. The prison term shall remain in effect for the 22677
offender's entire life unless the court terminates the prison term 22678
pursuant to division (D) of this section. The offender shall 22679
remain under the jurisdiction of the court for the offender's 22680
entire life unless the court so terminates the prison term. The 22681
modification of the requirement does not terminate the 22682
classification of the offender, as described in division (F) of 22683
section 2971.03 of the Revised Code, as a sexual predator for 22684
purposes of Chapter 2950. of the Revised Code, and the offender is 22685
subject to supervision under division (E) of this section. 22686

(3) If the court revokes the modification under 22687

consideration, the court shall order that the offender be returned 22688
to the custody of the department of rehabilitation and correction 22689
to continue serving the prison term to which the modification 22690
applied, and section 2971.06 of the Revised Code applies regarding 22691
the offender. 22692

(D)(1) If, at the conclusion of a hearing held pursuant to 22693
division (A) of this section, the court determines by clear and 22694
convincing evidence that the offender is unlikely to commit a 22695
sexually violent offense in the future, the court may terminate 22696
the offender's prison term imposed under division (A)(3) of 22697
section 2971.03 of the Revised Code, subject to the offender 22698
satisfactorily completing the period of conditional release 22699
required by this division and compliance with division (E) of this 22700
section. If the court terminates the prison term, the court shall 22701
place the offender on conditional release for five years, require 22702
the offender to comply with division (E) of this section, notify 22703
the adult parole authority of its determination and of the 22704
termination of the prison term, and order the adult parole 22705
authority to supervise the offender during the five-year period of 22706
conditional release and to supervise the offender pursuant to 22707
division (E) of this section. Upon receipt of a notice from a 22708
court pursuant to this division, the adult parole authority shall 22709
supervise the offender who is the subject of the notice during the 22710
five-year period of conditional release, periodically notify the 22711
court of the offender's activities during that five-year period of 22712
conditional release, and file with the court no later than thirty 22713
days prior to the expiration of the five-year period of 22714
conditional release a written recommendation as to whether the 22715
termination of the offender's prison term should be finalized, 22716
whether the period of conditional release should be extended, or 22717
whether another type of action authorized pursuant to this chapter 22718
should be taken. 22719

Upon receipt of a recommendation of the adult parole authority filed pursuant to this division, the court shall hold a hearing to determine whether to finalize the termination of the offender's prison term, to extend the period of conditional release, or to take another type of action authorized pursuant to this chapter. The court shall hold the hearing no later than the date on which the five-year period of conditional release terminates and shall provide notice of the date, time, place, and purpose of the hearing to the offender and to the prosecuting attorney. At the hearing, the offender, the prosecuting attorney, and the adult parole authority employee who supervised the offender during the period of conditional release may make a statement and present evidence.

(2) If the court determines to extend an offender's period of conditional release, it may do so for additional periods of one year in the same manner as the original period of conditional release, and except as otherwise described in this division, all procedures and requirements that applied to the original period of conditional release apply to the additional period of extended conditional release unless the court modifies a procedure or requirement. If an offender's period of conditional release is extended as described in this division, all references to a five-year period of conditional release that are contained in division (D)(1) of this section shall be construed, in applying the provisions of that division to the extension, as being references to the one-year period of the extension of the conditional release.

If the court determines to take another type of action authorized pursuant to this chapter, it may do so in the same manner as if the action had been taken at any other stage of the proceedings under this chapter. As used in this division, "another type of action" includes the revocation of the conditional release

and the return of the offender to a state correctional institution 22752
to continue to serve the prison term. 22753

If the court determines to finalize the termination of the 22754
offender's prison term, it shall notify the department of 22755
rehabilitation and correction, the department shall enter into its 22756
records a final release and issue to the offender a certificate of 22757
final release, and the prison term thereafter shall be considered 22758
completed and terminated in every way. 22759

The termination of the offender's prison term pursuant to 22760
division (D)(1) or (2) of this section does not affect the 22761
classification of the offender, as described in division (F) of 22762
section 2971.03 of the Revised Code, as a sexual predator for 22763
purposes of Chapter 2950. of the Revised Code, and does not 22764
terminate the adult parole authority's supervision of a sexually 22765
violent predator with an active global positioning system device, 22766
pursuant to division (E) of this section. The classification of 22767
the offender as a sexual predator is permanent and continues until 22768
the offender's death as described in division (D)(2) of section 22769
2950.09 of the Revised Code. 22770

(E) The adult parole authority shall supervise an offender 22771
whose prison term is modified as provided in division (C) of this 22772
section or whose prison term is terminated as provided in division 22773
(D) of this section with an active global positioning system 22774
device during any time period in which the offender is not 22775
incarcerated in a state correctional institution. Unless the court 22776
removes the offender's classification as a sexually violent 22777
predator, an offender is subject to supervision with an active 22778
global positioning system pursuant to this division for the 22779
offender's entire life. The costs of administering the supervision 22780
of sexually violent offenders with an active global positioning 22781
system device shall be paid out of funds from the reparations 22782
fund, created pursuant to section 2743.191 of the Revised Code. 22783

This division shall only apply to a sexually violent predator who 22784
is released from the custody of the department of rehabilitation 22785
and correction on or after the effective date of this amendment. 22786

Sec. 3107.10. (A) Notwithstanding section 3107.01 of the 22787
Revised Code, as used in this section, "agency" does not include a 22788
public children services agency. 22789

(B) An agency or attorney, whichever arranges a minor's 22790
adoption, shall file with the court a preliminary estimate 22791
accounting not later than the time the adoption petition for the 22792
minor is filed with the court. The agency or attorney, whichever 22793
arranges the adoption, also shall file a final accounting with the 22794
court before a final decree of adoption is issued or an 22795
interlocutory order of adoption is finalized for the minor. The 22796
agency or attorney shall complete and file accountings in a manner 22797
acceptable to the court. 22798

An accounting shall specify all disbursements of anything of 22799
value the petitioner, a person on the petitioner's behalf, and the 22800
agency or attorney made and has agreed to make in connection with 22801
the minor's permanent surrender under division (B) of section 22802
5103.15 of the Revised Code, placement under section 5103.16 of 22803
the Revised Code, and adoption under this chapter. The agency or 22804
attorney shall include in an accounting an itemization of each 22805
expense listed in division (C) of this section. The itemization of 22806
the expenses specified in divisions (C)(3) and (4) of this section 22807
shall show the amount the agency or attorney charged or is going 22808
to charge for the services and the actual cost to the agency or 22809
attorney of providing the services. An accounting shall indicate 22810
whether any expenses listed in division (C) of this section do not 22811
apply to the adoption proceeding for which the accounting is 22812
filed. 22813

The agency or attorney shall include with a preliminary 22814

estimate accounting and a final accounting a written statement 22815
signed by the petitioner that the petitioner has reviewed the 22816
accounting and attests to its accuracy. 22817

(C) No petitioner, person acting on a petitioner's behalf, or 22818
agency or attorney shall make or agree to make any disbursements 22819
in connection with the minor's permanent surrender, placement, or 22820
adoption other than for the following: 22821

(1) Physician expenses incurred on behalf of the birth mother 22822
or minor in connection with prenatal care, delivery, and 22823
confinement prior to or following the minor's birth; 22824

(2) Hospital or other medical facility expenses incurred on 22825
behalf of the birth mother or minor in connection with the minor's 22826
birth; 22827

(3) Expenses charged by the attorney arranging the adoption 22828
for providing legal services in connection with the placement and 22829
adoption, including expenses incurred by the attorney pursuant to 22830
sections 3107.031, 3107.081, 3107.082, 3107.09, and 3107.12 of the 22831
Revised Code; 22832

(4) Expenses charged by the agency arranging the adoption for 22833
providing services in connection with the permanent surrender and 22834
adoption, including the agency's application fee and the expenses 22835
incurred by the agency pursuant to sections 3107.031, 3107.09, 22836
3107.12, 5103.151, and 5103.152 of the Revised Code; 22837

(5) Temporary costs of routine maintenance and medical care 22838
for a minor required under section 5103.16 of the Revised Code if 22839
the person seeking to adopt the minor refuses to accept placement 22840
of the minor; 22841

(6) Guardian ad litem fees incurred on behalf of the minor in 22842
any court proceedings; 22843

(7) Foster care expenses incurred in connection with any 22844

temporary care and maintenance of the minor; 22845

(8) Court expenses incurred in connection with the minor's 22846
permanent surrender, placement, and adoption. 22847

(D) If a court determines from an accounting that an amount 22848
that is going to be disbursed for an expense listed in division 22849
(C) of this section is unreasonable, the court may order a 22850
reduction in the amount to be disbursed. If a court determines 22851
from an accounting that an unreasonable amount was disbursed for 22852
an expense listed in division (C) of this section, the court may 22853
order the person who received the disbursement to refund to the 22854
person who made the disbursement an amount the court orders. 22855

If a court determines from an accounting that a disbursement 22856
for an expense not permitted by division (C) of this section is 22857
going to be made, the court may issue an injunction prohibiting 22858
the disbursement. If a court determines from an accounting that a 22859
disbursement for an expense not permitted by division (C) of this 22860
section was made, the court may order the person who received the 22861
disbursement to return it to the person who made the disbursement. 22862

If a court determines that a final accounting does not 22863
completely report all the disbursements that are going to be made 22864
or have been made in connection with the minor's permanent 22865
surrender, placement, and adoption, the court shall order the 22866
agency or attorney to file with the court an accounting that 22867
completely reports all such disbursements. 22868

The agency or attorney shall file the final accounting with 22869
the court not later than ten days prior to the date scheduled for 22870
the final hearing on the adoption. The court may not issue a final 22871
decree of adoption or finalize an interlocutory order of adoption 22872
of a minor until at least ten days after the agency or attorney 22873
files the final accounting. 22874

~~(E) At the conclusion of each adoption proceeding, the court~~ 22875

~~shall prepare a summary of the proceeding, and on or before the
tenth day of each month, send copies of the summaries for all
proceedings concluded during the preceding calendar month to the
department of job and family services. The summary shall contain:~~

~~(1) A notation of the nature and approximate value or amount
of anything paid in connection with the proceeding, compiled from
the final accounting required by division (B) of this section and
indicating the category of division (C) of this section to which
any payment relates;~~

~~(2) If the court has not issued a decree because of the
requirements of division (D) of this section, a notation of that
fact and a statement of the reason for refusing to issue the
decree, related to the financial data summarized under division
(E)(1) of this section;~~

~~(3) If the adoption was arranged by an attorney, a notation
of that fact.~~

~~The summary shall contain no information identifying by name
any party to the proceeding or any other person, but may contain
additional narrative material that the court considers useful to
an analysis of the summary.~~

~~(F) This section does not apply to an adoption by a
stepparent whose spouse is a biological or adoptive parent of the
minor.~~

Sec. 3111.04. (A) An action to determine the existence or
nonexistence of the father and child relationship may be brought
by the child or the child's personal representative, the child's
mother or her personal representative, a man alleged or alleging
himself to be the child's father, the child support enforcement
agency of the county in which the child resides if the child's
mother is a recipient of public assistance or of services under

Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 22906
U.S.C.A. 651, as amended, or the alleged father's personal 22907
representative. 22908

(B) An agreement does not bar an action under this section. 22909

(C) If an action under this section is brought before the 22910
birth of the child and if the action is contested, all 22911
proceedings, except service of process and the taking of 22912
depositions to perpetuate testimony, may be stayed until after the 22913
birth. 22914

(D) A recipient of public assistance or of services under 22915
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 22916
U.S.C.A. 651, as amended, shall cooperate with the child support 22917
enforcement agency of the county in which a child resides to 22918
obtain an administrative determination pursuant to sections 22919
3111.38 to 3111.54 of the Revised Code, or, if necessary, a court 22920
determination pursuant to sections 3111.01 to 3111.18 of the 22921
Revised Code, of the existence or nonexistence of a parent and 22922
child relationship between the father and the child. If the 22923
recipient fails to cooperate, the agency may commence an action to 22924
determine the existence or nonexistence of a parent and child 22925
relationship between the father and the child pursuant to sections 22926
3111.01 to 3111.18 of the Revised Code. 22927

(E) As used in this section, "public assistance" means 22928
medical assistance under Chapter 5111. of the Revised Code, 22929
assistance under Chapter 5107. of the Revised Code, or disability 22930
financial assistance under Chapter 5115. of the Revised Code, ~~or~~ 22931
~~disability medical assistance under Chapter 5115. of the Revised~~ 22932
~~Code.~~ 22933

Sec. 3119.54. If either party to a child support order issued 22934
in accordance with section 3119.30 of the Revised Code is eligible 22935

for medical assistance under Chapter 5111. ~~or 5115.~~ of the Revised 22936
Code and the other party has obtained health insurance coverage, 22937
the party eligible for medical assistance shall notify any 22938
physician, hospital, or other provider of medical services for 22939
which medical assistance is available of the name and address of 22940
the other party's insurer and of the number of the other party's 22941
health insurance or health care policy, contract, or plan. Any 22942
physician, hospital, or other provider of medical services for 22943
which medical assistance is available under Chapter 5111. ~~or 5115.~~ 22944
of the Revised Code who is notified under this division of the 22945
existence of a health insurance or health care policy, contract, 22946
or plan with coverage for children who are eligible for medical 22947
assistance shall first bill the insurer for any services provided 22948
for those children. If the insurer fails to pay all or any part of 22949
a claim filed under this section and the services for which the 22950
claim is filed are covered by Chapter 5111. ~~or 5115.~~ of the 22951
Revised Code, the physician, hospital, or other medical services 22952
provider shall bill the remaining unpaid costs of the services in 22953
accordance with Chapter 5111. ~~or 5115.~~ of the Revised Code. 22954

Sec. 3121.12. (A) On receipt of a notice that a lump sum 22955
payment of one hundred fifty dollars or more is to be paid to the 22956
obligor, the court, with respect to a court support order, or the 22957
child support enforcement agency, with respect to an 22958
administrative child support order, shall do either of the 22959
following: 22960

(1) If the obligor is in default under the support order or 22961
has any arrearages under the support order, issue an order 22962
requiring the transmittal of the lump sum payment, or any portion 22963
of the lump sum payment sufficient to pay the arrearage in full, 22964
to the office of child support; 22965

(2) If the obligor is not in default under the support order 22966

and does not have any arrearages under the support order, issue an order directing the person who gave the notice to the court or agency to immediately pay the full amount of the lump sum payment to the obligor.

(B) ~~On receipt of any~~ Any moneys received by the office of child support pursuant to division (A) of this section, ~~the office of child support~~ shall ~~pay the amount of the lump sum payment that is necessary to discharge all of the obligor's arrearages to the obligee and, within two business days after its receipt of the money, any amount that is remaining after the payment of the arrearages to the obligor~~ be distributed in accordance with rules adopted under section 3121.71 of the Revised Code.

(C) A court that issued an order prior to January 1, 1998, requiring an employer to withhold an amount from an obligor's personal earnings for the payment of support shall issue a supplemental order that does not change the original order or the related support order requiring the employer to do all of the following:

(1) No later than the earlier of forty-five days before a lump sum payment is to be made or, if the obligor's right to a lump sum payment is determined less than forty-five days before it is to be made, the date on which that determination is made, notify the child support enforcement agency of any lump sum payment of any kind of one hundred fifty dollars or more that is to be paid to the obligor;

(2) Hold the lump sum payment for thirty days after the date on which it would otherwise be paid to the obligor;

(3) On order of the court, pay any specified amount of the lump sum payment to the office of child support.

(D) An employer that knowingly fails to notify the child support enforcement agency in accordance with this section or

section 3121.03 of the Revised Code of any lump sum payment to be 22998
made to an obligor is liable for any support payment not made to 22999
the obligee as a result of its knowing failure to give the notice. 23000

Sec. 3121.50. On receipt of any amount forwarded from a payor 23001
or financial institution, the office of child support shall 23002
distribute the amount to the obligee within two business days of 23003
its receipt of the amount forwarded. ~~The~~ Unless otherwise 23004
prohibited from doing so by a law of this state or the United 23005
States, the office may distribute the amount by means of 23006
electronic disbursement, and the obligee shall accept payment by 23007
means of electronic disbursement. The director of job and family 23008
services may adopt, revise, or amend rules under Chapter 119. of 23009
the Revised Code to assist in the implementation of this section. 23010

Sec. 3125.18. A child support enforcement agency shall 23011
administer a Title IV-A program identified under division 23012
(A)~~(3)~~(4)(c) or ~~(d)~~(f) of section 5101.80 of the Revised Code that 23013
the department of job and family services provides for the agency 23014
to administer under the department's supervision pursuant to 23015
section 5101.801 of the Revised Code. 23016

Sec. 3125.191. There is hereby created in the state treasury 23017
the child support operating fund, which is a state special revenue 23018
fund. The department of job and family services may deposit into 23019
the fund a portion of the federal incentives described in division 23020
(A) of section 3125.19 of the Revised Code and authorized by 42 23021
U.S.C. 658a that are received by the department of job and family 23022
services from the United States department of health and human 23023
services. The department of job and family services may use money 23024
in the child support operating fund for program and administrative 23025
purposes associated with the program of child support enforcement 23026
authorized by section 3125.03 of the Revised Code. 23027

Sec. 3301.079. (A)(1) Not later than December 31, 2001, the 23028
state board of education shall adopt statewide academic standards 23029
for each of grades kindergarten through twelve in reading, 23030
writing, and mathematics. Not later than December 31, 2002, the 23031
state board shall adopt statewide academic standards for each of 23032
grades kindergarten through twelve in science and social studies. 23033
The standards shall specify the academic content and skills that 23034
students are expected to know and be able to do at each grade 23035
level. 23036

(2) When academic standards have been completed for any 23037
subject area required by this division, the state board shall 23038
inform all school districts of the content of those standards. 23039

(B) Not later than eighteen months after the completion of 23040
academic standards for any subject area required by division (A) 23041
of this section, the state board shall adopt a model curriculum 23042
for instruction in that subject area for each of grades 23043
kindergarten through twelve that is sufficient to meet the needs 23044
of students in every community. The model curriculum shall be 23045
aligned with the standards to ensure that the academic content and 23046
skills specified for each grade level are taught to students. When 23047
any model curriculum has been completed, the state board shall 23048
inform all school districts of the content of that model 23049
curriculum. 23050

All school districts may utilize the state standards and the 23051
model curriculum established by the state board, together with 23052
other relevant resources, examples, or models to ensure that 23053
students have the opportunity to attain the academic standards. 23054
Upon request, the department of education shall provide technical 23055
assistance to any district in implementing the model curriculum. 23056

Nothing in this section requires any school district to 23057
utilize all or any part of a model curriculum developed under this 23058

division. 23059

(C) The state board shall develop achievement tests aligned 23060
with the academic standards and model curriculum for each of the 23061
subject areas and grade levels required by section 3301.0710 of 23062
the Revised Code. 23063

When any achievement test has been completed, the state board 23064
shall inform all school districts of its completion, and the 23065
department of education shall make the achievement test available 23066
to the districts. School districts shall administer the 23067
achievement test beginning in the school year indicated in section 23068
3301.0712 of the Revised Code. 23069

~~(D)(1) Not later than July 1, 2008, and except as provided in~~ 23070
~~division (D)(3) of this section, the~~ The state board shall adopt a 23071
diagnostic assessment aligned with the academic standards and 23072
model curriculum for each of grades kindergarten through two in 23073
reading, writing, and mathematics and for ~~each of grades~~ grade 23074
~~three through eight in reading, writing, mathematics, science, and~~ 23075
~~social studies.~~ The diagnostic assessment shall be designed to 23076
measure student comprehension of academic content and mastery of 23077
related skills for the relevant subject area and grade level. Any 23078
diagnostic assessment shall not include components to identify 23079
gifted students. Blank copies of diagnostic tests shall be public 23080
records. 23081

(2) When each diagnostic assessment has been completed, the 23082
state board shall inform all school districts of its completion 23083
and the department of education shall make the diagnostic 23084
assessment available to the districts at no cost to the district. 23085
School districts shall administer the diagnostic assessment 23086
pursuant to section 3301.0715 of the Revised Code beginning the 23087
first school year following the development of the assessment. 23088

~~(3) The state board shall not adopt a diagnostic assessment~~ 23089

~~for any subject area and grade level for which the state board
develops an achievement test under division (C) of this section.~~

(E) Whenever the state board or the department of education
consults with persons for the purpose of drafting or reviewing any
standards, diagnostic assessments, achievement tests, or model
curriculum required under this section, the state board or the
department shall first consult with parents of students in
kindergarten through twelfth grade and with active Ohio classroom
teachers, other school personnel, and administrators with
expertise in the appropriate subject area. Whenever practicable,
the state board and department shall consult with teachers
recognized as outstanding in their fields.

If the department contracts with more than one outside entity
for the development of the achievement tests required by this
section, the department shall ensure the interchangeability of
those tests.

(F) The fairness sensitivity review committee, established by
rule of the state board of education, shall not allow any question
on any achievement test or diagnostic assessment developed under
this section or any proficiency test prescribed by former section
3301.0710 of the Revised Code, as it existed prior to September
11, 2001, to include, be written to promote, or inquire as to
individual moral or social values or beliefs. The decision of the
committee shall be final. This section does not create a private
cause of action.

Sec. 3301.0710. The state board of education shall adopt
rules establishing a statewide program to test student
achievement. The state board shall ensure that all tests
administered under the testing program are aligned with the
academic standards and model curricula adopted by the state board
and are created with input from Ohio parents, Ohio classroom

teachers, Ohio school administrators, and other Ohio school 23121
personnel pursuant to section 3301.079 of the Revised Code. 23122

The testing program shall be designed to ensure that students 23123
who receive a high school diploma demonstrate at least high school 23124
levels of achievement in reading, writing, mathematics, science, 23125
and social studies. 23126

(A)(1) The state board shall prescribe all of the following: 23127

(a) Two statewide achievement tests, one each designed to 23128
measure the level of reading and mathematics skill expected at the 23129
end of third grade; 23130

(b) Three statewide achievement tests, one each designed to 23131
measure the level of reading, writing, and mathematics skill 23132
expected at the end of fourth grade; 23133

(c) Four statewide achievement tests, one each designed to 23134
measure the level of reading, mathematics, science, and social 23135
studies skill expected at the end of fifth grade; 23136

(d) Two statewide achievement tests, one each designed to 23137
measure the level of reading and mathematics skill expected at the 23138
end of sixth grade; 23139

(e) Three statewide achievement tests, one each designed to 23140
measure the level of reading, writing, and mathematics skill 23141
expected at the end of seventh grade; 23142

(f) Four statewide achievement tests, one each designed to 23143
measure the level of reading, mathematics, science, and social 23144
studies skill expected at the end of eighth grade. 23145

(2) The state board shall determine and designate at least 23146
five ranges of scores on each of the achievement tests described 23147
in divisions (A)(1) and (B) of this section. Each range of scores 23148
shall be deemed to demonstrate a level of achievement so that any 23149
student attaining a score within such range has achieved one of 23150

the following: 23151

- (a) An advanced level of skill; 23152
- (b) An accelerated level of skill; 23153
- (c) A proficient level of skill; 23154
- (d) A basic level of skill; 23155
- (e) A limited level of skill. 23156

(B) The tests prescribed under this division shall 23157
collectively be known as the Ohio graduation tests. The state 23158
board shall prescribe five statewide high school achievement 23159
tests, one each designed to measure the level of reading, writing, 23160
mathematics, science, and social studies skill expected at the end 23161
of tenth grade. The state board shall designate a score in at 23162
least the range designated under division (A)(2)(c) of this 23163
section on each such test that shall be deemed to be a passing 23164
score on the test as a condition toward granting high school 23165
diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 23166
of the Revised Code. 23167

The state board may enter into a reciprocal agreement with 23168
the appropriate body or agency of any other state that has similar 23169
statewide achievement testing requirements for receiving high 23170
school diplomas, under which any student who has met an 23171
achievement testing requirement of one state is recognized as 23172
having met the similar achievement testing requirement of the 23173
other state for purposes of receiving a high school diploma. For 23174
purposes of this section and sections 3301.0711 and 3313.61 of the 23175
Revised Code, any student enrolled in any public high school in 23176
this state who has met an achievement testing requirement 23177
specified in a reciprocal agreement entered into under this 23178
division shall be deemed to have attained at least the applicable 23179
score designated under this division on each test required by this 23180
division that is specified in the agreement. 23181

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| (C) The <u>Except as provided in division (H) of this section,</u> | 23182 |
| <u>the</u> state board shall annually designate as follows the dates on | 23183 |
| which the tests prescribed under this section shall be | 23184 |
| administered: | 23185 |
| (1) For the reading test prescribed under division (A)(1)(a) | 23186 |
| of this section, as follows: | 23187 |
| (a) One date prior to the thirty-first day of December each | 23188 |
| school year; | 23189 |
| (b) At least one date of each school year that is not earlier | 23190 |
| than Monday of the week containing the eight <u>first</u> day of March | 23191 |
| <u>May</u> ; | 23192 |
| (c) One date during the summer that is not earlier than the | 23193 |
| tenth day of June nor later than the fifteenth day of July for | 23194 |
| students receiving summer remediation services under section | 23195 |
| 3313.608 of the Revised Code. | 23196 |
| (2) For the mathematics test prescribed under division | 23197 |
| (A)(1)(a) of this section and the tests prescribed under divisions | 23198 |
| (A)(1)(b), (c), (d), (e), and (f) of this section, at least one | 23199 |
| date of each school year that is not earlier than Monday of the | 23200 |
| week containing the eight <u>first</u> day of March <u>May</u> ; | 23201 |
| (3) For the tests prescribed under division (B) of this | 23202 |
| section, at least one date in each school year that is not earlier | 23203 |
| than Monday of the week containing the fifteenth day of March for | 23204 |
| all tenth grade students and at least one date prior to the | 23205 |
| thirty-first day of December and at least one date subsequent to | 23206 |
| that date but prior to the thirty-first day of March of each | 23207 |
| school year for eleventh and twelfth grade students. | 23208 |
| (D) In prescribing test dates pursuant to division (C)(3) of | 23209 |
| this section, the state board shall, to the greatest extent | 23210 |
| practicable, provide options to school districts in the case of | 23211 |
| tests administered under that division to eleventh and twelfth | 23212 |

grade students and in the case of tests administered to students 23213
pursuant to division (C)(2) of section 3301.0711 of the Revised 23214
Code. Such options shall include at least an opportunity for 23215
school districts to give such tests outside of regular school 23216
hours. 23217

(E) In prescribing test dates pursuant to this section, the 23218
state board of education shall designate the dates in such a way 23219
as to allow a reasonable length of time between the administration 23220
of tests prescribed under this section and any administration of 23221
the National Assessment of Education Progress Test given to 23222
students in the same grade level pursuant to section 3301.27 of 23223
the Revised Code or federal law. 23224

(F) The state board shall prescribe a practice version of 23225
each Ohio graduation test described in division (B) of this 23226
section that is of comparable length to the actual test. 23227

(G) Any committee established by the department of education 23228
for the purpose of making recommendations to the state board 23229
regarding the state board's designation of scores on the tests 23230
described by this section shall inform the state board of the 23231
probable percentage of students who would score in each of the 23232
ranges established under division (A)(2) of this section on the 23233
tests if the committee's recommendations are adopted by the state 23234
board. To the extent possible, these percentages shall be 23235
disaggregated by gender, major racial and ethnic groups, limited 23236
English proficient students, economically disadvantaged students, 23237
students with disabilities, and migrant students. 23238

If the state board intends to make any change to the 23239
committee's recommendations, the state board shall explain the 23240
intended change to the Ohio accountability task force established 23241
by section 3302.021 of the Revised Code. The task force shall 23242
recommend whether the state board should proceed to adopt the 23243
intended change. Nothing in this division shall require the state 23244

board to designate test scores based upon the recommendations of 23245
the task force. 23246

(H)(1) The state board shall require any alternate assessment 23247
administered to a student under division (C)(1) of section 23248
3301.0711 of the Revised Code to be completed and submitted to the 23249
entity with which the department contracts for the scoring of the 23250
test not later than the first day of April of the school year in 23251
which the test is administered. 23252

(2) For any test prescribed by this section, the state board 23253
may designate a date one week earlier than the applicable date 23254
designated under division (C) of this section for the 23255
administration of the test to limited English proficient students. 23256

(3) In designating days for the administration of the tests 23257
prescribed by division (A) of this section, the state board shall 23258
require the tests for each grade level to be administered on 23259
consecutive days. 23260

Sec. 3301.0711. (A) The department of education shall: 23261

(1) Annually furnish to, grade, and score all tests required 23262
by section 3301.0710 of the Revised Code to be administered by 23263
city, local, exempted village, and joint vocational school 23264
districts, except that each district shall score any test 23265
administered pursuant to division (B)(10) of this section. Each 23266
test so furnished shall include the data verification code of the 23267
student to whom the test will be administered, as assigned 23268
pursuant to division (D)(2) of section 3301.0714 of the Revised 23269
Code. In furnishing the practice versions of Ohio graduation tests 23270
prescribed by division (F) of section 3301.0710 of the Revised 23271
Code, the department shall make the tests available on its web 23272
site for reproduction by districts. In awarding contracts for 23273
grading tests, the department shall give preference to Ohio-based 23274
entities employing Ohio residents. 23275

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| (2) Adopt rules for the ethical use of tests and prescribing the manner in which the tests prescribed by section 3301.0710 of the Revised Code shall be administered to students. | 23276 23277 23278 |
| (B) Except as provided in divisions (C) and (J) of this section, the board of education of each city, local, and exempted village school district shall, in accordance with rules adopted under division (A) of this section: | 23279 23280 23281 23282 |
| (1) Administer the reading test prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code twice annually to all students in the third grade who have not attained the score designated for that test under division (A)(2)(c) of section 3301.0710 of the Revised Code and once each summer to students receiving summer remediation services under section 3313.608 of the Revised Code. | 23283 23284 23285 23286 23287 23288 23289 |
| (2) Administer the mathematics test prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code at least once annually to all students in the third grade. | 23290 23291 23292 |
| (3) Administer the tests prescribed under division (A)(1)(b) of section 3301.0710 of the Revised Code at least once annually to all students in the fourth grade. | 23293 23294 23295 |
| (4) Administer the tests prescribed under division (A)(1)(c) of section 3301.0710 of the Revised Code at least once annually to all students in the fifth grade. | 23296 23297 23298 |
| (5) Administer the tests prescribed under division (A)(1)(d) of section 3301.0710 of the Revised Code at least once annually to all students in the sixth grade. | 23299 23300 23301 |
| (6) Administer the tests prescribed under division (A)(1)(e) of section 3301.0710 of the Revised Code at least once annually to all students in the seventh grade. | 23302 23303 23304 |
| (7) Administer the tests prescribed under division (A)(1)(f) | 23305 |

of section 3301.0710 of the Revised Code at least once annually to all students in the eighth grade.

(8) Except as provided in division (B)(9) of this section, administer any test prescribed under division (B) of section 3301.0710 of the Revised Code as follows:

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

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

(9) In lieu of the board of education of any city, local, or exempted village school district in which the student is also enrolled, the board of a joint vocational school district shall administer any test prescribed under division (B) of section 3301.0710 of the Revised Code at least twice annually to any student enrolled in the joint vocational school district who has not yet attained the score on that test designated under that division. A board of a joint vocational school district may also administer such a test to any student described in division (B)(8)(b) of this section.

(10) If the district has been declared to be under an academic watch or in a state of academic emergency pursuant to section 3302.03 of the Revised Code or has a three-year average graduation rate of not more than seventy-five per cent, administer each test prescribed by division (F) of section 3301.0710 of the Revised Code in September to all ninth grade students, beginning

in the school year that starts July 1, 2005. 23337

(C)(1)(a) Any student receiving special education services 23338
under Chapter 3323. of the Revised Code may be excused from taking 23339
any particular test required to be administered under this section 23340
if the individualized education program developed for the student 23341
pursuant to section 3323.08 of the Revised Code excuses the 23342
student from taking that test and instead specifies an alternate 23343
assessment method approved by the department of education as 23344
conforming to requirements of federal law for receipt of federal 23345
funds for disadvantaged pupils. To the extent possible, the 23346
individualized education program shall not excuse the student from 23347
taking a test unless no reasonable accommodation can be made to 23348
enable the student to take the test. 23349

(b) Any alternate assessment approved by the department for a 23350
student under this division shall produce measurable results 23351
comparable to those produced by the tests which the alternate 23352
assessments are replacing in order to allow for the student's 23353
assessment results to be included in the data compiled for a 23354
school district or building under section 3302.03 of the Revised 23355
Code. 23356

(c) Any student enrolled in a chartered nonpublic school who 23357
has been identified, based on an evaluation conducted in 23358
accordance with section 3323.03 of the Revised Code or section 504 23359
of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 23360
794, as amended, as a child with a disability shall be excused 23361
from taking any particular test required to be administered under 23362
this section if a plan developed for the student pursuant to rules 23363
adopted by the state board excuses the student from taking that 23364
test. In the case of any student so excused from taking a test, 23365
the chartered nonpublic school shall not prohibit the student from 23366
taking the test. 23367

(2) A district board may, for medical reasons or other good 23368

cause, excuse a student from taking a test administered under this 23369
section on the date scheduled, but any such test shall be 23370
administered to such excused student not later than nine days 23371
following the scheduled date. The board shall annually report the 23372
number of students who have not taken one or more of the tests 23373
required by this section to the state board of education not later 23374
than the thirtieth day of June. 23375

(3) As used in this division, "limited English proficient 23376
student" has the same meaning as in 20 U.S.C. 7801. 23377

No school district board shall excuse any limited English 23378
proficient student from taking any particular test required to be 23379
administered under this section, except that any limited English 23380
proficient student who has been enrolled in United States schools 23381
for less than one full school year shall not be required to take 23382
any such reading or writing test. However, no board shall prohibit 23383
a limited English proficient student who is not required to take a 23384
test under this division from taking the test. A board may permit 23385
any limited English proficient student to take any test required 23386
to be administered under this section with appropriate 23387
accommodations, as determined by the department. For each limited 23388
English proficient student, each school district shall annually 23389
assess that student's progress in learning English, in accordance 23390
with procedures approved by the department. 23391

The governing authority of a chartered nonpublic school may 23392
excuse a limited English proficient student from taking any test 23393
administered under this section. However, no governing authority 23394
shall prohibit a limited English proficient student from taking 23395
the test. 23396

(D)(1) In the school year next succeeding the school year in 23397
which the tests prescribed by division (A)(1) or (B) of section 23398
3301.0710 of the Revised Code or former division (A)(1), (A)(2), 23399
or (B) of section 3301.0710 of the Revised Code as it existed 23400

prior to September 11, 2001, are administered to any student, the 23401
board of education of any school district in which the student is 23402
enrolled in that year shall provide to the student intervention 23403
services commensurate with the student's test performance, 23404
including any intensive intervention required under section 23405
3313.608 of the Revised Code, in any skill in which the student 23406
failed to demonstrate at least a score at the proficient level on 23407
the test. 23408

(2) Following any administration of the tests prescribed by 23409
division (F) of section 3301.0710 of the Revised Code to ninth 23410
grade students, each school district that has a three-year average 23411
graduation rate of not more than seventy-five per cent shall 23412
determine for each high school in the district whether the school 23413
shall be required to provide intervention services to any students 23414
who took the tests. In determining which high schools shall 23415
provide intervention services based on the resources available, 23416
the district shall consider each school's graduation rate and 23417
scores on the practice tests. The district also shall consider the 23418
scores received by ninth grade students on the reading and 23419
mathematics tests prescribed under division (A)(1)(f) of section 23420
3301.0710 of the Revised Code in the eighth grade in determining 23421
which high schools shall provide intervention services. 23422

Each high school selected to provide intervention services 23423
under this division shall provide intervention services to any 23424
student whose test results indicate that the student is failing to 23425
make satisfactory progress toward being able to attain scores at 23426
the proficient level on the Ohio graduation tests. Intervention 23427
services shall be provided in any skill in which a student 23428
demonstrates unsatisfactory progress and shall be commensurate 23429
with the student's test performance. Schools shall provide the 23430
intervention services prior to the end of the school year, during 23431
the summer following the ninth grade, in the next succeeding 23432

school year, or at any combination of those times. 23433

(E) Except as provided in section 3313.608 of the Revised 23434
Code and division (M) of this section, no school district board of 23435
education shall utilize any student's failure to attain a 23436
specified score on any test administered under this section as a 23437
factor in any decision to deny the student promotion to a higher 23438
grade level. However, a district board may choose not to promote 23439
to the next grade level any student who does not take any test 23440
administered under this section or make up such test as provided 23441
by division (C)(2) of this section and who is not exempt from the 23442
requirement to take the test under division (C)(3) of this 23443
section. 23444

(F) No person shall be charged a fee for taking any test 23445
administered under this section. 23446

(G) ~~Not later than sixty days after any administration of any~~ 23447
~~test prescribed by division (A)(1) or (B) of section 3301.0710 of~~ 23448
~~the Revised Code, the~~ (1) Each school district board shall submit 23449
the tests administered in the spring under division (B)(1) of this 23450
section and the tests administered under divisions (B)(2) to (7) 23451
of this section to the entity with which the department contracts 23452
for the scoring of the tests not later than the Friday after the 23453
tests are administered, except that any such test that a student 23454
takes during the make-up period described in division (C)(2) of 23455
this section shall be submitted not later than the Friday 23456
following the day the student takes the test. 23457

(2) The department or an entity with which the department 23458
contracts for the scoring of the test shall send to each school 23459
district board a list of the individual test scores of all persons 23460
taking ~~the~~ any test prescribed by division (A)(1) or (B) of 23461
section 3301.0710 of the Revised Code within sixty days after its 23462
administration, but in no case shall the scores be returned later 23463
than the fifteenth day of June following the administration. For 23464

any tests administered under this section by a joint vocational school district, the department or entity shall also send to each city, local, or exempted village school district a list of the individual test scores of any students of such city, local, or exempted village school district who are attending school in the joint vocational school district.

(H) Individual test scores on any tests administered under this section shall be released by a district board only in accordance with section 3319.321 of the Revised Code and the rules adopted under division (A) of this section. No district board or its employees shall utilize individual or aggregate test results in any manner that conflicts with rules for the ethical use of tests adopted pursuant to division (A) of this section.

(I) Except as provided in division (G) of this section, the department or an entity with which the department contracts for the scoring of the test shall not release any individual test scores on any test administered under this section ~~and~~. The state board of education shall adopt rules to ensure the protection of student confidentiality at all times. The rules may require the use of the data verification codes assigned to students pursuant to division (D)(2) of section 3301.0714 of the Revised Code to protect the confidentiality of student test scores.

(J) Notwithstanding division (D) of section 3311.52 of the Revised Code, this section does not apply to the board of education of any cooperative education school district except as provided under rules adopted pursuant to this division.

(1) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code may enter into an agreement with the board of education of the

cooperative education school district for administering any test 23497
prescribed under this section to students of the city, exempted 23498
village, or local school district who are attending school in the 23499
cooperative education school district. 23500

(2) In accordance with rules that the state board of 23501
education shall adopt, the board of education of any city, 23502
exempted village, or local school district with territory in a 23503
cooperative education school district established pursuant to 23504
section 3311.521 of the Revised Code shall enter into an agreement 23505
with the cooperative district that provides for the administration 23506
of any test prescribed under this section to both of the 23507
following: 23508

(a) Students who are attending school in the cooperative 23509
district and who, if the cooperative district were not 23510
established, would be entitled to attend school in the city, 23511
local, or exempted village school district pursuant to section 23512
3313.64 or 3313.65 of the Revised Code; 23513

(b) Persons described in division (B)(8)(b) of this section. 23514

Any testing of students pursuant to such an agreement shall 23515
be in lieu of any testing of such students or persons pursuant to 23516
this section. 23517

(K)(1) Any chartered nonpublic school may participate in the 23518
testing program by administering any of the tests prescribed by 23519
section 3301.0710 or 3301.0712 of the Revised Code if the chief 23520
administrator of the school specifies which tests the school 23521
wishes to administer. Such specification shall be made in writing 23522
to the superintendent of public instruction prior to the first day 23523
of August of any school year in which tests are administered and 23524
shall include a pledge that the nonpublic school will administer 23525
the specified tests in the same manner as public schools are 23526
required to do under this section and rules adopted by the 23527

department. 23528

(2) The department of education shall furnish the tests 23529
prescribed by section 3301.0710 or 3301.0712 of the Revised Code 23530
to any chartered nonpublic school electing to participate under 23531
this division. 23532

(L)(1) The superintendent of the state school for the blind 23533
and the superintendent of the state school for the deaf shall 23534
administer the tests described by section 3301.0710 of the Revised 23535
Code. Each superintendent shall administer the tests in the same 23536
manner as district boards are required to do under this section 23537
and rules adopted by the department of education and in conformity 23538
with division (C)(1)(a) of this section. 23539

(2) The department of education shall furnish the tests 23540
described by section 3301.0710 of the Revised Code to each 23541
superintendent. 23542

(M) Notwithstanding division (E) of this section, a school 23543
district may use a student's failure to attain a score in at least 23544
the basic range on the mathematics test described by division 23545
(A)(1)(a) of section 3301.0710 of the Revised Code or on any of 23546
the tests described by division (A)(1)(b), (c), (d), (e), or (f) 23547
of section 3301.0710 of the Revised Code as a factor in retaining 23548
that student in the current grade level. 23549

(N)(1) ~~The~~ In the manner specified in divisions (N)(3) to (5) 23550
of this section, the tests required by section 3301.0710 of the 23551
Revised Code shall become public records pursuant to section 23552
149.43 of the Revised Code on the first day of July following the 23553
school year that the test was administered, except that the 23554
reading test prescribed under division (A)(1)(a) of section 23555
3301.0710 of the Revised Code shall become a public record on the 23556
sixteenth day of July following the school year that the test was 23557
administered. 23558

(2) The department may field test proposed test questions 23559
with samples of students to determine the validity, reliability, 23560
or appropriateness of test questions for possible inclusion in a 23561
future year's test. The department also may use anchor questions 23562
on tests to ensure that different versions of the same test are of 23563
comparable difficulty. 23564

Field test questions and anchor questions shall not be 23565
considered in computing test scores for individual students. Field 23566
test questions and anchor questions may be included as part of the 23567
administration of any test required by section 3301.0710 of the 23568
Revised Code. 23569

(3) Any field test question or anchor question administered 23570
under division (N)(2) of this section shall not be a public 23571
record. Such field test questions and anchor questions shall be 23572
redacted from any tests which are released as a public record 23573
pursuant to division (N)(1) of this section. 23574

(4) This division applies to the tests prescribed by division 23575
(A) of section 3301.0710 of the Revised Code. 23576

(a) The first administration of each test, as specified in 23577
section 3301.0712 of the Revised Code, shall be a public record. 23578

(b) For subsequent administrations of each test, not less 23579
than forty per cent of the questions on the test that are used to 23580
compute a student's score shall be a public record. The department 23581
shall determine which questions will be needed for reuse on a 23582
future test and those questions shall not be public records and 23583
shall be redacted from the test prior to its release as a public 23584
record. 23585

(5) Each test prescribed by division (B) of section 3301.0710 23586
of the Revised Code that is administered in the spring shall be a 23587
public record. Each test prescribed by that division that is 23588
administered in the fall or summer shall not be a public record. 23589

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| (0) As used in this section: | 23590 |
| (1) "Three-year average" means the average of the most recent consecutive three school years of data. | 23591 23592 |
| (2) "Dropout" means a student who withdraws from school before completing course requirements for graduation and who is not enrolled in an education program approved by the state board of education or an education program outside the state. "Dropout" does not include a student who has departed the country. | 23593 23594 23595 23596 23597 |
| (3) "Graduation rate" means the ratio of students receiving a diploma to the number of students who entered ninth grade four years earlier. Students who transfer into the district are added to the calculation. Students who transfer out of the district for reasons other than dropout are subtracted from the calculation. If a student who was a dropout in any previous year returns to the same school district, that student shall be entered into the calculation as if the student had entered ninth grade four years before the graduation year of the graduating class that the student joins. | 23598 23599 23600 23601 23602 23603 23604 23605 23606 23607 |
| Sec. 3301.0714. (A) The state board of education shall adopt rules for a statewide education management information system. The rules shall require the state board to establish guidelines for the establishment and maintenance of the system in accordance with this section and the rules adopted under this section. The guidelines shall include: | 23608 23609 23610 23611 23612 23613 |
| (1) Standards identifying and defining the types of data in the system in accordance with divisions (B) and (C) of this section; | 23614 23615 23616 |
| (2) Procedures for annually collecting and reporting the data to the state board in accordance with division (D) of this section; | 23617 23618 23619 |

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| (3) Procedures for annually compiling the data in accordance with division (G) of this section; | 23620 23621 |
| (4) Procedures for annually reporting the data to the public in accordance with division (H) of this section. | 23622 23623 |
| (B) The guidelines adopted under this section shall require the data maintained in the education management information system to include at least the following: | 23624 23625 23626 |
| (1) Student participation and performance data, for each grade in each school district as a whole and for each grade in each school building in each school district, that includes: | 23627 23628 23629 |
| (a) The numbers of students receiving each category of instructional service offered by the school district, such as regular education instruction, vocational education instruction, specialized instruction programs or enrichment instruction that is part of the educational curriculum, instruction for gifted students, instruction for handicapped students, and remedial instruction. The guidelines shall require instructional services under this division to be divided into discrete categories if an instructional service is limited to a specific subject, a specific type of student, or both, such as regular instructional services in mathematics, remedial reading instructional services, instructional services specifically for students gifted in mathematics or some other subject area, or instructional services for students with a specific type of handicap. The categories of instructional services required by the guidelines under this division shall be the same as the categories of instructional services used in determining cost units pursuant to division (C)(3) of this section. | 23630 23631 23632 23633 23634 23635 23636 23637 23638 23639 23640 23641 23642 23643 23644 23645 23646 23647 |
| (b) The numbers of students receiving support or extracurricular services for each of the support services or extracurricular programs offered by the school district, such as | 23648 23649 23650 |

counseling services, health services, and extracurricular sports 23651
and fine arts programs. The categories of services required by the 23652
guidelines under this division shall be the same as the categories 23653
of services used in determining cost units pursuant to division 23654
(C)(4)(a) of this section. 23655

(c) Average student grades in each subject in grades nine 23656
through twelve; 23657

(d) Academic achievement levels as assessed by the testing of 23658
student achievement under sections 3301.0710 and 3301.0711 of the 23659
Revised Code; 23660

(e) The number of students designated as having a 23661
handicapping condition pursuant to division (C)(1) of section 23662
3301.0711 of the Revised Code; 23663

(f) The numbers of students reported to the state board 23664
pursuant to division (C)(2) of section 3301.0711 of the Revised 23665
Code; 23666

(g) Attendance rates and the average daily attendance for the 23667
year. For purposes of this division, a student shall be counted as 23668
present for any field trip that is approved by the school 23669
administration. 23670

(h) Expulsion rates; 23671

(i) Suspension rates; 23672

(j) The percentage of students receiving corporal punishment; 23673

(k) Dropout rates; 23674

(l) Rates of retention in grade; 23675

(m) For pupils in grades nine through twelve, the average 23676
number of carnegie units, as calculated in accordance with state 23677
board of education rules; 23678

(n) Graduation rates, to be calculated in a manner specified 23679

by the department of education that reflects the rate at which 23680
students who were in the ninth grade three years prior to the 23681
current year complete school and that is consistent with 23682
nationally accepted reporting requirements; 23683

(o) Results of diagnostic assessments administered to 23684
kindergarten students as required under section 3301.0715 of the 23685
Revised Code to permit a comparison of the academic readiness of 23686
kindergarten students. However, no district shall be required to 23687
report to the department the results of any diagnostic assessment 23688
administered to a kindergarten student if the parent of that 23689
student requests the district not to report those results. 23690

(2) Personnel and classroom enrollment data for each school 23691
district, including: 23692

(a) The total numbers of licensed employees and nonlicensed 23693
employees and the numbers of full-time equivalent licensed 23694
employees and nonlicensed employees providing each category of 23695
instructional service, instructional support service, and 23696
administrative support service used pursuant to division (C)(3) of 23697
this section. The guidelines adopted under this section shall 23698
require these categories of data to be maintained for the school 23699
district as a whole and, wherever applicable, for each grade in 23700
the school district as a whole, for each school building as a 23701
whole, and for each grade in each school building. 23702

(b) The total number of employees and the number of full-time 23703
equivalent employees providing each category of service used 23704
pursuant to divisions (C)(4)(a) and (b) of this section, and the 23705
total numbers of licensed employees and nonlicensed employees and 23706
the numbers of full-time equivalent licensed employees and 23707
nonlicensed employees providing each category used pursuant to 23708
division (C)(4)(c) of this section. The guidelines adopted under 23709
this section shall require these categories of data to be 23710
maintained for the school district as a whole and, wherever 23711

applicable, for each grade in the school district as a whole, for 23712
each school building as a whole, and for each grade in each school 23713
building. 23714

(c) The total number of regular classroom teachers teaching 23715
classes of regular education and the average number of pupils 23716
enrolled in each such class, in each of grades kindergarten 23717
through five in the district as a whole and in each school 23718
building in the school district. 23719

(d) The number of master teachers employed by each school 23720
district and each school building, once a definition of master 23721
teacher has been developed by the educator standards board 23722
pursuant to section 3319.61 of the Revised Code. 23723

(3)(a) Student demographic data for each school district, 23724
including information regarding the gender ratio of the school 23725
district's pupils, the racial make-up of the school district's 23726
pupils, the number of limited English proficient students in the 23727
district, and an appropriate measure of the number of the school 23728
district's pupils who reside in economically disadvantaged 23729
households. The demographic data shall be collected in a manner to 23730
allow correlation with data collected under division (B)(1) of 23731
this section. Categories for data collected pursuant to division 23732
(B)(3) of this section shall conform, where appropriate, to 23733
standard practices of agencies of the federal government. 23734

(b) With respect to each student entering kindergarten, 23735
whether the student previously participated in a public preschool 23736
program, a private preschool program, or a head start program, and 23737
the number of years the student participated in each of these 23738
programs. 23739

(4) Any data required to be collected pursuant to federal 23740
law. 23741

(C) The education management information system shall include 23742

cost accounting data for each district as a whole and for each 23743
school building in each school district. The guidelines adopted 23744
under this section shall require the cost data for each school 23745
district to be maintained in a system of mutually exclusive cost 23746
units and shall require all of the costs of each school district 23747
to be divided among the cost units. The guidelines shall require 23748
the system of mutually exclusive cost units to include at least 23749
the following: 23750

(1) Administrative costs for the school district as a whole. 23751
The guidelines shall require the cost units under this division 23752
(C)(1) to be designed so that each of them may be compiled and 23753
reported in terms of average expenditure per pupil in formula ADM 23754
in the school district, as determined pursuant to section 3317.03 23755
of the Revised Code. 23756

(2) Administrative costs for each school building in the 23757
school district. The guidelines shall require the cost units under 23758
this division (C)(2) to be designed so that each of them may be 23759
compiled and reported in terms of average expenditure per 23760
full-time equivalent pupil receiving instructional or support 23761
services in each building. 23762

(3) Instructional services costs for each category of 23763
instructional service provided directly to students and required 23764
by guidelines adopted pursuant to division (B)(1)(a) of this 23765
section. The guidelines shall require the cost units under 23766
division (C)(3) of this section to be designed so that each of 23767
them may be compiled and reported in terms of average expenditure 23768
per pupil receiving the service in the school district as a whole 23769
and average expenditure per pupil receiving the service in each 23770
building in the school district and in terms of a total cost for 23771
each category of service and, as a breakdown of the total cost, a 23772
cost for each of the following components: 23773

(a) The cost of each instructional services category required 23774

| | |
|--|-------|
| by guidelines adopted under division (B)(1)(a) of this section | 23775 |
| that is provided directly to students by a classroom teacher; | 23776 |
| (b) The cost of the instructional support services, such as | 23777 |
| services provided by a speech-language pathologist, classroom | 23778 |
| aide, multimedia aide, or librarian, provided directly to students | 23779 |
| in conjunction with each instructional services category; | 23780 |
| (c) The cost of the administrative support services related | 23781 |
| to each instructional services category, such as the cost of | 23782 |
| personnel that develop the curriculum for the instructional | 23783 |
| services category and the cost of personnel supervising or | 23784 |
| coordinating the delivery of the instructional services category. | 23785 |
| (4) Support or extracurricular services costs for each | 23786 |
| category of service directly provided to students and required by | 23787 |
| guidelines adopted pursuant to division (B)(1)(b) of this section. | 23788 |
| The guidelines shall require the cost units under division (C)(4) | 23789 |
| of this section to be designed so that each of them may be | 23790 |
| compiled and reported in terms of average expenditure per pupil | 23791 |
| receiving the service in the school district as a whole and | 23792 |
| average expenditure per pupil receiving the service in each | 23793 |
| building in the school district and in terms of a total cost for | 23794 |
| each category of service and, as a breakdown of the total cost, a | 23795 |
| cost for each of the following components: | 23796 |
| (a) The cost of each support or extracurricular services | 23797 |
| category required by guidelines adopted under division (B)(1)(b) | 23798 |
| of this section that is provided directly to students by a | 23799 |
| licensed employee, such as services provided by a guidance | 23800 |
| counselor or any services provided by a licensed employee under a | 23801 |
| supplemental contract; | 23802 |
| (b) The cost of each such services category provided directly | 23803 |
| to students by a nonlicensed employee, such as janitorial | 23804 |
| services, cafeteria services, or services of a sports trainer; | 23805 |

(c) The cost of the administrative services related to each 23806
services category in division (C)(4)(a) or (b) of this section, 23807
such as the cost of any licensed or nonlicensed employees that 23808
develop, supervise, coordinate, or otherwise are involved in 23809
administering or aiding the delivery of each services category. 23810

(D)(1) The guidelines adopted under this section shall 23811
require school districts to collect information about individual 23812
students, staff members, or both in connection with any data 23813
required by division (B) or (C) of this section or other reporting 23814
requirements established in the Revised Code. The guidelines may 23815
also require school districts to report information about 23816
individual staff members in connection with any data required by 23817
division (B) or (C) of this section or other reporting 23818
requirements established in the Revised Code. The guidelines shall 23819
not authorize school districts to request social security numbers 23820
of individual students. The guidelines shall prohibit the 23821
reporting under this section of a student's name, address, and 23822
social security number to the state board of education or the 23823
department of education. The guidelines shall also prohibit the 23824
reporting under this section of any personally identifiable 23825
information about any student, except for the purpose of assigning 23826
the data verification code required by division (D)(2) of this 23827
section, to any other person unless such person is employed by the 23828
school district or the data acquisition site operated under 23829
section 3301.075 of the Revised Code and is authorized by the 23830
district or acquisition site to have access to such information or 23831
is employed by an entity with which the department contracts for 23832
the scoring of tests administered under section 3301.0711 or 23833
3301.0712 of the Revised Code. The guidelines may require school 23834
districts to provide the social security numbers of individual 23835
staff members. 23836

(2) The guidelines shall provide for each school district or 23837

community school to assign a data verification code that is unique 23838
on a statewide basis over time to each student whose initial Ohio 23839
enrollment is in that district or school and to report all 23840
required individual student data for that student utilizing such 23841
code. The guidelines shall also provide for assigning data 23842
verification codes to all students enrolled in districts or 23843
community schools on the effective date of the guidelines 23844
established under this section. 23845

Individual student data shall be reported to the department 23846
through the data acquisition sites utilizing the code but at no 23847
time shall the state board or the department have access to 23848
information that would enable any data verification code to be 23849
matched to personally identifiable student data. 23850

Each school district shall ensure that the data verification 23851
code is included in the student's records reported to any 23852
subsequent school district or community school in which the 23853
student enrolls. Any such subsequent district or school shall 23854
utilize the same identifier in its reporting of data under this 23855
section. 23856

(E) The guidelines adopted under this section may require 23857
school districts to collect and report data, information, or 23858
reports other than that described in divisions (A), (B), and (C) 23859
of this section for the purpose of complying with other reporting 23860
requirements established in the Revised Code. The other data, 23861
information, or reports may be maintained in the education 23862
management information system but are not required to be compiled 23863
as part of the profile formats required under division (G) of this 23864
section or the annual statewide report required under division (H) 23865
of this section. 23866

(F) Beginning with the school year that begins July 1, 1991, 23867
the board of education of each school district shall annually 23868
collect and report to the state board, in accordance with the 23869

guidelines established by the board, the data required pursuant to 23870
this section. A school district may collect and report these data 23871
notwithstanding section 2151.358 or 3319.321 of the Revised Code. 23872

(G) The state board shall, in accordance with the procedures 23873
it adopts, annually compile the data reported by each school 23874
district pursuant to division (D) of this section. The state board 23875
shall design formats for profiling each school district as a whole 23876
and each school building within each district and shall compile 23877
the data in accordance with these formats. These profile formats 23878
shall: 23879

(1) Include all of the data gathered under this section in a 23880
manner that facilitates comparison among school districts and 23881
among school buildings within each school district; 23882

(2) Present the data on academic achievement levels as 23883
assessed by the testing of student achievement maintained pursuant 23884
to division (B)(1)(d) of this section. 23885

(H)(1) The state board shall, in accordance with the 23886
procedures it adopts, annually prepare a statewide report for all 23887
school districts and the general public that includes the profile 23888
of each of the school districts developed pursuant to division (G) 23889
of this section. Copies of the report shall be sent to each school 23890
district. 23891

(2) The state board shall, in accordance with the procedures 23892
it adopts, annually prepare an individual report for each school 23893
district and the general public that includes the profiles of each 23894
of the school buildings in that school district developed pursuant 23895
to division (G) of this section. Copies of the report shall be 23896
sent to the superintendent of the district and to each member of 23897
the district board of education. 23898

(3) Copies of the reports received from the state board under 23899
divisions (H)(1) and (2) of this section shall be made available 23900

to the general public at each school district's offices. Each 23901
district board of education shall make copies of each report 23902
available to any person upon request and payment of a reasonable 23903
fee for the cost of reproducing the report. The board shall 23904
annually publish in a newspaper of general circulation in the 23905
school district, at least twice during the two weeks prior to the 23906
week in which the reports will first be available, a notice 23907
containing the address where the reports are available and the 23908
date on which the reports will be available. 23909

(I) Any data that is collected or maintained pursuant to this 23910
section and that identifies an individual pupil is not a public 23911
record for the purposes of section 149.43 of the Revised Code. 23912

(J) As used in this section: 23913

(1) "School district" means any city, local, exempted 23914
village, or joint vocational school district. 23915

(2) "Cost" means any expenditure for operating expenses made 23916
by a school district excluding any expenditures for debt 23917
retirement except for payments made to any commercial lending 23918
institution for any loan approved pursuant to section 3313.483 of 23919
the Revised Code. 23920

(K) Any person who removes data from the information system 23921
established under this section for the purpose of releasing it to 23922
any person not entitled under law to have access to such 23923
information is subject to section 2913.42 of the Revised Code 23924
prohibiting tampering with data. 23925

(L) Any time the department of education determines that a 23926
school district has taken any of the actions described under 23927
division (L)(1), (2), or (3) of this section, it shall make a 23928
report of the actions of the district, send a copy of the report 23929
to the superintendent of such school district, and maintain a copy 23930
of the report in its files: 23931

(1) The school district fails to meet any deadline 23932
established pursuant to this section for the reporting of any data 23933
to the education management information system; 23934

(2) The school district fails to meet any deadline 23935
established pursuant to this section for the correction of any 23936
data reported to the education management information system; 23937

(3) The school district reports data to the education 23938
management information system in a condition, as determined by the 23939
department, that indicates that the district did not make a good 23940
faith effort in reporting the data to the system. 23941

Any report made under this division shall include 23942
recommendations for corrective action by the school district. 23943

Upon making a report for the first time in a fiscal year, the 23944
department shall withhold ten per cent of the total amount due 23945
during that fiscal year under Chapter 3317. of the Revised Code to 23946
the school district to which the report applies. Upon making a 23947
second report in a fiscal year, the department shall withhold an 23948
additional twenty per cent of such total amount due during that 23949
fiscal year to the school district to which the report applies. 23950
The department shall not release such funds unless it determines 23951
that the district has taken corrective action. However, no such 23952
release of funds shall occur if the district fails to take 23953
corrective action within forty-five days of the date upon which 23954
the report was made by the department. 23955

(M) No data acquisition site or school district shall 23956
acquire, change, or update its student administration software 23957
package to manage and report data required to be reported to the 23958
department unless it converts to a student software package that 23959
is certified by the department. 23960

(N) The state board of education, in accordance with sections 23961
3319.31 and 3319.311 of the Revised Code, may suspend or revoke a 23962

license as defined under division (A) of section 3319.31 of the Revised Code that has been issued to any school district employee found to have willfully reported erroneous, inaccurate, or incomplete data to the education management information system.

(O) No person shall release or maintain any information about any student in violation of this section. Whoever violates this division is guilty of a misdemeanor of the fourth degree.

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

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

Sec. 3301.0715. (A) Except as provided in division (E) of this section, the board of education of each city, local, and exempted village school district shall administer each applicable diagnostic assessment developed and provided to the district in accordance with section 3301.079 of the Revised Code to the following:

(1) Each student enrolled in a building subject to division (E) of section 3302.04 of the Revised Code;

(2) Any student who transfers into the district or to a different school within the district if each applicable diagnostic assessment was not administered by the district or school the student previously attended in the current school year, within thirty days after the date of transfer. If the district or school

into which the student transfers cannot determine whether the 23993
student has taken any applicable diagnostic assessment in the 23994
current school year, the district or school may administer the 23995
diagnostic assessment to the student. 23996

(3) Each kindergarten student, not later than six weeks after 23997
the first day of school. For the purpose of division (A)(3) of 23998
this section, the district shall administer the kindergarten 23999
readiness assessment provided by the department of education. The 24000
district may administer the readiness assessment to a student 24001
prior to the student's enrollment in kindergarten, but in no case 24002
shall the results of the readiness assessment be used to prohibit 24003
the student from enrolling in kindergarten. 24004

(4) Each student enrolled in first or second grade. 24005

(B) Each district board shall administer each diagnostic 24006
assessment as the board deems appropriate. However, the board 24007
shall administer any diagnostic assessment at least once annually 24008
to all students in the appropriate grade level. A district board 24009
may administer any diagnostic assessment in the fall and spring of 24010
a school year to measure the amount of academic growth 24011
attributable to the instruction received by students during that 24012
school year. 24013

(C) Each district board shall utilize and score any 24014
diagnostic assessment administered under division (A) of this 24015
section in accordance with rules established by the department. 24016
Except as required by division (B)(1)(o) of section 3301.0714 of 24017
the Revised Code, neither the state board of education nor the 24018
department shall require school districts to report the results of 24019
diagnostic assessments for any students to the department or to 24020
make any such results available in any form to the public. After 24021
the administration of any diagnostic assessment, each district 24022
shall provide a student's completed diagnostic assessment, the 24023
results of such assessment, and any other accompanying documents 24024

used during the administration of the assessment to the parent of 24025
that student upon the parent's request. 24026

(D) Each district board shall provide intervention services 24027
to students whose diagnostic assessments show that they are 24028
failing to make satisfactory progress toward attaining the 24029
academic standards for their grade level. 24030

(E) Any district that made adequate yearly progress, as 24031
defined in section 3302.01 of the Revised Code, in the immediately 24032
preceding school year may assess student progress in grades one 24033
through ~~eight~~ three using a diagnostic assessment other than the 24034
diagnostic assessment required by division (A) of this section. 24035

(F) A district board may administer ~~any~~ the third grade 24036
writing diagnostic assessment provided to the district in 24037
accordance with section 3301.079 of the Revised Code to any 24038
student enrolled in a building that is not subject to division 24039
(A)(1) of this section. Any district electing to administer the 24040
diagnostic ~~assessments~~ assessment to students under this division 24041
shall provide intervention services to any such student whose 24042
diagnostic assessment shows unsatisfactory progress toward 24043
attaining the academic standards for the student's grade level. 24044

Sec. 3301.12. (A) The superintendent of public instruction in 24045
addition to the authority otherwise imposed on ~~him~~ the 24046
superintendent, shall perform the following duties: 24047

(1) ~~He~~ The superintendent shall provide technical and 24048
professional assistance and advice to all school districts in 24049
reference to all aspects of education, including finance, 24050
buildings and equipment, administration, organization of school 24051
districts, curriculum and instruction, transportation of pupils, 24052
personnel problems, and the interpretation of school laws and 24053
state regulations. 24054

(2) ~~He~~ The superintendent shall prescribe and require the 24055
preparation and filing of such financial and other reports from 24056
school districts, officers, and employees as are necessary or 24057
proper. ~~He~~ The superintendent shall prescribe and require the 24058
installation by school districts of such standardized reporting 24059
forms and accounting procedures as are essential to the 24060
businesslike operations of the public schools of the state. 24061

(3) ~~He~~ The superintendent shall conduct such studies and 24062
research projects as are necessary or desirable for the 24063
improvement of public school education in Ohio, and such as may be 24064
assigned to ~~him~~ the superintendent by the state board of 24065
education. Such studies and projects may include analysis of data 24066
contained in the education management information system 24067
established under section 3301.0714 of the Revised Code. For any 24068
study or project that requires the analysis of individual student 24069
data, the department of education or any entity with which the 24070
superintendent or department contracts to conduct the study or 24071
project shall maintain the confidentiality of student data at all 24072
times. For this purpose, the department or contracting entity 24073
shall use the data verification code assigned pursuant to division 24074
(D)(2) of section 3301.0714 of the Revised Code for each student 24075
whose data is analyzed. Except as otherwise provided in division 24076
(D)(1) of section 3301.0714 of the Revised Code, at no time shall 24077
the superintendent, the department, the state board of education, 24078
or any entity conducting a study or research project on the 24079
superintendent's behalf have access to a student's name, address, 24080
or social security number while analyzing individual student data. 24081

(4) ~~He~~ The superintendent shall prepare and submit annually 24082
to the state board of education a report of the activities of the 24083
department of education and the status, problems, and needs of 24084
education in the state of Ohio. 24085

(5) ~~He~~ The superintendent shall supervise all agencies over 24086

which the board exercises administrative control, including 24087
schools for education of handicapped persons. 24088

(B) The superintendent of public instruction may annually 24089
inspect and analyze the expenditures of each school district and 24090
make a determination as to the efficiency of each district's 24091
costs, relative to other school districts in the state, for 24092
instructional, administrative, and student support services. The 24093
superintendent shall notify each school district as to the nature 24094
of, and reasons for, ~~his~~ the determination. The state board of 24095
education shall adopt rules in accordance with Chapter 119. of the 24096
Revised Code setting forth the procedures and standards for the 24097
performance of the inspection and analysis. 24098

Sec. 3301.16. Pursuant to standards prescribed by the state 24099
board of education as provided in division (D) of section 3301.07 24100
of the Revised Code, the state board shall classify and charter 24101
school districts and individual schools within each district 24102
except that no charter shall be granted to a nonpublic school 24103
unless pursuant to division (K) of section 3301.0711 of the 24104
Revised Code the school elects to administer the tests prescribed 24105
by division (B) of section 3301.0710 of the Revised Code beginning 24106
July 1, 1995. ~~The~~ 24107

In the course of considering the charter of a new school 24108
district created under section 3311.26 or 3311.38 of the Revised 24109
Code, the state board shall require the party proposing creation 24110
of the district to submit to the board a map, certified by the 24111
county auditor of the county in which the proposed new district is 24112
located, showing the boundaries of the proposed new district. In 24113
the case of a proposed new district located in more than one 24114
county, the map shall be certified by the county auditor of each 24115
county in which the proposed district is located. 24116

The state board shall revoke the charter of any school 24117

district or school which fails to meet the standards for 24118
elementary and high schools as prescribed by the board. The state 24119
board shall also revoke the charter of any nonpublic school that 24120
does not comply with section 3313.612 of the Revised Code or, on 24121
or after July 1, 1995, does not participate in the testing program 24122
prescribed by division (B) of section 3301.0710 of the Revised 24123
Code. ~~In~~ 24124

In the issuance and revocation of school district or school 24125
charters, the state board shall be governed by the provisions of 24126
Chapter 119. of the Revised Code. 24127

No school district, or individual school operated by a school 24128
district, shall operate without a charter issued by the state 24129
board under this section. 24130

In case a school district charter is revoked pursuant to this 24131
section, the state board may dissolve the school district and 24132
transfer its territory to one or more adjacent districts. An 24133
equitable division of the funds, property, and indebtedness of the 24134
school district shall be made by the state board among the 24135
receiving districts. The board of education of a receiving 24136
district shall accept such territory pursuant to the order of the 24137
state board. Prior to dissolving the school district, the state 24138
board shall notify the appropriate educational service center 24139
governing board and all adjacent school district boards of 24140
education of its intention to do so. Boards so notified may make 24141
recommendations to the state board regarding the proposed 24142
dissolution and subsequent transfer of territory. Except as 24143
provided in section 3301.161 of the Revised Code, the transfer 24144
ordered by the state board shall become effective on the date 24145
specified by the state board, but the date shall be at least 24146
thirty days following the date of issuance of the order. 24147

A high school is one of higher grade than an elementary 24148
school, in which instruction and training are given in accordance 24149

with sections 3301.07 and 3313.60 of the Revised Code and which 24150
also offers other subjects of study more advanced than those 24151
taught in the elementary schools and such other subjects as may be 24152
approved by the state board of education. 24153

An elementary school is one in which instruction and training 24154
are given in accordance with sections 3301.07 and 3313.60 of the 24155
Revised Code and which offers such other subjects as may be 24156
approved by the state board of education. In districts wherein a 24157
junior high school is maintained, the elementary schools in that 24158
district may be considered to include only the work of the first 24159
six school years inclusive, plus the kindergarten year. 24160

Sec. 3301.311. (A) As used in this section, "preschool 24161
program" has the same meaning as in section 3301.52 of the Revised 24162
Code. 24163

~~After June 30, 2001~~ (B)(1) Subject to division (B)(2) of this 24164
section, after July 1, 2005, no head start preschool program, and 24165
no early childhood education program or early learning program as 24166
defined by the department of education shall receive any funds 24167
from the state unless fifty per cent of the staff members employed 24168
by that program as teachers are working toward an associate degree 24169
of a type approved by the department of education. ~~After June 30,~~ 24170
~~2003, no head start program shall receive any funds from the state~~ 24171
~~unless each staff member employed by that program as a teacher is~~ 24172
~~working toward an associate degree of a type approved by the~~ 24173
~~department of education.~~ Beginning Subject to division (B)(2) of 24174
this section, beginning in fiscal year 2008, no head start 24175
preschool program, early childhood education program, or early 24176
learning program, shall receive any funds from the state unless 24177
every staff member employed by that program as a teacher has 24178
attained such a degree. 24179

(2) After July 1, 2010, no preschool program, and no early 24180

childhood education program or early learning program as defined 24181
by the department of education, shall receive any funds from the 24182
state unless fifty per cent of the staff members employed by the 24183
program as teachers have attained a bachelor's degree of a type 24184
approved by the department. 24185

Sec. 3301.32. (A)(1) The chief administrator of any head 24186
start agency shall request the superintendent of the bureau of 24187
criminal identification and investigation to conduct a criminal 24188
records check with respect to any applicant who has applied to the 24189
head start agency for employment as a person responsible for the 24190
care, custody, or control of a child. If the applicant does not 24191
present proof that the applicant has been a resident of this state 24192
for the five-year period immediately prior to the date upon which 24193
the criminal records check is requested or does not provide 24194
evidence that within that five-year period the superintendent has 24195
requested information about the applicant from the federal bureau 24196
of investigation in a criminal records check, the chief 24197
administrator shall request that the superintendent obtain 24198
information from the federal bureau of investigation as a part of 24199
the criminal records check for the applicant. If the applicant 24200
presents proof that the applicant has been a resident of this 24201
state for that five-year period, the chief administrator may 24202
request that the superintendent include information from the 24203
federal bureau of investigation in the criminal records check. 24204

(2) Any person required by division (A)(1) of this section to 24205
request a criminal records check shall provide to each applicant a 24206
copy of the form prescribed pursuant to division (C)(1) of section 24207
109.572 of the Revised Code, provide to each applicant a standard 24208
impression sheet to obtain fingerprint impressions prescribed 24209
pursuant to division (C)(2) of section 109.572 of the Revised 24210
Code, obtain the completed form and impression sheet from each 24211
applicant, and forward the completed form and impression sheet to 24212

the superintendent of the bureau of criminal identification and 24213
investigation at the time the chief administrator requests a 24214
criminal records check pursuant to division (A)(1) of this 24215
section. 24216

(3) Any applicant who receives pursuant to division (A)(2) of 24217
this section a copy of the form prescribed pursuant to division 24218
(C)(1) of section 109.572 of the Revised Code and a copy of an 24219
impression sheet prescribed pursuant to division (C)(2) of that 24220
section and who is requested to complete the form and provide a 24221
set of fingerprint impressions shall complete the form or provide 24222
all the information necessary to complete the form and shall 24223
provide the impression sheets with the impressions of the 24224
applicant's fingerprints. If an applicant, upon request, fails to 24225
provide the information necessary to complete the form or fails to 24226
provide impressions of the applicant's fingerprints, the head 24227
start agency shall not employ that applicant for any position for 24228
which a criminal records check is required by division (A)(1) of 24229
this section. 24230

(B)(1) Except as provided in rules adopted by the director of 24231
job and family services in accordance with division (E) of this 24232
section, no head start agency shall employ a person as a person 24233
responsible for the care, custody, or control of a child if the 24234
person previously has been convicted of or pleaded guilty to any 24235
of the following: 24236

(a) A violation of section 2903.01, 2903.02, 2903.03, 24237
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 24238
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 24239
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 24240
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 24241
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 24242
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 24243
2925.06, or 3716.11 of the Revised Code, a violation of section 24244

2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation occurred prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

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

(2) A head start agency may employ an applicant conditionally until the criminal records check required by this section is completed and the agency receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the agency shall release the applicant from employment.

(C)(1) Each head start agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of the chief administrator of the head start agency.

(2) A head start agency may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount of fees the agency pays under division (C)(1) of this section. If a fee is charged under this division, the agency shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that,

unless the fee is paid, the head start agency will not consider 24277
the applicant for employment. 24278

(D) The report of any criminal records check conducted by the 24279
bureau of criminal identification and investigation in accordance 24280
with section 109.572 of the Revised Code and pursuant to a request 24281
made under division (A)(1) of this section is not a public record 24282
for the purposes of section 149.43 of the Revised Code and shall 24283
not be made available to any person other than the applicant who 24284
is the subject of the criminal records check or the applicant's 24285
representative, the head start agency requesting the criminal 24286
records check or its representative, and any court, hearing 24287
officer, or other necessary individual involved in a case dealing 24288
with the denial of employment to the applicant. 24289

(E) The director of job and family services shall adopt rules 24290
pursuant to Chapter 119. of the Revised Code to implement this 24291
section, including rules specifying circumstances under which a 24292
head start agency may hire a person who has been convicted of an 24293
offense listed in division (B)(1) of this section but who meets 24294
standards in regard to rehabilitation set by the director. 24295

(F) Any person required by division (A)(1) of this section to 24296
request a criminal records check shall inform each person, at the 24297
time of the person's initial application for employment, that the 24298
person is required to provide a set of impressions of the person's 24299
fingerprints and that a criminal records check is required to be 24300
conducted and satisfactorily completed in accordance with section 24301
109.572 of the Revised Code if the person comes under final 24302
consideration for appointment or employment as a precondition to 24303
employment for that position. 24304

(G) As used in this section: 24305

(1) "Applicant" means a person who is under final 24306
consideration for appointment or employment in a position with a 24307

head start agency as a person responsible for the care, custody,
or control of a child.

(2) "Head start agency" ~~has the same meaning as in section~~
~~3301.31 of the Revised Code~~ means an entity in this state that has
been approved to be an agency for purposes of the "Head Start
Act," 95 State 489 (1981), 42 U.S.C. 9831, as amended.

(3) "Criminal records check" has the same meaning as in
section 109.572 of the Revised Code.

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

Sec. 3301.56. (A) The director of each preschool program
shall be responsible for the following:

(1) Ensuring that the health and safety of the children are
safeguarded by an organized program of school health services
designed to identify child health problems and to coordinate
school and community health resources for children, as evidenced
by but not limited to:

(a) Requiring immunization and compliance with emergency
medical authorization requirements in accordance with rules
adopted by the state board of education under section 3301.53 of
the Revised Code;

(b) Providing procedures for emergency situations, including
fire drills, rapid dismissals, and tornado drills in accordance
with section 3737.73 of the Revised Code, and keeping records of
such drills or dismissals;

(c) Posting emergency procedures in preschool rooms and
making them available to school personnel, children, and parents;

(d) Posting emergency numbers by each telephone;

(e) Supervising grounds, play areas, and other facilities

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| when scheduled for use by children; | 24337 |
| (f) Providing first-aid facilities and materials. | 24338 |
| (2) Maintaining cumulative records for each child; | 24339 |
| (3) Supervising each child's admission, placement, and withdrawal according to established procedures; | 24340 24341 |
| (4) Preparing at least once annually for each group of children in the program a roster of names and telephone numbers of parents, guardians, and custodians of children in the group and, on request, furnishing the roster for each group to the parents, guardians, and custodians of children in that group. The director may prepare a similar roster of all children in the program and, on request, make it available to the parents, guardians, and custodians, of children in the program. The director shall not include in either roster the name or telephone number of any parent, guardian, or custodian who requests that the parent's, guardian's, or custodian's name or number not be included, and shall not furnish any roster to any person other than a parent, guardian, or custodian of a child in the program. | 24342 24343 24344 24345 24346 24347 24348 24349 24350 24351 24352 24353 24354 |
| (5) Ensuring that clerical and custodial services are provided for the program; | 24355 24356 |
| (6) Supervising the instructional program and the daily operation of the program; | 24357 24358 |
| (7) Supervising and evaluating preschool staff members according to a planned sequence of observations and evaluation conferences, and supervising nonteaching employees. | 24359 24360 24361 |
| (B)(1) In each program the maximum number of children per preschool staff member and the maximum group size by age category of children shall be as follows: | 24362 24363 24364 |
| Maximum | 24365 |
| Group Staff Member/ | 24366 |

| Age Group | Size | Child Ratio | |
|----------------------------------|------|-----------------|-------|
| Birth to less than 12 months | 12 | 1:5, or 2:12 if | 24367 |
| | | two preschool | 24368 |
| | | staff members | 24369 |
| | | are in the room | 24370 |
| 12 months to less than 18 months | 12 | 1:6 | 24371 |
| 18 months to less than 30 months | 14 | 1:7 | 24372 |
| 30 months to less than 3 years | 16 | 1:8 | 24373 |
| 3-year-olds | 24 | 1:12 | 24374 |
| 4- and 5-year-olds not in school | 28 | 1:14 | 24375 |

(2) When age groups are combined, the maximum number of children per preschool staff member shall be determined by the age of the youngest child in the group, except that when no more than one child thirty months of age or older receives child care in a group in which all the other children are in the next older age group, the maximum number of children per child-care staff member and maximum group size requirements of the older age group established under division (B)(1) of this section shall apply.

(3) In a room where children are napping, if all the children are at least eighteen months of age, the maximum number of children per preschool staff member shall, for a period not to exceed one and one-half hours in any twenty-four hour day, be twice the maximum number of children per preschool staff member established under division (B)(1) of this section if all the following criteria are met:

(a) At least one preschool staff member is present in the room;

(b) Sufficient preschool staff members are present on the preschool program premises to comply with division (B)(1) of this section;

(c) Naptime preparations have been completed and the children are resting or napping.

(4) Any accredited program that uses the Montessori method 24399
endorsed by the American Montessori society or the association 24400
Montessori internationale as its primary method of instruction and 24401
is licensed as a preschool program under section 3301.58 of the 24402
Revised Code may combine preschool children of ages three to five 24403
years old with children enrolled in kindergarten. Notwithstanding 24404
anything to the contrary in division (B)(2) of this section, when 24405
such age groups are combined, the maximum number of children per 24406
preschool staff member shall be twelve and the maximum group size 24407
shall be twenty-four children. 24408

(C) In each building in which a preschool program is operated 24409
there shall be on the premises, and readily available at all 24410
times, at least one employee who has completed a course in first 24411
aid and in the prevention, recognition, and management of 24412
communicable diseases which is approved by the state department of 24413
health, and an employee who has completed a course in child abuse 24414
recognition and prevention. 24415

(D) Any parent, guardian, or custodian of a child enrolled in 24416
a preschool program shall be permitted unlimited access to the 24417
school during its hours of operation to contact the parent's, 24418
guardian's, or custodian's child, evaluate the care provided by 24419
the program, or evaluate the premises, or for other purposes 24420
approved by the director. Upon entering the premises, the parent, 24421
guardian, or custodian shall report to the school office. 24422

Sec. 3301.86. ~~The OhioReads~~ classroom reading improvement 24423
grants program is hereby established. ~~The OhioReads council shall~~ 24424
~~award grants under the program in accordance with the standards it~~ 24425
~~establishes under section 3301.91 of the Revised Code. The~~ 24426
~~OhioReads office is the fiscal agent for the program and shall pay~~ 24427
~~the grants awarded by the council~~ Under the program, the 24428
department of education shall award reading intervention grants to 24429

public schools and classrooms operated by city, local, and 24430
exempted village school districts, by community schools, and by 24431
educational service centers. The grants shall be used to fund the 24432
engagement of volunteers to assist struggling students in grades 24433
kindergarten through twelve improve their reading skills, to 24434
improve reading outcomes in low-performing schools, and to 24435
facilitate closing the achievement gap between students of 24436
different subgroups. 24437

Sec. 3301.88. (A) A recipient of a grant under section 24438
3301.86 ~~or 3301.87~~ of the Revised Code ~~or an entity approved by~~ 24439
~~the OhioReads council~~ may request from the bureau of criminal 24440
identification and investigation a criminal records check on any 24441
individual, other than an individual described in division (B) of 24442
this section, who applies to participate in providing directly to 24443
children any program or service ~~through an entity approved by the~~ 24444
~~OhioReads council or~~ funded in whole or in part by the grant. If a 24445
recipient ~~or an entity approved by the OhioReads council~~ elects to 24446
request a criminal records check, the request shall consist of a 24447
request for the information a school district board of education 24448
may request under division (F)(2)(a) of section 109.57 of the 24449
Revised Code and shall be accompanied by one of the following 24450
identification options: 24451

(1) The form and standard impression sheet prescribed by the 24452
bureau under division (C) of section 109.572 of the Revised Code; 24453

(2) A form prescribed by the bureau on which is specified the 24454
individual's name, social security number, and date of birth. 24455

(B) A grant recipient ~~or an entity approved by the OhioReads~~ 24456
~~council~~ shall not request a criminal records check under division 24457
(A) of this section with respect to any individual who furnishes 24458
the grant recipient ~~or an entity approved by the OhioReads council~~ 24459
with a certified copy of a report of a criminal records check 24460

completed by the bureau within one year prior to applying to 24461
participate in providing programs or services ~~through an entity~~ 24462
~~approved by the OhioReads council or~~ under an OhioReads the grant. 24463

(C) Except as provided in rules adopted under division (G)(2) 24464
of this section, a grant recipient ~~or an entity approved by the~~ 24465
~~OhioReads council~~ shall not allow an individual to participate in 24466
providing directly to children any program or service ~~through an~~ 24467
~~entity approved by the OhioReads council or~~ funded in whole or in 24468
part by the grant if the information requested under this section 24469
from the bureau indicates that the individual has ever pleaded 24470
guilty to or been found guilty by a jury or court of any of the 24471
following: 24472

(1) A felony; 24473

(2) A violation of section 2903.16, 2903.34, 2905.05, 24474
2907.04, 2907.06, 2907.07, 2907.08, 2907.09, 2907.23, 2907.25, 24475
2907.31, 2919.12, 2919.22, 2919.24, 2925.04, or 3716.11 of the 24476
Revised Code; a violation of section 2905.04 of the Revised Code 24477
as it existed prior to July 1, 1996; or a violation of section 24478
2919.23 of the Revised Code that would have been a violation of 24479
section 2905.04 of the Revised Code as it existed prior to July 1, 24480
1996, had it been committed prior to that date; 24481

(3) An offense of violence; 24482

(4) A theft offense, as defined in section 2913.01 of the 24483
Revised Code; 24484

(5) A drug abuse offense, as defined in section 2925.01 of 24485
the Revised Code; 24486

(6) A violation of an existing or former ordinance of a 24487
municipal corporation or law of the United States or another state 24488
that is substantively comparable to an offense listed in divisions 24489
(C)(1) to (5) of this section. 24490

(D) A grant recipient ~~or an entity approved by the OhioReads~~ 24491
~~council~~ that elects to request criminal records checks may 24492
conditionally allow an individual to participate in providing 24493
programs or services directly to children until the criminal 24494
records check is completed and the grant recipient ~~or an entity~~ 24495
~~approved by the OhioReads council~~ receives the results. If the 24496
results of the criminal records check indicate that the individual 24497
has been convicted of or pleaded guilty to an offense listed in 24498
division (C) of this section, the grant recipient ~~or an entity~~ 24499
~~approved by the OhioReads council~~ shall not allow the individual 24500
to further participate in providing directly to children any 24501
program or service ~~through an entity approved by the OhioReads~~ 24502
~~council~~ ~~or~~ funded in whole or in part by the grant, except as 24503
provided in the rules adopted under division (G)(2) of this 24504
section. 24505

(E) The report of any criminal records check conducted in 24506
accordance with division (F)(5) of section 109.57 of the Revised 24507
Code pursuant to a request under this section is not a public 24508
record for purposes of section 149.43 of the Revised Code. The 24509
report shall not be made available to any person other than the 24510
individual who is the subject of the criminal records check or the 24511
individual's representative, the grant recipient or the grant 24512
recipient's representative ~~or an entity approved by the OhioReads~~ 24513
~~council~~, and any court, hearing officer, or other necessary 24514
individual in a case dealing with the denial of the individual's 24515
participation in a program or service ~~through an entity approved~~ 24516
~~by the OhioReads council~~ ~~or~~ funded by an OhioReads a grant awarded 24517
under section 3301.86 of the Revised Code. 24518

(F) The ~~OhioReads office~~ department of education shall 24519
reimburse each grant recipient ~~or an entity approved by the~~ 24520
~~OhioReads council~~ for each criminal records check the actual 24521
amount paid by the grant recipient ~~or an entity approved by the~~ 24522

~~OhioReads council~~ for the portion of the criminal records check 24523
conducted by the bureau of criminal identification and 24524
investigation. Reimbursement shall be paid under this division 24525
only for criminal records checks on individuals who apply to 24526
participate in providing directly to children any program or 24527
service ~~through an entity approved by the OhioReads council or~~ 24528
funded in whole or in part by the grant. To receive it, the grant 24529
recipient ~~or an entity approved by the OhioReads council~~ must 24530
submit information to the ~~office~~ department in the form and manner 24531
required by the ~~office~~ department. The reimbursement is in 24532
addition to the grant awarded to the recipient under section 24533
3301.86 ~~or 3301.87~~ of the Revised Code. 24534

(G) The ~~department~~ state board of education shall adopt rules 24535
in accordance with Chapter 119. of the Revised Code: 24536

(1) Prescribing the form and manner in which grant recipients 24537
~~or an entity approved by the OhioReads council~~ must submit 24538
information to the ~~OhioReads office~~ department to receive 24539
reimbursement under division (F) of this section; 24540

(2) Specifying circumstances under which a grant recipient ~~or~~ 24541
~~an entity approved by the OhioReads council~~ may allow an 24542
individual whose criminal records check report indicates that the 24543
individual has been convicted of or pleaded guilty to an offense 24544
listed in division (C) of this section, but who meets standards in 24545
regard to rehabilitation set forth in the rules, to participate in 24546
providing directly to children any program or service ~~through an~~ 24547
~~entity approved by the OhioReads council or~~ funded in whole or in 24548
part by the grant. 24549

Sec. 3302.03. (A) Annually the department of education shall 24550
report for each school district and each school building in a 24551
district all of the following: 24552

(1) The extent to which the school district or building meets 24553

each of the applicable performance indicators created by the state board of education under section 3302.02 of the Revised Code and the number of applicable performance indicators that have been achieved;

(2) The performance index score of the school district or building;

(3) Whether the school district or building has made adequate yearly progress;

(4) Whether the school district or building is excellent, effective, needs continuous improvement, is under an academic watch, or is in a state of academic emergency.

(B)~~(1)~~ Except as otherwise provided in division (B)(6) of this section:

(1) A school district or building shall be declared excellent if it fulfills one of the following requirements:

(a) It makes adequate yearly progress and either meets at least ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department.

(b) It has failed to make adequate yearly progress for not more than two consecutive years and either meets at least ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department.

(2) A school district or building shall be declared effective if it fulfills one of the following requirements:

(a) It makes adequate yearly progress and either meets at least seventy-five per cent but less than ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department.

(b) It does not make adequate yearly progress and either 24584
meets at least seventy-five per cent of the applicable state 24585
performance indicators or has a performance index score 24586
established by the department, except that if it does not make 24587
adequate yearly progress for three consecutive years, it shall be 24588
declared in need of continuous improvement. 24589

(3) A school district or building shall be declared to be in 24590
need of continuous improvement if it fulfills one of the following 24591
requirements: 24592

(a) It makes adequate yearly progress, meets less than 24593
seventy-five per cent of the applicable state performance 24594
indicators, and has a performance index score established by the 24595
department. 24596

(b) It does not make adequate yearly progress and either 24597
meets at least fifty per cent but less than seventy-five per cent 24598
of the applicable state performance indicators or has a 24599
performance index score established by the department. 24600

(4) A school district or building shall be declared to be 24601
under an academic watch if it does not make adequate yearly 24602
progress and either meets at least thirty-one per cent but less 24603
than fifty per cent of the applicable state performance indicators 24604
or has a performance index score established by the department. 24605

(5) A school district or building shall be declared to be in 24606
a state of academic emergency if it does not make adequate yearly 24607
progress, does not meet at least thirty-one per cent of the 24608
applicable state performance indicators, and has a performance 24609
index score established by the department. 24610

(6) When designating performance ratings for school districts 24611
and buildings under divisions (B)(1) to (5) of this section, the 24612
department shall not assign a school district or building a lower 24613
designation from its previous year's designation based solely on 24614

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| <u>one subgroup not making adequate yearly progress.</u> | 24615 |
| (C)(1) The department shall issue annual report cards for each school district, each building within each district, and for the state as a whole reflecting performance on the indicators created by the state board under section 3302.02 of the Revised Code, the performance index score, and adequate yearly progress. | 24616 24617 24618 24619 24620 |
| (2) The department shall include on the report card for each district information pertaining to any change from the previous year made by the school district or school buildings within the district on any performance indicator. | 24621 24622 24623 24624 |
| (3) When reporting data on student performance, the department shall disaggregate that data according to the following categories: | 24625 24626 24627 |
| (a) Performance of students by age group; | 24628 |
| (b) Performance of students by race and ethnic group; | 24629 |
| (c) Performance of students by gender; | 24630 |
| (d) Performance of students grouped by those who have been enrolled in a district or school for three or more years; | 24631 24632 |
| (e) Performance of students grouped by those who have been enrolled in a district or school for more than one year and less than three years; | 24633 24634 24635 |
| (f) Performance of students grouped by those who have been enrolled in a district or school for one year or less; | 24636 24637 |
| (g) Performance of students grouped by those who are economically disadvantaged; | 24638 24639 |
| (h) Performance of students grouped by those who are enrolled in a conversion community school established under Chapter 3314. of the Revised Code; | 24640 24641 24642 |
| (i) Performance of students grouped by those who are | 24643 |

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| classified as limited English proficient; | 24644 |
| (j) Performance of students grouped by those who have disabilities; | 24645 24646 |
| (k) Performance of students grouped by those who are classified as migrants; | 24647 24648 |
| (l) Performance of students grouped by those who are identified as gifted pursuant to Chapter 3324. of the Revised Code. | 24649 24650 24651 |
| The department may disaggregate data on student performance according to other categories that the department determines are appropriate. To the extent possible, the department shall disaggregate data on student performance according to any combinations of two or more of the categories listed in divisions (C)(3)(a) to (l) of this section that it deems relevant. | 24652 24653 24654 24655 24656 24657 |
| In reporting data pursuant to division (C)(3) of this section, the department shall not include in the report cards any data statistical in nature that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report student performance data for any group identified in division (C)(3) of this section that contains less than ten students. | 24658 24659 24660 24661 24662 24663 24664 |
| (4) The department may include with the report cards any additional education and fiscal performance data it deems valuable. | 24665 24666 24667 |
| (5) The department shall include on each report card a list of additional information collected by the department that is available regarding the district or building for which the report card is issued. When available, such additional information shall include student mobility data disaggregated by race and socioeconomic status, college enrollment data, and the reports prepared under section 3302.031 of the Revised Code. | 24668 24669 24670 24671 24672 24673 24674 |

The department shall maintain a site on the world wide web. 24675
The report card shall include the address of the site and shall 24676
specify that such additional information is available to the 24677
public at that site. The department shall also provide a copy of 24678
each item on the list to the superintendent of each school 24679
district. The district superintendent shall provide a copy of any 24680
item on the list to anyone who requests it. 24681

(6) ~~For~~ This division does not apply to conversion community 24682
schools that primarily enroll students between sixteen and 24683
twenty-two years of age who dropped out of high school or are at 24684
risk of dropping out of high school due to poor attendance, 24685
disciplinary problems, or suspensions. 24686

For any district that sponsors a conversion community school 24687
under Chapter 3314. of the Revised Code, the department shall 24688
combine data regarding the academic performance of students 24689
enrolled in the community school with comparable data from the 24690
schools of the district for the purpose of calculating the 24691
performance of the district as a whole on the report card issued 24692
for the district. 24693

(7) The department shall include on each report card the 24694
percentage of teachers in the district or building who are highly 24695
qualified, as defined by the "No Child Left Behind Act of 2001," 24696
and a comparison of that percentage with the percentages of such 24697
teachers in similar districts and buildings. 24698

(8) The department shall include on the report card the 24699
number of master teachers employed by each district and each 24700
building once the data is available from the education management 24701
information system established under section 3301.0714 of the 24702
Revised Code. 24703

(D)(1) In calculating reading, writing, mathematics, social 24704
studies, or science proficiency or achievement test passage rates 24705

used to determine school district or building performance under 24706
this section, the department shall include all students taking a 24707
test with accommodation or to whom an alternate assessment is 24708
administered pursuant to division (C)(1) or (3) of section 24709
3301.0711 of the Revised Code. 24710

(2) In calculating performance index scores, rates of 24711
achievement on the performance indicators established by the state 24712
board under section 3302.02 of the Revised Code, and adequate 24713
yearly progress for school districts and buildings under this 24714
section, the department shall do all of the following: 24715

(a) Include for each district or building only those students 24716
who are included in the ADM certified for the first full school 24717
week of October and are continuously enrolled in the district or 24718
building through the time of the spring administration of any test 24719
prescribed by section 3301.0710 of the Revised Code that is 24720
administered to the student's grade level; 24721

(b) Include cumulative totals from both the fall and spring 24722
administrations of the third grade reading achievement test; 24723

(c) Except as required by the "No Child Left Behind Act of 24724
2001" for the calculation of adequate yearly progress, exclude for 24725
each district or building any limited English proficient student 24726
who has been enrolled in United States schools for less than one 24727
full school year. 24728

Sec. 3302.10. (A) Beginning July 1, 2007, the superintendent 24729
of public instruction shall establish an academic distress 24730
commission for each school district that has been declared to be 24731
in a state of academic emergency pursuant to section 3302.03 of 24732
the Revised Code and has failed to make adequate yearly progress 24733
for four or more consecutive school years. Each commission shall 24734
assist the district for which it was established in improving the 24735
district's academic performance. 24736

(B) Each academic distress commission shall consist of five voting members, three of whom shall be appointed by the superintendent of public instruction and two of whom shall be appointed by the president of the board of education of the applicable school district. 24737
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(C) Each academic distress commission shall seek input from the district board of education regarding ways to improve the district's academic performance, but any decision of the commission related to any authority granted to the commission under this section shall be final. 24742
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The commission may do any of the following: 24747

(1) Appoint school building administrators and reassign administrative personnel; 24748
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(2) Terminate the contracts of administrators or administrative personnel. The commission shall not be required to comply with section 3319.16 of the Revised Code with respect to any contract terminated under this division. 24750
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(3) Contract with a private entity to perform school or district management functions; 24754
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(4) Establish a budget for the district and approve district expenditures, unless a financial planning and supervision commission has been established for the district pursuant to section 3316.05 of the Revised Code. 24756
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(D) If the board of education of a district for which an academic distress commission has been established under this section renews any collective bargaining agreement under Chapter 4117. of the Revised Code during the existence of the commission, the district board shall not enter into any agreement that would render any decision of the commission unenforceable. Section 3302.08 of the Revised Code does not apply to this division. 24760
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Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, if the board of education has entered into a collective bargaining agreement after the effective date of this section that contains stipulations relinquishing one or more of the rights or responsibilities listed in division (C) of section 4117.08 of the Revised Code, those stipulations are not enforceable and the district board shall resume holding those rights or responsibilities as if it had not relinquished them in that agreement until such time as both the academic distress commission ceases to exist and the district board agrees to relinquish those rights or responsibilities in a new collective bargaining agreement. The provisions of this paragraph apply to a collective bargaining agreement entered into after the effective date of this section and those provisions are deemed to be part of that agreement regardless of whether the district satisfied the conditions prescribed in division (A) of this section at the time the district entered into that agreement. 24767
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(E) An academic distress commission shall cease to exist when the district for which it was established receives a performance rating under section 3302.03 of the Revised Code of in need of continuous improvement or better for two out of three school years; however, the superintendent of public instruction may dissolve the commission earlier if the superintendent determines that the district can perform adequately without the supervision of the commission. 24784
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Sec. 3310.01. As used in sections 3310.01 to 3310.17 of the Revised Code: 24792
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(A) "Chartered nonpublic school" means a nonpublic school that holds a valid charter issued by the state board of education under section 3301.16 of the Revised Code and meets the standards established for such schools in rules adopted by the state board. 24794
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(B) An "eligible student" is a student who satisfies the conditions specified in section 3310.03 of the Revised Code. 24798
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(C) "Parent" has the same meaning as in section 3313.98 of the Revised Code. 24800
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(D) "Resident district" means the school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. 24802
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(E) "School year" has the same meaning as in section 3313.62 of the Revised Code. 24805
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Sec. 3310.02. The educational choice scholarship pilot program is hereby established. Under the program, the department of education annually shall pay scholarships to attend chartered nonpublic schools in accordance with section 3310.08 of the Revised Code for up to the number of eligible students prescribed by the general assembly. If the number of students who apply for a scholarship exceeds the number prescribed by the general assembly, the department first shall award scholarships to eligible students who received scholarships in the prior school year, and then shall give priority to eligible students with family incomes at or below two hundred per cent of the federal poverty guidelines, as defined in section 5101.46 of the Revised Code. After awarding scholarships to previous recipients and to low-income eligible students, the department shall select students by lot to receive any remaining scholarships. 24807
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Sec. 3310.03. (A) A student is an "eligible student" for purposes of the educational choice scholarship pilot program if the student satisfies both of the following conditions: 24822
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24824

(1) The student either: 24825

(a) Is enrolled in a school building that is operated by the student's resident district and that the department of education 24826
24827

declared, in the most recent rating of school buildings published 24828
prior to the first day of July of the school year for which a 24829
scholarship is sought and in the two preceding school years, to be 24830
in a state of academic emergency under section 3302.03 of the 24831
Revised Code; 24832

(b) Is eligible to enroll in kindergarten in the school year 24833
for which a scholarship is sought and otherwise would be assigned 24834
under section 3319.01 of the Revised Code to a school building 24835
described in division (A)(1)(a) of this section; 24836

(c) Is enrolled in a community school established under 24837
Chapter 3314. of the Revised Code but otherwise would be assigned 24838
under section 3319.01 of the Revised Code to a building described 24839
in division (A)(1)(a) of this section. 24840

(2) The student's resident district is not a school district 24841
in which the pilot project scholarship program is operating under 24842
sections 3313.974 to 3313.979 of the Revised Code. 24843

(B) A student who receives a scholarship under the 24844
educational choice scholarship pilot program remains an eligible 24845
student and may continue to receive scholarships in subsequent 24846
school years until the student completes grade twelve, so long as 24847
all of the following apply: 24848

(1) The student's resident district remains the same; 24849

(2) The student takes each state test prescribed for the 24850
student's grade level under section 3301.0710 or 3301.0712 of the 24851
Revised Code while enrolled in a chartered nonpublic school; 24852

(3) In each school year that the student is enrolled in a 24853
chartered nonpublic school, the student is absent from school for 24854
not more than twenty days that the school is open for instruction, 24855
not including absences due to illness or injury confirmed in 24856
writing by a physician. 24857

(C) The superintendent shall cease awarding first-time 24858
scholarships with respect to a school building that, in the most 24859
recent ratings of school buildings published under section 3302.03 24860
of the Revised Code prior to the first day of July of the school 24861
year, ceases to be in a state of academic emergency. However, 24862
students who have received scholarships in the prior school year 24863
remain eligible students pursuant to division (B) of this section. 24864

Sec. 3310.04. Any eligible student who is enrolled in a 24865
chartered nonpublic school and for whom a scholarship under the 24866
educational choice scholarship pilot program has been awarded 24867
shall be entitled to transportation to and from the chartered 24868
nonpublic school by the student's resident district in the manner 24869
prescribed in section 3327.01 of the Revised Code. 24870

Sec. 3310.05. A scholarship under the educational choice 24871
scholarship pilot program is not available for any student whose 24872
resident district is a school district in which the pilot project 24873
scholarship program is operating under sections 3313.974 to 24874
3313.979 of the Revised Code. The two pilot programs are separate 24875
and distinct. The general assembly has prescribed separate 24876
scholarship amounts for the two pilot programs in recognition of 24877
their differing eligibility criteria. The pilot project 24878
scholarship program operating under sections 3313.974 to 3313.979 24879
of the Revised Code is a district-wide program that may award 24880
scholarships to students who do not attend district schools that 24881
face academic challenges, whereas the educational choice 24882
scholarship pilot program established under sections 3310.01 to 24883
3310.17 of the Revised Code is limited to students of individual 24884
district school buildings that face academic challenges. 24885

Sec. 3310.06. It is the policy adopted by the general 24886
assembly that the educational choice scholarship pilot program 24887

shall be construed as one of several educational options available 24888
for students enrolled in academic emergency school buildings. 24889
Students may be enrolled in the schools of the student's resident 24890
district, in a community school established under Chapter 3314. of 24891
the Revised Code, in the schools of another school district 24892
pursuant to an open enrollment policy adopted under section 24893
3313.98 of the Revised Code, in a chartered nonpublic school with 24894
or without a scholarship under the educational choice scholarship 24895
pilot program, or in other schools as the law may provide. 24896

Sec. 3310.07. Any parent, or any student who is at least 24897
eighteen years of age, who is seeking a scholarship under the 24898
educational choice scholarship pilot program shall notify the 24899
department of education of the student's and parent's names and 24900
address, the chartered nonpublic school in which the student has 24901
been accepted for enrollment, and the tuition charged by the 24902
school. 24903

Sec. 3310.08. (A) The amount paid for an eligible student 24904
under the educational choice scholarship pilot program shall be 24905
the lesser of the tuition of the chartered nonpublic school in 24906
which the student is enrolled or the maximum amount prescribed in 24907
section 3310.09 of the Revised Code. 24908

(B)(1) The department shall pay to the parent of each 24909
eligible student for whom a scholarship is awarded under the 24910
program, or to the student if at least eighteen years of age, 24911
periodic partial payments of the scholarship. 24912

(2) The department shall proportionately reduce or terminate 24913
the payments for any student who withdraws from a chartered 24914
nonpublic school prior to the end of the school year. 24915

(C)(1) The department shall deduct from the payments made to 24916
each school district under Chapter 3317. and, if necessary, 24917

sections 321.24 and 323.156 of the Revised Code the amount of five 24918
thousand two hundred dollars for each eligible student awarded a 24919
scholarship under the educational choice scholarship pilot program 24920
who is entitled under section 3313.64 or 3313.65 of the Revised 24921
Code to attend school in the district. The amount deducted under 24922
this division funds scholarships for students under both the 24923
educational choice scholarship pilot program and the pilot project 24924
scholarship program under sections 3313.974 to 3313.979 of the 24925
Revised Code. 24926

(2) If the department reduces or terminates payments to a 24927
parent or a student, as prescribed in division (B)(2) of this 24928
section, and the student re-enrolls in the schools of the 24929
student's resident district before the end of the school year, the 24930
department shall proportionally restore to the resident district 24931
the amount deducted for that student under division (C)(1) of this 24932
section. 24933

(D) In the case of any school district from which a deduction 24934
is made under division (C) of this section, the department shall 24935
disclose on the district's SF-3 form, or any successor to that 24936
form used to calculate a district's state funding for operating 24937
expenses, a comparison of the following: 24938

(1) The district's state base-cost payment, as calculated 24939
under division (A)(1) of section 3317.022 of the Revised Code 24940
prior to making the adjustments under divisions (A)(2) and (3) of 24941
that section, with the scholarship students included in the 24942
district's formula ADM; 24943

(2) What the district's state base-cost payment would have 24944
been, as calculated under division (A)(1) of that section prior to 24945
making the adjustments under divisions (A)(2) and (3) of that 24946
section, if the scholarship students were not included in the 24947
district's formula ADM. 24948

This comparison shall display both the aggregate difference between the amounts described in divisions (D)(1) and (2) of this section, and the quotient of that aggregate difference divided by the number of eligible students for whom deductions are made under division (C) of this section.

Sec. 3310.09. (A) The maximum amount awarded to an eligible student in fiscal year 2007 under the educational choice scholarship pilot program shall be as follows:

(1) For grades kindergarten through eight, four thousand two hundred fifty dollars;

(2) For grades nine through twelve, five thousand dollars.

(B) In fiscal year 2008 and in each fiscal year thereafter, the maximum amount awarded under the program shall be the applicable maximum amount awarded in the previous fiscal year increased by the same percentage by which the general assembly increased the formula amount, as defined in section 3317.02 of the Revised Code, from the previous fiscal year.

Sec. 3310.10. A scholarship awarded under section 3310.08 of the Revised Code may be used only to pay tuition to any chartered nonpublic school.

Sec. 3310.13. (A) No chartered nonpublic school shall charge any student whose family income is at or below two hundred per cent of the federal poverty guidelines, as defined in section 5101.46 of the Revised Code, a tuition fee that is greater than the total amount paid for that student under section 3310.08 of the Revised Code.

(B) A chartered nonpublic school may charge any other student who is paid a scholarship under that section the difference

between the amount of the scholarship and the regular tuition 24978
charge of the school. Each chartered nonpublic school shall permit 24979
such an eligible student's family, at the family's option, to 24980
provide volunteer services in lieu of cash payment to pay all or 24981
part of the amount of the school's tuition not covered by the 24982
scholarship paid under section 3310.08 of the Revised Code. 24983

Sec. 3310.14. Notwithstanding division (K) of section 24984
3301.0711 of the Revised Code, each chartered nonpublic school 24985
that enrolls students awarded scholarships under sections 3310.01 24986
to 3310.17 of the Revised Code annually shall administer the tests 24987
prescribed by section 3301.0710 or 3301.0712 of the Revised Code 24988
to each scholarship student in accordance with section 3301.0711 24989
of the Revised Code. Each chartered nonpublic school shall report 24990
to the department of education the results of each test 24991
administered to each scholarship student under this section. 24992

Nothing in this section requires a chartered nonpublic school 24993
to administer any achievement test, except for an Ohio graduation 24994
test prescribed by division (B) of section 3301.0710 of the 24995
Revised Code, as required by section 3313.612 of the Revised Code, 24996
to any student enrolled in the school who is not a scholarship 24997
student. 24998

Sec. 3310.16. (A) The state board of education shall adopt 24999
rules in accordance with Chapter 119. of the Revised Code 25000
prescribing procedures for the administration of the educational 25001
choice scholarship pilot program. 25002

(B) The state board and the department of education shall not 25003
require chartered nonpublic schools to comply with any education 25004
laws or rules or other requirements that are not specified in 25005
sections 3310.01 to 3310.17 of the Revised Code and that otherwise 25006
would not apply to a chartered nonpublic school. 25007

Sec. 3310.17. The general assembly shall prescribe the number 25008
of students that may be selected each fiscal year for scholarships 25009
under the educational choice scholarship pilot program. 25010

Sec. 3311.11. If the state board of education adopts a 25011
resolution under this chapter proposing the creation of a new city 25012
or local school district that was not in operation during the 25013
2004-2005 school year, the district shall not be created unless 25014
both houses of the general assembly approve the creation of the 25015
district through passage of a concurrent resolution. 25016

Sec. 3311.19. (A) The management and control of a joint 25017
vocational school district shall be vested in the joint vocational 25018
school district board of education. Where a joint vocational 25019
school district is composed only of two or more local school 25020
districts located in one county, or when all the participating 25021
districts are in one county and the boards of such participating 25022
districts so choose, the educational service center governing 25023
board of the county in which the joint vocational school district 25024
is located shall serve as the joint vocational school district 25025
board of education. Where a joint vocational school district is 25026
composed of local school districts of more than one county, or of 25027
any combination of city, local, or exempted village school 25028
districts or educational service centers, unless administration by 25029
the educational service center governing board has been chosen by 25030
all the participating districts in one county pursuant to this 25031
section, the board of education of the joint vocational school 25032
district shall be composed of one or more persons who are members 25033
of the boards of education from each of the city or exempted 25034
village school districts or members of the educational service 25035
centers' governing boards affected to be appointed by the boards 25036
of education or governing boards of such school districts and 25037

educational service centers. In such joint vocational school 25038
districts the number and terms of members of the joint vocational 25039
school district board of education and the allocation of a given 25040
number of members to each of the city and exempted village 25041
districts and educational service centers shall be determined in 25042
the plan for such district, provided that each such joint 25043
vocational school district board of education shall be composed of 25044
an odd number of members. 25045

(B) Notwithstanding division (A) of this section, a governing 25046
board of an educational service center that has members of its 25047
governing board serving on a joint vocational school district 25048
board of education may make a request to the joint vocational 25049
district board that the joint vocational school district plan be 25050
revised to provide for one or more members of boards of education 25051
of local school districts that are within the territory of the 25052
educational service district and within the joint vocational 25053
school district to serve in the place of or in addition to its 25054
educational service center governing board members. If agreement 25055
is obtained among a majority of the boards of education and 25056
governing boards that have a member serving on the joint 25057
vocational school district board of education and among a majority 25058
of the local school district boards of education included in the 25059
district and located within the territory of the educational 25060
service center whose board requests the substitution or addition, 25061
the state board of education may revise the joint vocational 25062
school district plan to conform with such agreement. 25063

(C) If the board of education of any school district or 25064
educational service center governing board included within a joint 25065
vocational district that has had its board or governing board 25066
membership revised under division (B) of this section requests the 25067
joint vocational school district board to submit to the state 25068
board of education a revised plan under which one or more joint 25069

vocational board members chosen in accordance with a plan revised 25070
under such division would again be chosen in the manner prescribed 25071
by division (A) of this section, the joint vocational board shall 25072
submit the revised plan to the state board of education, provided 25073
the plan is agreed to by a majority of the boards of education 25074
represented on the joint vocational board, a majority of the local 25075
school district boards included within the joint vocational 25076
district, and each educational service center governing board 25077
affected by such plan. The state board of education may revise the 25078
joint vocational school district plan to conform with the revised 25079
plan. 25080

(D) The vocational schools in such joint vocational school 25081
district shall be available to all youth of school age within the 25082
joint vocational school district subject to the rules adopted by 25083
the joint vocational school district board of education in regard 25084
to the standards requisite to admission. A joint vocational school 25085
district board of education shall have the same powers, duties, 25086
and authority for the management and operation of such joint 25087
vocational school district as is granted by law, except by this 25088
chapter and Chapters 124., 3317., 3323., and 3331. of the Revised 25089
Code, to a board of education of a city school district, and shall 25090
be subject to all the provisions of law that apply to a city 25091
school district, except such provisions in this chapter and 25092
Chapters 124., 3317., 3323., and 3331. of the Revised Code. 25093

(E) Where a governing board of an educational service center 25094
has been designated to serve as the joint vocational school 25095
district board of education, the educational service center 25096
superintendent shall be the executive officer for the joint 25097
vocational school district, and the governing board may provide 25098
for additional compensation to be paid to the educational service 25099
center superintendent by the joint vocational school district, but 25100
the educational service center superintendent shall have no 25101

continuing tenure other than that of educational service center 25102
superintendent. The superintendent of schools of a joint 25103
vocational school district shall exercise the duties and authority 25104
vested by law in a superintendent of schools pertaining to the 25105
operation of a school district and the employment and supervision 25106
of its personnel. The joint vocational school district board of 25107
education shall appoint a treasurer of the joint vocational school 25108
district who shall be the fiscal officer for such district and who 25109
shall have all the powers, duties, and authority vested by law in 25110
a treasurer of a board of education. Where a governing board of an 25111
educational service center has been designated to serve as the 25112
joint vocational school district board of education, such board 25113
may appoint the educational service center superintendent as the 25114
treasurer of the joint vocational school district. 25115

(F) Each member of a joint vocational school district board 25116
of education may be paid such compensation as the board provides 25117
by resolution, but it shall not exceed one hundred twenty-five 25118
dollars per member for each meeting attended plus mileage, at the 25119
rate per mile provided by resolution of the board, to and from 25120
meetings of the board. 25121

The board may provide by resolution for the deduction of 25122
amounts payable for benefits under ~~division (D) of section~~ 25123
3313.202 of the Revised Code. ~~No member of a board of a joint~~ 25124
~~vocational school district who is purchasing any category of~~ 25125
~~benefits under such section offered by a city, local, or exempted~~ 25126
~~village school board or educational service center governing~~ 25127
~~board, shall purchase the same category of benefits as a member of~~ 25128
~~the joint vocational school board.~~ 25129

Each member of a joint vocational school district board may 25130
be paid such compensation as the board provides by resolution for 25131
attendance at an approved training program, provided that such 25132
compensation shall not exceed sixty dollars per day for attendance 25133

at a training program three hours or fewer in length and one 25134
hundred twenty-five dollars a day for attendance at a training 25135
program longer than three hours in length. However, no board 25136
member shall be compensated for the same training program under 25137
this section and section 3313.12 of the Revised Code. 25138

Sec. 3313.12. Each member of the educational service center 25139
governing board may be paid such compensation as the governing 25140
board provides by resolution, provided that any such compensation 25141
shall not exceed one hundred twenty-five dollars a day plus 25142
mileage both ways, at the rate per mile provided by resolution of 25143
the governing board, for attendance at any meeting of the board. 25144
Such compensation and the expenses of the educational service 25145
center superintendent, itemized and verified, shall be paid from 25146
the educational service center governing board fund upon vouchers 25147
signed by the president of the governing board. 25148

The board of education of any city, local, or exempted 25149
village school district may provide by resolution for compensation 25150
of its members, provided that such compensation shall not exceed 25151
one hundred twenty-five dollars per member for meetings attended. 25152
The board may provide by resolution for the deduction of amounts 25153
payable for benefits under ~~division (D)~~ of section 3313.202 of the 25154
Revised Code. 25155

Each member of a district board or educational service center 25156
governing board may be paid such compensation as the respective 25157
board provides by resolution for attendance at an approved 25158
training program, provided that such compensation shall not exceed 25159
sixty dollars a day for attendance at a training program three 25160
hours or fewer in length and one hundred twenty-five dollars a day 25161
for attendance at a training program longer than three hours in 25162
length. 25163

~~Sec. 3313.202. (A) The board of education of a school 25164
district may procure and pay all or part of the cost of group term 25165
life, hospitalization, surgical care, or major medical insurance, 25166
disability, dental care, vision care, medical care, hearing aids, 25167
prescription drugs, sickness and accident insurance, group legal 25168
services, or a combination of any of the foregoing types of 25169
insurance or coverage, whether issued by an insurance company or a 25170
health insuring corporation duly licensed by this state, covering 25171
the teaching or nonteaching employees of the school district, or a 25172
combination of both, or the dependent children and spouses of such 25173
employees, provided if such coverage affects only the teaching 25174
employees of the district such coverage shall be with the consent 25175
of a majority of such employees of the school district, or if such 25176
coverage affects only the nonteaching employees of the district 25177
such coverage shall be with the consent of a majority of such 25178
employees. If such coverage is proposed to cover all the employees 25179
of a school district, both teaching and nonteaching employees, 25180
such coverage shall be with the consent of a majority of all the 25181
employees of a school district. A board of education shall 25182
continue to carry, on payroll records, all school employees whose 25183
sick leave accumulation has expired, or who are on a disability 25184
leave of absence or an approved leave of absence, for the purpose 25185
of group term life, hospitalization, surgical, major medical, or 25186
any other insurance. A board of education may pay all or part of 25187
such coverage except when such employees are on an approved leave 25188
of absence, or on a disability leave of absence for that period 25189
exceeding two years. As used in this section, "teaching employees" 25190
means any person employed in the public schools of this state in a 25191
position for which the person is required to have a certificate or 25192
license pursuant to sections 3319.22 to 3319.31 of the Revised 25193
Code. "Nonteaching employees" as used in this section means any 25194
person employed in the public schools of the state in a position 25195~~

~~for which the person is not required to have a certificate or license issued pursuant to sections 3319.22 to 3319.31 of the Revised Code.~~ 25196
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~~(B) The board of education of a school district may enter into an agreement with a jointly administered trust fund which receives contributions pursuant to a collective bargaining agreement entered into between the board and any collective bargaining representative of the employees of the board for the purpose of providing for self insurance of all risk in the provision of fringe benefits similar to those that may be paid pursuant to division (A) of this section, and may provide through the self insurance method specific fringe benefits as authorized by the rules of the board of trustees of the jointly administered trust fund. Benefits provided under this section include, but are not limited to, hospitalization, surgical care, major medical care, disability, dental care, vision care, medical care, hearing aids, prescription drugs, group life insurance, sickness and accident insurance, group legal services, or a combination of the above benefits, for the employees and their dependents.~~ 25199
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~~(C) Notwithstanding any other provision of the Revised Code, the board of education and any collective bargaining representative of employees of the board may agree in a collective bargaining agreement that any mutually agreed fringe benefit, including, but not limited to, hospitalization, surgical care, major medical care, disability, dental care, vision care, medical care, hearing aids, prescription drugs, group life insurance, sickness and accident insurance, group legal services, or a combination thereof, for employees and their dependents be provided through a mutually agreed upon contribution to a jointly administered trust fund. The amount, type, and structure of fringe benefits provided under this division are subject to the determination of the board of trustees of the jointly administered~~ 25215
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~~trust fund. Notwithstanding any other provision of the Revised Code, competitive bidding does not apply to the purchase of fringe benefits for employees under this division through a jointly administered trust fund.~~ 25228
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~~(D) Any elected or appointed member of the board of education of a school district and the dependent children and spouse of the member may be covered, at the option of the member, as an employee of the school district under any benefit medical plan adopted designed by the school employees health care board under this section 9.901 of the Revised Code. The member shall pay to the school district the amount certified all premiums for that coverage under division (D)(1) or (2) of this section. Payments for such coverage shall be made, in advance, in a manner prescribed by the school employees health care board. The member's exercise of an option to be covered under this section shall be in writing, announced at a regular public meeting of the board of education, and recorded as a public record in the minutes of the board.~~ 25232
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~~For the purposes of determining the cost to board members under this division:~~ 25246
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~~(1) In the case of a benefit plan purchased under division (A) of this section, the provider of the benefits shall certify to the board the provider's charge for coverage under each option available to employees under that benefit plan;~~ 25248
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~~(2) In the case of benefits provided under division (B) or (C) of this section, the board of trustees of the jointly administered trust fund shall certify to the board of education the trustees' charge for coverage under each option available to employees under each benefit plan.~~ 25252
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~~(E) The board may provide the benefits described in this section through an individual self-insurance program or a joint~~ 25257
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~~self insurance program as provided in section 9.833 of the Revised Code.~~ 25259
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Sec. 3313.207. As used in sections 3313.207 to 3313.209 of 25261
the Revised Code: 25262

(A) "Children" means children who are enrolled in 25263
kindergarten or who are of compulsory school age. 25264

(B) "Latchkey program" means a program under which children 25265
are provided with child care during a fiscal year at any time 25266
outside of regular school hours. A program that contains any 25267
religious content, that uses any religious materials, or that in 25268
any way promotes or furthers any religious beliefs is not a 25269
latchkey program. 25270

~~(C) "School district" means a city, local, or exempted 25271
village school district.~~ 25272

~~(D)~~ "Program provider" means any agency, organization, or 25273
individual, licensed under Chapter 5104. of the Revised Code or 25274
exempted from the licensing requirements of that chapter. 25275

~~(E)~~(D) "Ancillary services" means any of the following: 25276

(1) Space in a building that is owned or controlled by a 25277
school district and that is used for other school district 25278
purposes in addition to latchkey programs; 25279

(2) Utilities furnished in conjunction with such space; 25280

(3) Transportation to a latchkey program on regular school 25281
buses. 25282

Sec. 3313.208. A board of education of a school district or 25283
the governing board of an educational service center may assess 25284
the need for latchkey programs in its district or territory and 25285
determine the best and most efficient manner of providing latchkey 25286
programs to children residing in the district or territory. Prior 25287

to operating any latchkey program, making any payments, or 25288
providing any employees or ancillary services under sections 25289
3313.207 to 3313.209 of the Revised Code, a board ~~of education~~ 25290
shall provide notification to parents and other interested parties 25291
that the board is considering ~~district~~ participation in the 25292
provision of latchkey programs and shall adopt a policy ensuring 25293
public input on the board's decision whether or not to 25294
participate, as well as any decisions concerning the district's or 25295
service center's role in the implementation and funding of any 25296
latchkey programs if the board does decide to participate. The 25297
policy shall also include provision for regular, periodic public 25298
input in the evaluation of any school district or service center 25299
participation in the provision of latchkey programs. 25300

A board ~~of education~~ may ~~operate~~ provide a latchkey program, 25301
subject to the following limitations: 25302

(A) The program shall be maintained and operated and pupils 25303
shall be admitted pursuant to rules adopted by the board; 25304

(B) Fees or tuition, in amounts determined by the board, may 25305
be charged for participation in the program and shall be deposited 25306
in a special fund; 25307

~~(C) The board shall not expend any money from the general 25308
fund of the district for the program, except as follows: 25309~~

~~(1) The board may expend any money in the district's general 25310
fund resulting from an appropriation of the general assembly that 25311
specifically permits the expenditure of such appropriated funds 25312
for such a program. 25313~~

~~(2) The board may provide ancillary services for the program 25314
notwithstanding the fact that some portions of such services may 25315
be supported by money from the district's general fund. 25316~~

Sec. 3313.209. (A) A board of education of a school district 25317

that does not ~~operate~~ provide a latchkey program may provide 25318
ancillary services to and may make payments to any program 25319
provider that operates a latchkey program that enrolls one or more 25320
children who are residents of the school district. 25321

(B) A board of education of a school district that does not 25322
~~operate~~ provide a latchkey program and that does not make payments 25323
under division (A) of this section may furnish to any person or 25324
entity that operates a latchkey program ancillary services or 25325
employees for use solely in conjunction with the program's 25326
operation. 25327

~~(C) No board of education shall expend any money from the 25328
general fund of the district pursuant to division (A) or (B) of 25329
this section, except as follows:~~ 25330

~~(1) The board may expend any money in the district's general 25331
fund resulting from an appropriation of the general assembly that 25332
specifically permits the expenditure of such appropriated funds 25333
for latchkey programs.~~ 25334

~~(2) The board may provide ancillary services pursuant to 25335
division (A) or (B) of this section notwithstanding the fact that 25336
some portion of such services may be supported by money from the 25337
district's general fund.~~ 25338

~~(D)~~ A board of education shall enter into a contract with a 25339
program provider as a condition for making any payments or 25340
furnishing any ancillary services or employees authorized by 25341
division (A) or (B) of this section. 25342

Sec. 3313.33. (A) Conveyances made by a board of education 25343
shall be executed by the president and treasurer thereof. 25344

(B) Except as provided in division (C) of this section, no 25345
member of the board shall have, directly or indirectly, any 25346
pecuniary interest in any contract of the board or be employed in 25347

any manner for compensation by the board of which the person is a member. No contract shall be binding upon any board unless it is made or authorized at a regular or special meeting of such board.

(C) A member of the board may have a pecuniary interest in a contract of the board if all of the following apply:

(1) The member's pecuniary interest in that contract is that the member is employed by a political subdivision, instrumentality, or agency of the state that is contracting with the board;

(2) The member does not participate in any discussion or debate regarding the contract or vote on the contract;

(3) The member files with the school district treasurer an affidavit stating the member's exact employment status with the political subdivision, instrumentality, or agency contracting with the board.

(D) This section does not apply where a member of the board, being a shareholder of a corporation but not being an officer or director thereof, owns not in excess of five per cent of the stock of such corporation. If a stockholder desires to avail self of the exception, before entering upon such contract such person shall first file with the treasurer an affidavit stating the stockholder's exact status and connection with said corporation.

This section does not apply where a member of the board elects to be covered by a ~~benefit~~ medical plan ~~of the school district~~ under ~~division (D)~~ of section 3313.202 of the Revised Code.

Sec. 3313.489. (A) The superintendent of public instruction shall examine each ~~spending plan and appropriations measure~~ five-year projection of revenues and expenditures submitted under section 5705.391 of the Revised Code and shall determine whether

the information contained therein, together with any other 25378
relevant information, indicates that the district may be 25379
financially unable to operate its instructional program on all 25380
days set forth in its adopted school calendars and pay all 25381
obligated expenses during the current fiscal year. If a board of 25382
education has not adopted a school calendar for the school year 25383
beginning on the first day of July of the current fiscal year at 25384
the time an examination is required under this division, the 25385
superintendent shall examine the ~~spending plan and appropriations~~ 25386
~~measure~~ five-year projection and determine whether the district 25387
may be financially unable to pay all obligated expenses and 25388
operate its instructional program for the number of days on which 25389
instruction was held in the preceding fiscal year. 25390

(B) If the superintendent of public instruction determines 25391
pursuant to division (A) of this section that a school district 25392
may be financially unable to operate its instructional program on 25393
all days required by such division and pay all obligated expenses 25394
during the current fiscal year, the superintendent shall provide 25395
written notification of such determination to the president of the 25396
district's board of education and the auditor of state. 25397

(C) This section does not apply to a school district declared 25398
to be under a fiscal emergency pursuant to division (B) of section 25399
3316.03 of the Revised Code. 25400

Sec. 3313.6410. This section applies to any school that is 25401
operated by a school district and in which the enrolled students 25402
work primarily on assignments in nonclassroom-based learning 25403
opportunities provided via an internet- or other computer-based 25404
instructional method. 25405

(A) Any school to which this section applies shall withdraw 25406
from the school any student who, for two consecutive school years, 25407
has failed to participate in the spring administration of any test 25408

prescribed under section 3301.0710 or 3301.0712 of the Revised 25409
Code for the student's grade level and was not excused from the 25410
test pursuant to division (C)(1) or (3) of section 3301.0711 of 25411
the Revised Code. The school shall report any such student's data 25412
verification code, as assigned pursuant to section 3301.0714 of 25413
the Revised Code, to the department of education to be added to 25414
the list maintained by the department under section 3314.26 of the 25415
Revised Code. 25416

(B) No school to which this section applies shall receive any 25417
state funds under Chapter 3317. of the Revised Code for any 25418
enrolled student whose data verification code appears on the list 25419
maintained by the department under section 3314.26 of the Revised 25420
Code. Notwithstanding any provision of the Revised Code to the 25421
contrary, the parent of any such student shall pay tuition to the 25422
school district that operates the school in an amount equal to the 25423
state funds the district otherwise would receive for that student, 25424
as determined by the department. A school to which this section 25425
applies may withdraw any student for whom the parent does not pay 25426
tuition as required by this division. 25427

Sec. 3313.975. As used in this section and in sections 25428
3313.975 to 3313.979 of the Revised Code, "the pilot project 25429
school district" or "the district" means any school district 25430
included in the pilot project scholarship program pursuant to this 25431
section. 25432

(A) The superintendent of public instruction shall establish 25433
a pilot project scholarship program and shall include in such 25434
program any school districts that are or have ever been under 25435
federal court order requiring supervision and operational 25436
management of the district by the state superintendent. The 25437
program shall provide for a number of students residing in any 25438
such district to receive scholarships to attend alternative 25439

schools, and for an equal number of students to receive tutorial 25440
assistance grants while attending public school in any such 25441
district. 25442

(B) The state superintendent shall establish an application 25443
process and deadline for accepting applications from students 25444
residing in the district to participate in the scholarship 25445
program. In the initial year of the program students may only use 25446
a scholarship to attend school in grades kindergarten through 25447
third. 25448

The state superintendent shall award as many scholarships and 25449
tutorial assistance grants as can be funded given the amount 25450
appropriated for the program. In no case, however, shall more than 25451
fifty per cent of all scholarships awarded be used by students who 25452
were enrolled in a nonpublic school during the school year of 25453
application for a scholarship. 25454

(C)(1) The pilot project program shall continue in effect 25455
each year that the general assembly has appropriated sufficient 25456
money to fund scholarships and tutorial assistance grants. In each 25457
year the program continues, no new students may receive 25458
scholarships unless they are enrolled in ~~grade~~ grades 25459
kindergarten, ~~one, two, or three~~ to eight. However, any student 25460
who has received a scholarship the preceding year may continue to 25461
receive one until the student has completed grade ~~eight~~ ten. 25462
Beginning in the ~~2003-2004~~ 2005-2006 academic year, a student who 25463
previously has received a scholarship may receive a scholarship in 25464
grade ~~nine~~ eleven. Beginning in the ~~2004-2005~~ 2006-2007 academic 25465
year, a student who previously has received a scholarship may 25466
receive a scholarship in grade ~~ten~~ twelve. 25467

(2) If the general assembly discontinues the scholarship 25468
program, all students who are attending an alternative school 25469
under the pilot project shall be entitled to continued admittance 25470
to that specific school through all grades ~~up to the tenth grade~~ 25471

that are provided in such school, under the same conditions as 25472
when they were participating in the pilot project. The state 25473
superintendent shall continue to make scholarship payments in 25474
accordance with division (A) or (B) of section 3313.979 of the 25475
Revised Code for students who remain enrolled in an alternative 25476
school under this provision in any year that funds have been 25477
appropriated for this purpose. 25478

If funds are not appropriated, the tuition charged to the 25479
parents of a student who remains enrolled in an alternative school 25480
under this provision shall not be increased beyond the amount 25481
equal to the amount of the scholarship plus any additional amount 25482
charged that student's parent in the most recent year of 25483
attendance as a participant in the pilot project, except that 25484
tuition for all the students enrolled in such school may be 25485
increased by the same percentage. 25486

(D) Notwithstanding sections 124.39, 3307.54, and 3319.17 of 25487
the Revised Code, if the pilot project school district experiences 25488
a decrease in enrollment due to participation in a state-sponsored 25489
scholarship program pursuant to sections 3313.974 to 3313.979 of 25490
the Revised Code, the district board of education may enter into 25491
an agreement with any teacher it employs to provide to that 25492
teacher severance pay or early retirement incentives, or both, if 25493
the teacher agrees to terminate the employment contract with the 25494
district board, provided any collective bargaining agreement in 25495
force pursuant to Chapter 4117. of the Revised Code does not 25496
prohibit such an agreement for termination of a teacher's 25497
employment contract. 25498

Sec. 3313.976. (A) No private school may receive scholarship 25499
payments from parents pursuant to section 3313.979 of the Revised 25500
Code until the chief administrator of the private school registers 25501
the school with the superintendent of public instruction. The 25502

state superintendent shall register any school that meets the 25503
following requirements: 25504

(1) The school is located within the boundaries of the pilot 25505
project school district; 25506

(2) The school indicates in writing its commitment to follow 25507
all requirements for a state-sponsored scholarship program 25508
specified under sections 3313.974 to 3313.979 of the Revised Code, 25509
including, but not limited to, the requirements for admitting 25510
students pursuant to section 3313.977 of the Revised Code; 25511

(3) The school meets all state minimum standards for 25512
chartered nonpublic schools in effect on July 1, 1992, except that 25513
the state superintendent at the superintendent's discretion may 25514
register nonchartered nonpublic schools meeting the other 25515
requirements of this division; 25516

(4) The school does not discriminate on the basis of race, 25517
religion, or ethnic background; 25518

(5) The school enrolls a minimum of ten students per class or 25519
a sum of at least twenty-five students in all the classes offered; 25520

(6) The school does not advocate or foster unlawful behavior 25521
or teach hatred of any person or group on the basis of race, 25522
ethnicity, national origin, or religion; 25523

(7) The school does not provide false or misleading 25524
information about the school to parents, students, or the general 25525
public; 25526

(8) For students in grades kindergarten through eight, the 25527
school agrees not to charge any tuition to low-income families 25528
receiving ninety per cent of the scholarship amount through the 25529
scholarship program, pursuant to division (A) of section 3313.978 25530
of the Revised Code, in excess of ten per cent of the scholarship 25531
amount established pursuant to division (C)(1) of section 3313.978 25532

of the Revised Code, excluding any increase described in division 25533
(C)(2) of that section. The school shall permit any such tuition, 25534
at the discretion of the parent, to be satisfied by the low-income 25535
family's provision of in-kind contributions or services. 25536

(9) For students in grades kindergarten through eight, the 25537
school agrees not to charge any tuition to low-income families 25538
receiving a seventy-five per cent scholarship amount through the 25539
scholarship program, pursuant to division (A) of section 3313.978 25540
of the Revised Code, in excess of the difference between the 25541
actual tuition charge of the school and seventy-five per cent of 25542
the scholarship amount established pursuant to division (C)(1) of 25543
section 3313.978 of the Revised Code, excluding any increase 25544
described in division (C)(2) of that section. The school shall 25545
permit such tuition, at the discretion of the parent, to be 25546
satisfied by the low-income family's provision of in-kind 25547
contributions or services. 25548

(10) The school agrees not to charge any tuition to families 25549
of students in grades nine ~~and ten~~ through twelve receiving a 25550
scholarship in excess of the actual tuition charge of the school 25551
less seventy-five or ninety per cent of the scholarship amount 25552
established pursuant to division (C)(1) of section 3313.978 of the 25553
Revised Code, as applicable, excluding any increase described in 25554
division (C)(2) of that section. 25555

(B) The state superintendent shall revoke the registration of 25556
any school if, after a hearing, the superintendent determines that 25557
the school is in violation of any of the provisions of division 25558
(A) of this section. 25559

(C) Any public school located in a school district adjacent 25560
to the pilot project district may receive scholarship payments on 25561
behalf of parents pursuant to section 3313.979 of the Revised Code 25562
if the superintendent of the district in which such public school 25563
is located notifies the state superintendent prior to the first 25564

day of March that the district intends to admit students from the 25565
pilot project district for the ensuing school year pursuant to 25566
section 3327.06 of the Revised Code. 25567

(D) Any parent wishing to purchase tutorial assistance from 25568
any person or governmental entity pursuant to the pilot project 25569
program under sections 3313.974 to 3313.979 of the Revised Code 25570
shall apply to the state superintendent. The state superintendent 25571
shall approve providers who appear to possess the capability of 25572
furnishing the instructional services they are offering to 25573
provide. 25574

Sec. 3313.977. (A)(1) Each registered private school shall 25575
admit students to kindergarten and first, second, and third grades 25576
in accordance with the following priorities: 25577

(a) Students who were enrolled in the school during the 25578
preceding year; 25579

(b) Siblings of students enrolled in the school during the 25580
preceding year, at the discretion of the school; 25581

(c) Children from low-income families attending school or 25582
residing in the school district in which the school is located 25583
until the number of such students in each grade equals the number 25584
that constituted twenty per cent of the total number of students 25585
enrolled in the school during the preceding year in such grade. 25586
Admission of such twenty per cent shall be by lot from among all 25587
low-income family applicants who apply prior to the fifteenth day 25588
of February prior to admission. 25589

(d) All other applicants residing anywhere, provided that all 25590
remaining available spaces shall be filled from among such 25591
applicants by lot. 25592

Children from low-income families not selected by lot under 25593
division (A)(1)(c) of this section shall be included in the 25594

lottery of all remaining applicants pursuant to division (A)(1)(d) 25595
of this section. 25596

(2) Each registered private school shall first admit to 25597
grades four through ~~ten~~ twelve students who were enrolled in the 25598
school during the preceding year. Any remaining spaces for 25599
students in these grades may be filled as determined by the 25600
school. 25601

(B) Notwithstanding division (A) of this section, except 25602
where otherwise prohibited by federal law, a registered private 25603
school may elect to admit students of only one gender and may deny 25604
admission to any separately educated handicapped student. 25605

(C) If a scholarship student who has been accepted in 25606
accordance with this section fails to enroll in the school for any 25607
reason or withdraws from the school during the school year for any 25608
reason, the school may elect to replace such student with another 25609
scholarship student only by first offering the admission to any 25610
low-income scholarship students who filed applications by the 25611
preceding fifteenth day of February and who were not accepted at 25612
that time due to space limitations. 25613

Sec. 3313.978. (A) Annually by the first day of November, the 25614
superintendent of public instruction shall notify the pilot 25615
project school district of the number of initial scholarships that 25616
the state superintendent will be awarding in each of grades 25617
kindergarten through ~~third~~ eight. 25618

The state superintendent shall provide information about the 25619
scholarship program to all students residing in the district, 25620
shall accept applications from any such students until such date 25621
as shall be established by the state superintendent as a deadline 25622
for applications, and shall establish criteria for the selection 25623
of students to receive scholarships from among all those applying 25624
prior to the deadline, which criteria shall give preference to 25625

students from low-income families. For each student selected, the state superintendent shall also determine whether the student qualifies for seventy-five or ninety per cent of the scholarship amount. Students whose family income is at or above two hundred per cent of the maximum income level established by the state superintendent for low-income families shall qualify for seventy-five per cent of the scholarship amount and students whose family income is below two hundred per cent of that maximum income level shall qualify for ninety per cent of the scholarship amount. The state superintendent shall notify students of their selection prior to the fifteenth day of January and whether they qualify for seventy-five or ninety per cent of the scholarship amount.

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

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

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

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

(i) By the fifteenth day of March of the preceding school year if the student filed an application by the fifteenth day of February and was admitted by the school pursuant to division (A)

of section 3313.977 of the Revised Code; 25657

(ii) Within one week of the decision to admit the student if 25658
the student is admitted pursuant to division (C) of section 25659
3313.977 of the Revised Code. 25660

(c) The student actually enrolls in the registered private 25661
school to which the student was first admitted or in another 25662
registered private school in the district or in a public school in 25663
an adjacent school district. 25664

(B) The state superintendent shall also award in any school 25665
year tutorial assistance grants to a number of students equal to 25666
the number of students who receive scholarships under division (A) 25667
of this section. Tutorial assistance grants shall be awarded 25668
solely to students who are enrolled in the public schools of the 25669
district in a grade level covered by the pilot project. Tutorial 25670
assistance grants may be used solely to obtain tutorial assistance 25671
from a provider approved pursuant to division (D) of section 25672
3313.976 of the Revised Code. 25673

All students wishing to obtain tutorial assistance grants 25674
shall make application to the state superintendent by the first 25675
day of the school year in which the assistance will be used. The 25676
state superintendent shall award assistance grants in accordance 25677
with criteria the superintendent shall establish. For each student 25678
awarded a grant, the state superintendent shall also determine 25679
whether the student qualifies for seventy-five or ninety per cent 25680
of the grant amount and so notify the student. Students whose 25681
family income is at or above two hundred per cent of the maximum 25682
income level established by the state superintendent for 25683
low-income families shall qualify for seventy-five per cent of the 25684
grant amount and students whose family income is below two hundred 25685
per cent of that maximum income level shall qualify for ninety per 25686
cent of the grant amount. 25687

(C)(1) In the case of basic scholarships for students in 25688
grades kindergarten through eight, the scholarship amount shall 25689
not exceed the lesser of the tuition charges of the alternative 25690
school the scholarship recipient attends or ~~an amount established~~ 25691
~~by the state superintendent not in excess of~~ three thousand 25692
dollars before fiscal year 2007 and three thousand four hundred 25693
fifty dollars in fiscal year 2007 and thereafter. 25694

In the case of basic scholarships for students in grades nine 25695
~~and ten~~ through twelve, the scholarship amount shall not exceed 25696
the lesser of the tuition charges of the alternative school the 25697
scholarship recipient attends or ~~an amount established by the~~ 25698
~~state superintendent not in excess of~~ two thousand seven hundred 25699
dollars before fiscal year 2007 and three thousand four hundred 25700
fifty dollars in fiscal year 2007 and thereafter. 25701

(2) The state superintendent shall provide for an increase in 25702
the basic scholarship amount in the case of any student who is a 25703
mainstreamed handicapped student and shall further increase such 25704
amount in the case of any separately educated handicapped child. 25705
Such increases shall take into account the instruction, related 25706
services, and transportation costs of educating such students. 25707

(3) In the case of tutorial assistance grants, the grant 25708
amount shall not exceed the lesser of the provider's actual 25709
charges for such assistance or a: 25710

(a) Before fiscal year 2007, a percentage established by the 25711
state superintendent, not to exceed twenty per cent, of the amount 25712
of the pilot project school district's average basic scholarship 25713
amount; 25714

(b) In fiscal year 2007 and thereafter, four hundred dollars. 25715

(4) No scholarship or tutorial assistance grant shall be 25716
awarded unless the state superintendent determines that 25717
twenty-five or ten per cent, as applicable, of the amount 25718

specified for such scholarship or grant pursuant to division 25719
(C)(1), (2), or (3) of this section will be furnished by a 25720
political subdivision, a private nonprofit or for profit entity, 25721
or another person. Only seventy-five or ninety per cent of such 25722
amounts, as applicable, shall be paid from state funds pursuant to 25723
section 3313.979 of the Revised Code. 25724

(D)(1) Annually by the first day of November, the state 25725
superintendent shall estimate the maximum per-pupil scholarship 25726
amounts for the ensuing school year. The state superintendent 25727
shall make this estimate available to the general public at the 25728
offices of the district board of education together with the forms 25729
required by division (D)(2) of this section. 25730

(2) Annually by the fifteenth day of January, the chief 25731
administrator of each registered private school located in the 25732
pilot project district and the principal of each public school in 25733
such district shall complete a parental information form and 25734
forward it to the president of the board of education. The 25735
parental information form shall be prescribed by the department of 25736
education and shall provide information about the grade levels 25737
offered, the numbers of students, tuition amounts, achievement 25738
test results, and any sectarian or other organizational 25739
affiliations. 25740

Sec. 3313.98. Notwithstanding division (D) of section 3311.19 25741
and division (D) of section 3311.52 of the Revised Code, the 25742
provisions of this section and sections 3313.981 to 3313.983 of 25743
the Revised Code that apply to a city school district do not apply 25744
to a joint vocational or cooperative education school district 25745
unless expressly specified. 25746

(A) As used in this section and sections 3313.981 to 3313.983 25747
of the Revised Code: 25748

(1) "Parent" means either of the natural or adoptive parents 25749

of a student, except under the following conditions: 25750

(a) When the marriage of the natural or adoptive parents of 25751
the student has been terminated by a divorce, dissolution of 25752
marriage, or annulment or the natural or adoptive parents of the 25753
student are living separate and apart under a legal separation 25754
decree and the court has issued an order allocating the parental 25755
rights and responsibilities with respect to the student, "parent" 25756
means the residential parent as designated by the court except 25757
that "parent" means either parent when the court issues a shared 25758
parenting decree. 25759

(b) When a court has granted temporary or permanent custody 25760
of the student to an individual or agency other than either of the 25761
natural or adoptive parents of the student, "parent" means the 25762
legal custodian of the child. 25763

(c) When a court has appointed a guardian for the student, 25764
"parent" means the guardian of the student. 25765

(2) "Native student" means a student entitled under section 25766
3313.64 or 3313.65 of the Revised Code to attend school in a 25767
district adopting a resolution under this section. 25768

(3) "Adjacent district" means a city, exempted village, or 25769
local school district having territory that abuts the territory of 25770
a district adopting a resolution under this section. 25771

(4) "Adjacent district student" means a student entitled 25772
under section 3313.64 or 3313.65 of the Revised Code to attend 25773
school in an adjacent district. 25774

(5) "Adjacent district joint vocational student" means an 25775
adjacent district student who enrolls in a city, exempted village, 25776
or local school district pursuant to this section and who also 25777
enrolls in a joint vocational school district that does not 25778
contain the territory of the district for which that student is a 25779
native student and does contain the territory of the city, 25780

| | |
|---|---|
| exempted village, or local district in which the student enrolls. | 25781 |
| (6) "Formula amount" has the same meaning as in section 3317.02 of the Revised Code. | 25782 25783 |
| (7) "Adjusted formula amount" means the <u>greater of the following:</u> | 25784 25785 |
| (a) <u>The fiscal year 2005</u> formula amount multiplied by the <u>fiscal year 2005</u> cost-of-doing-business factor for a district defined in <u>the version of</u> section 3317.02 of the Revised Code <u>in effect that year;</u> | 25786 25787 25788 25789 |
| (b) <u>The sum of (the current formula amount times the current cost-of-doing-business factor as defined in section 3317.02 of the Revised Code) plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.</u> | 25790 25791 25792 25793 25794 |
| (8) "Poverty line" means the poverty line established by the director of the United States office of management and budget as revised by the director of the office of community services in accordance with section 673(2) of the "Community Services Block Grant Act," 95 Stat. 1609, 42 U.S.C.A. 9902, as amended. | 25795 25796 25797 25798 25799 |
| (9) "IEP" means an individualized education program defined by division (E) of section 3323.01 of the Revised Code. | 25800 25801 |
| (10) "Other district" means a city, exempted village, or local school district having territory outside of the territory of a district adopting a resolution under this section. | 25802 25803 25804 |
| (11) "Other district student" means a student entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in an other district. | 25805 25806 25807 |
| (12) "Other district joint vocational student" means a student who is enrolled in any city, exempted village, or local school district and who also enrolls in a joint vocational school | 25808 25809 25810 |

district that does not contain the territory of the district for 25811
which that student is a native student in accordance with a policy 25812
adopted under section 3313.983 of the Revised Code. 25813

(B)(1) The board of education of each city, local, and 25814
exempted village school district shall adopt a resolution 25815
establishing for the school district one of the following 25816
policies: 25817

(a) A policy that entirely prohibits the enrollment of 25818
students from adjacent districts or other districts, other than 25819
students for whom tuition is paid in accordance with section 25820
3317.08 of the Revised Code; 25821

(b) A policy that permits enrollment of students from all 25822
adjacent districts in accordance with policy statements contained 25823
in the resolution; 25824

(c) A policy that permits enrollment of students from all 25825
other districts in accordance with policy statements contained in 25826
the resolution. 25827

(2) A policy permitting enrollment of students from adjacent 25828
or from other districts, as applicable, shall provide for all of 25829
the following: 25830

(a) Application procedures, including deadlines for 25831
application and for notification of students and the 25832
superintendent of the applicable district whenever an adjacent or 25833
other district student's application is approved. 25834

(b) Procedures for admitting adjacent or other district 25835
applicants free of any tuition obligation to the district's 25836
schools, including, but not limited to: 25837

(i) The establishment of district capacity limits by grade 25838
level, school building, and education program; 25839

(ii) A requirement that all native students wishing to be 25840

enrolled in the district will be enrolled and that any adjacent or 25841
other district students previously enrolled in the district shall 25842
receive preference over first-time applicants; 25843

(iii) Procedures to ensure that an appropriate racial balance 25844
is maintained in the district schools. 25845

(C) Except as provided in section 3313.982 of the Revised 25846
Code, the procedures for admitting adjacent or other district 25847
students, as applicable, shall not include: 25848

(1) Any requirement of academic ability, or any level of 25849
athletic, artistic, or other extracurricular skills; 25850

(2) Limitations on admitting applicants because of 25851
handicapping conditions, except that a board may refuse to admit a 25852
student receiving services under Chapter 3323. of the Revised 25853
Code, if the services described in the student's IEP are not 25854
available in the district's schools; 25855

(3) A requirement that the student be proficient in the 25856
English language; 25857

(4) Rejection of any applicant because the student has been 25858
subject to disciplinary proceedings, except that if an applicant 25859
has been suspended or expelled by the student's district for ten 25860
consecutive days or more in the term for which admission is sought 25861
or in the term immediately preceding the term for which admission 25862
is sought, the procedures may include a provision denying 25863
admission of such applicant. 25864

(D)(1) Each school board permitting only enrollment of 25865
adjacent district students shall provide information about the 25866
policy adopted under this section, including the application 25867
procedures and deadlines, to the superintendent and the board of 25868
education of each adjacent district and, upon request, to the 25869
parent of any adjacent district student. 25870

(2) Each school board permitting enrollment of other district students shall provide information about the policy adopted under this section, including the application procedures and deadlines, upon request, to the board of education of any other school district or to the parent of any student anywhere in the state.

(E) Any school board shall accept all credits toward graduation earned in adjacent or other district schools by an adjacent or other district student or a native student.

(F)(1) No board of education may adopt a policy discouraging or prohibiting its native students from applying to enroll in the schools of an adjacent or any other district that has adopted a policy permitting such enrollment, except that:

(a) A district may object to the enrollment of a native student in an adjacent or other district in order to maintain an appropriate racial balance.

(b) The board of education of a district receiving funds under 64 Stat. 1100 (1950), 20 U.S.C.A. 236 et seq., as amended, may adopt a resolution objecting to the enrollment of its native students in adjacent or other districts if at least ten per cent of its students are included in the determination of the United States secretary of education made under section 20 U.S.C.A. 238(a).

(2) If a board objects to enrollment of native students under this division, any adjacent or other district shall refuse to enroll such native students unless tuition is paid for the students in accordance with section 3317.08 of the Revised Code. An adjacent or other district enrolling such students may not receive funding for those students in accordance with section 3313.981 of the Revised Code.

(G) The state board of education shall monitor school districts to ensure compliance with this section and the

districts' policies. The board may adopt rules requiring uniform 25902
application procedures, deadlines for application, notification 25903
procedures, and record-keeping requirements for all school boards 25904
that adopt policies permitting the enrollment of adjacent or other 25905
district students, as applicable. If the state board adopts such 25906
rules, no school board shall adopt a policy that conflicts with 25907
those rules. 25908

(H) A resolution adopted by a board of education under this 25909
section that entirely prohibits the enrollment of students from 25910
adjacent and from other school districts does not abrogate any 25911
agreement entered into under section 3313.841 or 3313.92 of the 25912
Revised Code or any contract entered into under section 3313.90 of 25913
the Revised Code between the board of education adopting the 25914
resolution and the board of education of any adjacent or other 25915
district or prohibit these boards of education from entering into 25916
any such agreement or contract. 25917

(I) Nothing in this section shall be construed to permit or 25918
require the board of education of a city, exempted village, or 25919
local school district to exclude any native student of the 25920
district from enrolling in the district. 25921

Sec. 3314.013. (A)(1) Until July 1, 2000, no more than 25922
seventy-five contracts between start-up schools and the state 25923
board of education may be in effect outside the pilot project area 25924
at any time under this chapter. 25925

(2) After July 1, 2000, and until July 1, 2001, no more than 25926
one hundred twenty-five contracts between start-up schools and the 25927
state board of education may be in effect outside the pilot 25928
project area at any time under this chapter. 25929

(3) This division applies only to contracts between start-up 25930
schools and the state board of education and contracts between 25931
start-up schools and entities described in divisions (C)(1)(b) to 25932

(f) of section 3314.02 of the Revised Code. 25933

Until July 1, 2005, not more than two hundred twenty-five 25934
contracts to which this division applies may be in effect at any 25935
time under this chapter. 25936

(4) This division applies only to contracts between start-up 25937
schools and entities described in divisions (C)(1)(b) to (f) of 25938
section 3314.02 of the Revised Code. 25939

Except as otherwise provided in section 3314.014 of the 25940
Revised Code, after July 1, 2005, and until July 1, 2007, the 25941
number of contracts to which this division applies in effect at 25942
any time under this chapter shall be not more than thirty plus the 25943
number of such contracts with schools that were open for operation 25944
as of May 1, 2005. 25945

(5) This division applies only to contracts between a 25946
conversion school that is an internet- or computer-based community 25947
school or a start-up school and the board of education of the 25948
school district in which the school is or is proposed to be 25949
located. 25950

Except as otherwise provided in section 3314.014 of the 25951
Revised Code, until July 1, 2007, the number of contracts to which 25952
this division applies in effect at any time under this chapter 25953
shall be not more than thirty plus the number of such contracts 25954
with schools that were open for operation as of May 1, 2005. 25955

(6) Until the effective date of any standards enacted by the 25956
general assembly governing the operation of internet- or 25957
computer-based community schools, no internet- or computer-based 25958
community school shall operate unless the school was open for 25959
instruction as of May 1, 2005. No entity described in division 25960
(C)(1) of section 3314.02 of the Revised Code shall enter into a 25961
contract to sponsor an internet- or computer-based community 25962
school, including a conversion school, between May 1, 2005, and 25963

the effective date of any standards enacted by the general assembly governing the operation of internet- or computer-based community schools, except as follows: 25964
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(a) Any entity described in division (C)(1) of that section may renew a contract that the entity entered into with an internet- or computer-based community school prior to May 1, 2005, if the school was open for operation as of that date. 25967
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(b) Any entity described in divisions (C)(1)(a) to (e) of that section may assume sponsorship of an existing internet- or computer-based community school that was formerly sponsored by another entity and may enter into a contract with that community school in accordance with section 3314.03 of the Revised Code. 25971
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(c) Any entity described in division (C)(1)(f) of that section may assume sponsorship of an existing internet- or computer-based community school in accordance with division (A)(7) of this section and may enter into a contract with that community school in accordance with section 3314.03 of the Revised Code. 25976
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If a sponsor entered into a contract with an internet- or computer-based community school, including a conversion school, but the school was not open for operation as of May 1, 2005, the contract shall be void and the entity shall not enter into another contract with the school until the effective date of any standards enacted by the general assembly governing the operation of internet- or computer-based community schools. 25981
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(7) Until July 1, 2005, any entity described in division (C)(1)(f) of section 3314.02 of the Revised Code may sponsor only a community school that formerly was sponsored by the state board of education under division (C)(1)(d) of that section, as it existed prior to April 8, 2003. After July 1, 2005, any such entity may assume sponsorship of any existing community school, and may sponsor any new community school that is not an internet- 25988
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or computer-based community school. Beginning on the effective 25995
date of any standards enacted by the general assembly governing 25996
the operation of internet- or computer-based community schools, 25997
any such entity may sponsor a new internet- or computer-based 25998
community school. 25999

(8) Nothing in division (A) of this section prohibits a 26000
community school from increasing the number of grade levels it 26001
offers. 26002

(B) Within twenty-four hours of a request by any person, the 26003
superintendent of public instruction shall indicate the number of 26004
preliminary agreements for start-up schools currently outstanding 26005
and the number of contracts for these schools in effect at the 26006
time of the request. 26007

(C) It is the intent of the general assembly to consider 26008
whether to provide limitations on the number of start-up community 26009
schools after July 1, 2001, following its examination of the 26010
results of the studies by the legislative office of education 26011
oversight required under Section 50.39 of Am. Sub. H.B. No. 215 of 26012
the 122nd general assembly and Section 50.52.2 of Am. Sub. H.B. 26013
No. 215 of the 122nd general assembly, as amended by Am. Sub. H.B. 26014
No. 770 of the 122nd general assembly. 26015

Sec. 3314.014. As used in this section, "operator" means an 26016
organization that manages the daily operations of a community 26017
school pursuant to a contract between the operator and the 26018
school's governing authority. 26019

(A)(1) Notwithstanding the limit prescribed by division 26020
(A)(4) of section 3314.013 of the Revised Code, a start-up school 26021
sponsored by an entity described in divisions (C)(1)(b) to (f) of 26022
section 3314.02 of the Revised Code may be established after the 26023
date that limit is reached, provided the school's governing 26024
authority enters into a contract with an operator permitted to 26025

manage the school under division (B) of this section. 26026

(2) Notwithstanding the limit prescribed by division (A)(5) 26027
of section 3314.013 of the Revised Code, a conversion school that 26028
is an internet- or computer-based community school or a start-up 26029
school sponsored by the school district in which the school is or 26030
is proposed to be located may be established after the date that 26031
limit is reached, provided the school's governing authority enters 26032
into a contract with an operator permitted to manage the school 26033
under division (B) of this section. However, a conversion school 26034
that is an internet- or computer-based community school may be 26035
established after that date only if the prohibition prescribed by 26036
division (A)(6) of section 3314.013 of the Revised Code is no 26037
longer in effect. 26038

(B) An operator may enter into contracts with the governing 26039
authorities of community schools established after the date the 26040
limit prescribed by division (A)(4) or (5) of section 3314.013 of 26041
the Revised Code, as applicable, is reached, provided the total 26042
number of schools for which the operator enters into such 26043
contracts, excluding conversion schools that are not internet- or 26044
computer-based community schools, does not exceed the number of 26045
community schools managed by the operator on the applicable date 26046
that are rated excellent, effective, or in need of continuous 26047
improvement pursuant to section 3302.03 of the Revised Code. 26048

Sec. 3314.015. (A) The department of education shall be 26049
responsible for the oversight of sponsors of the community schools 26050
established under this chapter and shall provide technical 26051
assistance to schools and sponsors in their compliance with 26052
applicable laws and the terms of the contracts entered into under 26053
section 3314.03 of the Revised Code and in the development and 26054
start-up activities of those schools. In carrying out its duties 26055
under this section, the department shall do all of the following: 26056

(1) In providing technical assistance to proposing parties, 26057
governing authorities, and sponsors, conduct training sessions and 26058
distribute informational materials; 26059

(2) Approve entities to be sponsors of community schools and 26060
monitor the effectiveness of those sponsors in their oversight of 26061
the schools with which they have contracted; 26062

(3) By December thirty-first of each year, issue a report to 26063
the governor, the speaker of the house of representatives, the 26064
president of the senate, and the chairpersons of the house and 26065
senate committees principally responsible for education matters 26066
regarding the effectiveness of academic programs, operations, and 26067
legal compliance and of the financial condition of all community 26068
schools established under this chapter; 26069

(4) From time to time, make legislative recommendations to 26070
the general assembly designed to enhance the operation and 26071
performance of community schools. 26072

(B)(1) No entity listed in division (C)(1) of section 3314.02 26073
of the Revised Code shall enter into a preliminary agreement under 26074
division (C)(2) of section 3314.02 of the Revised Code until it 26075
has received approval from the department of education to sponsor 26076
community schools under this chapter and has entered into a 26077
written agreement with the department regarding the manner in 26078
which the entity will conduct such sponsorship. The department 26079
shall adopt in accordance with Chapter 119. of the Revised Code 26080
rules containing criteria, procedures, and deadlines for 26081
processing applications for such approval, for oversight of 26082
sponsors, for revocation of the approval of sponsors, and for 26083
entering into written agreements with sponsors. The rules shall 26084
require an entity to submit evidence of the entity's ability and 26085
willingness to comply with the provisions of division (D) of 26086
section 3314.03 of the Revised Code. The rules also shall require 26087
entities approved as sponsors on and after the effective date of 26088

this amendment to demonstrate a record of financial responsibility 26089
and successful implementation of educational programs. If an 26090
entity seeking approval on or after the effective date of this 26091
amendment to sponsor community schools in this state sponsors or 26092
operates schools in another state, at least one of the schools 26093
sponsored or operated by the entity must be comparable to or 26094
better than the performance of Ohio schools in a state of academic 26095
watch under section 3302.03 of the Revised Code, as determined by 26096
the department. 26097

An entity that ~~is approved to sponsor~~ sponsors community 26098
schools may enter into ~~any number of~~ preliminary agreements and 26099
sponsor ~~any number of~~ schools as follows, provided each school and 26100
the contract for sponsorship meets the requirements of this 26101
chapter: 26102

(a) An entity that sponsored fifty or fewer schools that were 26103
open for operation as of May 1, 2005, may sponsor not more than 26104
fifty schools. 26105

(b) An entity that sponsored more than fifty but not more 26106
than seventy-five schools that were open for operation as of May 26107
1, 2005, may sponsor not more than the number of schools the 26108
entity sponsored that were open for operation as of May 1, 2005. 26109

(c) Until June 30, 2006, an entity that sponsored more than 26110
seventy-five schools that were open for operation as of May 1, 26111
2005, may sponsor not more than the number of schools the entity 26112
sponsored that were open for operation as of May 1, 2005. After 26113
June 30, 2006, such an entity may sponsor not more than 26114
seventy-five schools. 26115

Upon approval of an entity to be a sponsor under this 26116
division, the department shall notify the entity of the number of 26117
schools the entity may sponsor. 26118

The limit imposed on an entity to which division (B)(1)(b) or 26119

(c) of this section applies shall be decreased by one for each 26120
school sponsored by the entity that permanently closes until the 26121
number of schools sponsored by the entity is fifty. 26122

If at any time an entity exceeds the number of schools it may 26123
sponsor under this division, the department shall assist the 26124
schools in excess of the entity's limit in securing new sponsors. 26125
If a school is unable to secure a new sponsor, the department 26126
shall assume sponsorship of the school in accordance with division 26127
(C) of this section. Those schools for which another sponsor or 26128
the department assumes sponsorship shall be the schools that most 26129
recently entered into contracts with the entity under section 26130
3314.03 of the Revised Code. 26131

(2) The department of education shall determine, pursuant to 26132
criteria adopted by rule of the department, whether the mission 26133
proposed to be specified in the contract of a community school to 26134
be sponsored by a state university board of trustees or the 26135
board's designee under division (C)(1)(e) of section 3314.02 of 26136
the Revised Code complies with the requirements of that division. 26137
Such determination of the department is final. 26138

(3) The department of education shall determine, pursuant to 26139
criteria adopted by rule of the department, if any tax-exempt 26140
entity under section 501(c)(3) of the Internal Revenue Code that 26141
is proposed to be a sponsor of a community school is an 26142
education-oriented entity for purpose of satisfying the condition 26143
prescribed in division (C)(1)~~(e)~~~~(iv)~~(f)(iii) of section 3314.02 of 26144
the Revised Code. Such determination of the department is final. 26145

(C) If at any time the state board of education finds that a 26146
sponsor is not in compliance or is no longer willing to comply 26147
with its contract with any community school or with the 26148
department's rules for sponsorship, the state board or designee 26149
shall conduct a hearing in accordance with Chapter 119. of the 26150
Revised Code on that matter. If after the hearing, the state board 26151

or designee has confirmed the original finding, the department of 26152
education may revoke the sponsor's approval to sponsor community 26153
schools and may assume the sponsorship of any schools with which 26154
the sponsor has contracted until the earlier of the expiration of 26155
two school years or until a new sponsor as described in division 26156
(C)(1) of section 3314.02 of the Revised Code is secured by the 26157
school's governing authority. The department may extend the term 26158
of the contract in the case of a school for which it has assumed 26159
sponsorship under this division as necessary to accommodate the 26160
term of the department's authorization to sponsor the school 26161
specified in this division. 26162

(D) The decision of the department to disapprove an entity 26163
for sponsorship of a community school or to revoke approval for 26164
such sponsorship, as provided in division (C) of this section, may 26165
be appealed by the entity in accordance with section 119.12 of the 26166
Revised Code. 26167

(E) The department shall adopt procedures for use by a 26168
community school governing authority and sponsor when the school 26169
permanently closes and ceases operation, which shall include at 26170
least procedures for data reporting to the department, handling of 26171
student records, distribution of assets in accordance with section 26172
3314.074 of the Revised Code, and other matters related to ceasing 26173
operation of the school. 26174

(F) In carrying out its duties under this chapter, the 26175
department shall not impose requirements on community schools or 26176
their sponsors that are not permitted by law or duly adopted 26177
rules. 26178

Sec. 3314.02. (A) As used in this chapter: 26179

(1) "Sponsor" means an entity listed in division (C)(1) of 26180
this section, which has been approved by the department of 26181
education to sponsor community schools and with which the 26182

governing authority of the proposed community school enters into a 26183
contract pursuant to this section. 26184

(2) "Pilot project area" means the school districts included 26185
in the territory of the former community school pilot project 26186
established by former Section 50.52 of Am. Sub. H.B. No. 215 of 26187
the 122nd general assembly. 26188

(3) "Challenged school district" means any of the following: 26189

(a) A school district that is part of the pilot project area; 26190

(b) A school district that is either in a state of academic 26191
emergency or in a state of academic watch under section 3302.03 of 26192
the Revised Code; 26193

(c) A big eight school district. 26194

(4) "Big eight school district" means a school district that 26195
for fiscal year 1997 had both of the following: 26196

(a) A percentage of children residing in the district and 26197
participating in the predecessor of Ohio works first greater than 26198
thirty per cent, as reported pursuant to section 3317.10 of the 26199
Revised Code; 26200

(b) An average daily membership greater than twelve thousand, 26201
as reported pursuant to former division (A) of section 3317.03 of 26202
the Revised Code. 26203

(5) "New start-up school" means a community school other than 26204
one created by converting all or part of an existing public 26205
school, as designated in the school's contract pursuant to 26206
division (A)(17) of section 3314.03 of the Revised Code. 26207

(6) "Urban school district" means one of the state's 26208
twenty-one urban school districts as defined in division (O) of 26209
section 3317.02 of the Revised Code as that section existed prior 26210
to July 1, 1998. 26211

(7) "Internet- or computer-based community school" means a 26212

community school established under this chapter in which the 26213
enrolled students work primarily from their residences on 26214
assignments in nonclassroom-based learning opportunities provided 26215
via an internet- or other computer-based instructional method that 26216
does not rely on regular classroom instruction or via 26217
comprehensive instructional methods that include internet-based, 26218
other computer-based, and noncomputer-based learning 26219
opportunities. 26220

(B) Any person or group of individuals may initially propose 26221
under this division the conversion of all or a portion of a public 26222
school to a community school. The proposal shall be made to the 26223
board of education of the city, local, or exempted village school 26224
district in which the public school is proposed to be converted. 26225
Upon receipt of a proposal, a board may enter into a preliminary 26226
agreement with the person or group proposing the conversion of the 26227
public school, indicating the intention of the board of education 26228
to support the conversion to a community school. A proposing 26229
person or group that has a preliminary agreement under this 26230
division may proceed to finalize plans for the school, establish a 26231
governing authority for the school, and negotiate a contract with 26232
the board of education. Provided the proposing person or group 26233
adheres to the preliminary agreement and all provisions of this 26234
chapter, the board of education shall negotiate in good faith to 26235
enter into a contract in accordance with section 3314.03 of the 26236
Revised Code and division (C) of this section. 26237

(C)(1) Any person or group of individuals may propose under 26238
this division the establishment of a new start-up school to be 26239
located in a challenged school district. The proposal may be made 26240
to any of the following entities: 26241

(a) The board of education of the district in which the 26242
school is proposed to be located; 26243

(b) The board of education of any joint vocational school 26244

district with territory in the county in which is located the 26245
majority of the territory of the district in which the school is 26246
proposed to be located; 26247

(c) The board of education of any other city, local, or 26248
exempted village school district having territory in the same 26249
county where the district in which the school is proposed to be 26250
located has the major portion of its territory; 26251

(d) The governing board of any educational service center; 26252

(e) A sponsoring authority designated by the board of 26253
trustees of any of the thirteen state universities listed in 26254
section 3345.011 of the Revised Code or the board of trustees 26255
itself as long as a mission of the proposed school to be specified 26256
in the contract under division (A)(2) of section 3314.03 of the 26257
Revised Code and as approved by the department of education under 26258
division (B)(2) of section 3314.015 of the Revised Code will be 26259
the practical demonstration of teaching methods, educational 26260
technology, or other teaching practices that are included in the 26261
curriculum of the university's teacher preparation program 26262
approved by the state board of education; 26263

(f) Any qualified tax-exempt entity under section 501(c)(3) 26264
of the Internal Revenue Code as long as all of the following 26265
conditions are satisfied: 26266

(i) The entity has been in operation for at least five years 26267
prior to applying to be a community school sponsor. 26268

(ii) The entity has assets of at least five hundred thousand 26269
dollars. 26270

(iii) The department of education has determined that the 26271
entity is an education-oriented entity under division (B)(3) of 26272
section 3314.015 of the Revised Code. 26273

~~Until July 1, 2005, any entity described in division~~ 26274

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

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

(2) A preliminary agreement indicates the intention of an
entity described in division (C)(1) of this section to sponsor the
community school. A proposing person or group that has such a
preliminary agreement may proceed to finalize plans for the
school, establish a governing authority as described in division
(E) of this section for the school, and negotiate a contract with
the entity. Provided the proposing person or group adheres to the
preliminary agreement and all provisions of this chapter, the
entity shall negotiate in good faith to enter into a contract in
accordance with section 3314.03 of the Revised Code.

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

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

(D) A majority vote of the board of a sponsoring entity and a
majority vote of the members of the governing authority of a
community school shall be required to adopt a contract and convert

the public school to a community school or establish the new 26306
start-up school. ~~Up to the statewide limit prescribed in section~~ 26307
~~Beginning on the effective date of this amendment, adoption of the~~ 26308
~~contract shall occur not later than the fifteenth day of March~~ 26309
~~prior to the school year in which the school will open. Subject to~~ 26310
~~sections 3314.013 and 3314.014 of the Revised Code, an unlimited~~ 26311
number of community schools may be established in any school 26312
district provided that a contract is entered into for each 26313
community school pursuant to this chapter. 26314

(E) As used in this division, "immediate relatives" are 26315
limited to spouses, children, parents, grandparents, siblings, and 26316
in-laws. 26317

Each new start-up community school established under this 26318
chapter shall be under the direction of a governing authority 26319
which shall consist of a board of not less than five individuals 26320
who are not owners or employees, or immediate relatives of owners 26321
or employees, of any for-profit firm that operates or manages a 26322
school for the governing authority. 26323

No person shall serve on the governing authority or operate 26324
the community school under contract with the governing authority 26325
so long as the person owes the state any money or is in a dispute 26326
over whether the person owes the state any money concerning the 26327
operation of a community school that has closed. 26328

(F) Nothing in this chapter shall be construed to permit the 26329
establishment of a community school in more than one school 26330
district under the same contract. 26331

(G)(1) A new start-up school that is established prior to ~~the~~ 26332
~~effective date of this amendment~~ August 15, 2003, in an urban 26333
school district that is not also a big-eight school district may 26334
continue to operate after ~~the effective~~ that ~~date of this~~ 26335
~~amendment~~ and the contract between the school's governing 26336

authority and the school's sponsor may be renewed, as provided 26337
under this chapter, after ~~the effective that~~ date of ~~this~~ 26338
~~amendment~~, but no additional new start-up schools may be 26339
established in such a district unless the district is a challenged 26340
school district as defined in this section as it exists on and 26341
after ~~the effective that~~ date of ~~this amendment~~. 26342

(2) A community school that was established prior to June 29, 26343
1999, and is located in a county contiguous to the pilot project 26344
area and in a school district that is not a challenged school 26345
district may continue to operate after that date, provided the 26346
school complies with all provisions of this chapter. The contract 26347
between the school's governing authority and the school's sponsor 26348
may be renewed, but no additional start-up community school may be 26349
established in that district unless the district is a challenged 26350
school district. 26351

Sec. 3314.021. (A) This section applies to any entity that is 26352
exempt from taxation under section 501(c)(3) of the Internal 26353
Revenue Code and that satisfies the conditions specified in 26354
divisions (C)(1)(f)(ii) and (iii) of section 3314.02 of the 26355
Revised Code but does not satisfy the condition specified in 26356
division (C)(1)(f)(i) of that section. 26357

(B) Notwithstanding division (C)(1)(f)(i) of section 3314.02 26358
of the Revised Code, an entity described in division (A) of this 26359
section may do both of the following without obtaining the 26360
department of education's approval of its sponsorship under 26361
division (B)(1) of section 3314.015 of the Revised Code: 26362

(1) Succeed the board of trustees of a state university 26363
located in the pilot project area or that board's designee as the 26364
sponsor of a community school established under this chapter; 26365

(2) Continue to sponsor that school in conformance with the 26366
terms of the contract between the board of trustees or its 26367

designee and the governing authority of the community school and 26368
renew that contract as provided in division (E) of section 3314.03 26369
of the Revised Code. 26370

(C) The entity that succeeds the board of trustees or the 26371
board's designee as sponsor of a community school under division 26372
(B) of this section also may enter into contracts to sponsor other 26373
community schools located in any challenged school district, 26374
without obtaining the department's approval of its sponsorship 26375
under division (B)(1) of section 3314.015 of the Revised Code, and 26376
not subject to the restriction of ~~the paragraph following division~~ 26377
~~(C)(1)(f)(iii)~~ division (A)(7) of section ~~3314.02~~ 3314.013 of the 26378
Revised Code, as long as the contracts conform with and the entity 26379
complies with all other requirements of this chapter. 26380

Sec. 3314.03. A copy of every contract entered into under 26381
this section shall be filed with the superintendent of public 26382
instruction. 26383

(A) Each contract entered into between a sponsor and the 26384
governing authority of a community school shall specify the 26385
following: 26386

(1) That the school shall be established as either of the 26387
following: 26388

(a) A nonprofit corporation established under Chapter 1702. 26389
of the Revised Code, if established prior to April 8, 2003; 26390

(b) A public benefit corporation established under Chapter 26391
1702. of the Revised Code, if established after April 8, 2003; 26392

(2) The education program of the school, including the 26393
school's mission, the characteristics of the students the school 26394
is expected to attract, the ages and grades of students, and the 26395
focus of the curriculum; 26396

(3) The academic goals to be achieved and the method of 26397

measurement that will be used to determine progress toward those goals, which shall include the statewide achievement tests; 26398
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(4) Performance standards by which the success of the school will be evaluated by the sponsor~~r~~. If the sponsor will evaluate the school in accordance with division (D) of section 3314.36 of the Revised Code, the contract shall specify the number of school years that the school will be evaluated under that division. 26400
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(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code; 26405
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(6)(a) Dismissal procedures; 26407

(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student. ~~Such a policy shall provide for withdrawing the student by the end of the thirtieth day after the student has failed to participate as required under this division.~~ 26408
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(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves; 26416
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(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state, and the audits shall be conducted in accordance with section 117.10 of the Revised Code. 26418
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(9) The facilities to be used and their locations; 26424

(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a 26425
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community school may engage noncertificated persons to teach up to 26428
twelve hours per week pursuant to section 3319.301 of the Revised 26429
Code; 26430

(11) That the school will comply with the following 26431
requirements: 26432

(a) The school will provide learning opportunities to a 26433
minimum of twenty-five students for a minimum of nine hundred 26434
twenty hours per school year; 26435

(b) The governing authority will purchase liability 26436
insurance, or otherwise provide for the potential liability of the 26437
school; 26438

(c) The school will be nonsectarian in its programs, 26439
admission policies, employment practices, and all other 26440
operations, and will not be operated by a sectarian school or 26441
religious institution; 26442

(d) The school will comply with sections 9.90, 9.91, 109.65, 26443
121.22, 149.43, 2151.358, 2151.421, 2313.18, 3301.0710, 3301.0711, 26444
3301.0712, 3301.0715, 3313.50, 3313.608, 3313.6012, 3313.643, 26445
3313.648, 3313.66, 3313.661, 3313.662, 3313.67, 3313.671, 26446
3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.80, 3313.96, 26447
3319.073, 3319.321, 3319.39, 3321.01, 3321.13, 3321.14, 3321.17, 26448
3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 26449
5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 26450
4123., 4141., and 4167. of the Revised Code as if it were a school 26451
district and will comply with section 3301.0714 of the Revised 26452
Code in the manner specified in section 3314.17 of the Revised 26453
Code; 26454

(e) The school shall comply with Chapter 102. of the Revised 26455
Code except that nothing in that chapter shall prohibit a member 26456
of the school's governing board from also being an employee of the 26457
school and nothing in that chapter or section 2921.42 of the 26458

Revised Code shall prohibit a member of the school's governing board from having an interest in a contract into which the governing board enters that is not a contract with a for-profit firm for the operation or management of a school under the auspices of the governing authority;

(f) The school will comply with sections 3313.61, 3313.611, and 3313.614 of the Revised Code, except that the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum in any high school prior to receiving a high school diploma may be met by completing the curriculum adopted by the governing authority of the community school rather than the curriculum specified in Title XXXIII of the Revised Code or any rules of the state board of education;

(g) The school governing authority will submit within four months after the end of each school year a report of its activities and progress in meeting the goals and standards of divisions (A)(3) and (4) of this section and its financial status to the sponsor, the parents of all students enrolled in the school, and the legislative office of education oversight. The school will collect and provide any data that the legislative office of education oversight requests in furtherance of any study or research that the general assembly requires the office to conduct, including the studies required under Section 50.39 of Am. Sub. H.B. 215 of the 122nd general assembly and Section 50.52.2 of Am. Sub. H.B. 215 of the 122nd general assembly, as amended.

(12) Arrangements for providing health and other benefits to employees;

(13) The length of the contract, which shall begin at the beginning of an academic year. No contract shall exceed five years unless such contract has been renewed pursuant to division (E) of this section.

- (14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract; 26490
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- (15) A financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount for each such year. The plan shall specify for each year the base formula amount that will be used for purposes of funding calculations under section 3314.08 of the Revised Code. This base formula amount for any year shall not exceed the formula amount defined under section 3317.02 of the Revised Code. The plan may also specify for any year a percentage figure to be used for reducing the per pupil amount of ~~disadvantaged pupil impact aid~~ the subsidy calculated pursuant to section 3317.029 of the Revised Code the school is to receive that year under section 3314.08 of the Revised Code. 26492
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- (16) Requirements and procedures regarding the disposition of employees of the school in the event the contract is terminated or not renewed pursuant to section 3314.07 of the Revised Code; 26504
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- (17) Whether the school is to be created by converting all or part of an existing public school or is to be a new start-up school, and if it is a converted public school, specification of any duties or responsibilities of an employer that the board of education that operated the school before conversion is delegating to the governing board of the community school with respect to all or any specified group of employees provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees; 26507
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- (18) Provisions establishing procedures for resolving disputes or differences of opinion between the sponsor and the governing authority of the community school; 26516
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- (19) A provision requiring the governing authority to adopt a policy regarding the admission of students who reside outside the 26519
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district in which the school is located. That policy shall comply 26521
with the admissions procedures specified in ~~section~~ sections 26522
3314.06 and 3314.061 of the Revised Code and, at the sole 26523
discretion of the authority, shall do one of the following: 26524

(a) Prohibit the enrollment of students who reside outside 26525
the district in which the school is located; 26526

(b) Permit the enrollment of students who reside in districts 26527
adjacent to the district in which the school is located; 26528

(c) Permit the enrollment of students who reside in any other 26529
district in the state. 26530

(20) A provision recognizing the authority of the department 26531
of education to take over the sponsorship of the school in 26532
accordance with the provisions of division (C) of section 3314.015 26533
of the Revised Code; 26534

(21) A provision recognizing the sponsor's authority to 26535
assume the operation of a school under the conditions specified in 26536
division (B) of section 3314.073 of the Revised Code; 26537

(22) A provision recognizing both of the following: 26538

(a) The authority of public health and safety officials to 26539
inspect the facilities of the school and to order the facilities 26540
closed if those officials find that the facilities are not in 26541
compliance with health and safety laws and regulations; 26542

(b) The authority of the department of education as the 26543
community school oversight body to suspend the operation of the 26544
school under section 3314.072 of the Revised Code if the 26545
department has evidence of conditions or violations of law at the 26546
school that pose an imminent danger to the health and safety of 26547
the school's students and employees and the sponsor refuses to 26548
take such action; 26549

(23) A description of the learning opportunities that will be 26550

offered to students including both classroom-based and 26551
non-classroom-based learning opportunities that is in compliance 26552
with criteria for student participation established by the 26553
department under division (L)(2) of section 3314.08 of the Revised 26554
Code; 26555

(24) The school will comply with section 3302.04 of the 26556
Revised Code, including division (E) of that section to the extent 26557
possible, except that any action required to be taken by a school 26558
district pursuant to that section shall be taken by the sponsor of 26559
the school. However, the sponsor shall not be required to take any 26560
action described in division (F) of that section. 26561

(25) Beginning in the 2006-2007 school year, the school will 26562
open for operation not later than the thirtieth day of September 26563
each school year, unless the mission of the school as specified 26564
under division (A)(2) of this section is solely to serve dropouts. 26565
In its initial year of operation, if the school fails to open by 26566
the thirtieth day of September, or within one year after the 26567
adoption of the contract pursuant to division (D) of section 26568
3314.02 of the Revised Code if the mission of the school is solely 26569
to serve dropouts, the contract shall be void. 26570

(B) The community school shall also submit to the sponsor a 26571
comprehensive plan for the school. The plan shall specify the 26572
following: 26573

(1) The process by which the governing authority of the 26574
school will be selected in the future; 26575

(2) The management and administration of the school; 26576

(3) If the community school is a currently existing public 26577
school, alternative arrangements for current public school 26578
students who choose not to attend the school and teachers who 26579
choose not to teach in the school after conversion; 26580

(4) The instructional program and educational philosophy of 26581

the school; 26582

(5) Internal financial controls. 26583

(C) A contract entered into under section 3314.02 of the 26584
Revised Code between a sponsor and the governing authority of a 26585
community school may provide for the community school governing 26586
authority to make payments to the sponsor, which is hereby 26587
authorized to receive such payments as set forth in the contract 26588
between the governing authority and the sponsor. The total amount 26589
of such payments for oversight and monitoring of the school shall 26590
not exceed three per cent of the total amount of payments for 26591
operating expenses that the school receives from the state. 26592

(D) The contract shall specify the duties of the sponsor 26593
which shall be in accordance with the written agreement entered 26594
into with the department of education under division (B) of 26595
section 3314.015 of the Revised Code and shall include the 26596
following: 26597

(1) Monitor the community school's compliance with all laws 26598
applicable to the school and with the terms of the contract; 26599

(2) Monitor and evaluate the academic and fiscal performance 26600
and the organization and operation of the community school on at 26601
least an annual basis; 26602

(3) Report on an annual basis the results of the evaluation 26603
conducted under division (D)(2) of this section to the department 26604
of education and to the parents of students enrolled in the 26605
community school; 26606

(4) Provide technical assistance to the community school in 26607
complying with laws applicable to the school and terms of the 26608
contract; 26609

(5) Take steps to intervene in the school's operation to 26610
correct problems in the school's overall performance, declare the 26611

school to be on probationary status pursuant to section 3314.073 26612
of the Revised Code, suspend the operation of the school pursuant 26613
to section 3314.072 of the Revised Code, or terminate the contract 26614
of the school pursuant to section 3314.07 of the Revised Code as 26615
determined necessary by the sponsor; 26616

(6) Have in place a plan of action to be undertaken in the 26617
event the community school experiences financial difficulties or 26618
closes prior to the end of a school year. 26619

(E) Upon the expiration of a contract entered into under this 26620
section, the sponsor of a community school may, with the approval 26621
of the governing authority of the school, renew that contract for 26622
a period of time determined by the sponsor, but not ending earlier 26623
than the end of any school year, if the sponsor finds that the 26624
school's compliance with applicable laws and terms of the contract 26625
and the school's progress in meeting the academic goals prescribed 26626
in the contract have been satisfactory. Any contract that is 26627
renewed under this division remains subject to the provisions of 26628
sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 26629

(F) If a community school fails to open for operation within 26630
one year after the contract entered into under this section is 26631
adopted pursuant to division (D) of section 3314.02 of the Revised 26632
Code or permanently closes prior to the expiration of the 26633
contract, the contract shall be void and the school shall not 26634
enter into a contract with any other sponsor. A school shall not 26635
be considered permanently closed because the operations of the 26636
school have been suspended pursuant to section 3314.072 of the 26637
Revised Code. Any contract that becomes void under this division 26638
shall not count toward any statewide limit on the number of such 26639
contracts prescribed by section 3314.013 of the Revised Code. 26640

Sec. 3314.06. The governing authority of each community 26641
school established under this chapter shall adopt admission 26642

procedures that specify the following: 26643

(A) That except as otherwise provided in this section, 26644
admission to the school shall be open to any individual age five 26645
to twenty-two entitled to attend school pursuant to section 26646
3313.64 or 3313.65 of the Revised Code in a school district in the 26647
state. 26648

(B)(1) That admission to the school may be limited to 26649
students who have attained a specific grade level or are within a 26650
specific age group; to students that meet a definition of 26651
"at-risk," as defined in the contract; ~~or~~ to residents of a 26652
specific geographic area within the district, as defined in the 26653
contract; or to separate groups of autistic students and 26654
nonhandicapped students, as authorized in section 3314.061 of the 26655
Revised Code and as defined in the contract. 26656

(2) For purposes of division (B)(1) of this section, 26657
"at-risk" students may include those students identified as gifted 26658
students under section 3324.03 of the Revised Code. 26659

(C) Whether enrollment is limited to students who reside in 26660
the district in which the school is located or is open to 26661
residents of other districts, as provided in the policy adopted 26662
pursuant to the contract. 26663

(D)(1) That there will be no discrimination in the admission 26664
of students to the school on the basis of race, creed, color, 26665
handicapping condition, or sex except that ~~the~~: 26666

(a) The governing authority may establish single-gender 26667
schools for the purpose described in division (G) of this section 26668
provided comparable facilities and learning opportunities are 26669
offered for both boys and girls. Such comparable facilities and 26670
opportunities may be offered for each sex at separate locations. 26671

(b) The governing authority may establish a school that 26672
simultaneously serves a group of students identified as autistic 26673

and a group of students who are not handicapped, as authorized in 26674
section 3314.061 of the Revised Code. However, unless the total 26675
capacity established for the school has been filled, no student 26676
with any handicap shall be denied admission on the basis of that 26677
handicap. 26678

(2) That upon admission of any handicapped student, the 26679
community school will comply with all federal and state laws 26680
regarding the education of handicapped students. 26681

(E) That the school may not limit admission to students on 26682
the basis of intellectual ability, measures of achievement or 26683
aptitude, or athletic ability, except that a school may limit its 26684
enrollment to students as described in division (B)~~(2)~~ of this 26685
section. 26686

(F) That the community school will admit the number of 26687
students that does not exceed the capacity of the school's 26688
programs, classes, grade levels, or facilities. 26689

(G) That the purpose of single-gender schools that are 26690
established shall be to take advantage of the academic benefits 26691
some students realize from single-gender instruction and 26692
facilities and to offer students and parents residing in the 26693
district the option of a single-gender education. 26694

(H) That, except as otherwise provided under division (B) of 26695
this section or section 3314.061 of the Revised Code, if the 26696
number of applicants exceeds the capacity restrictions of division 26697
(F) of this section, students shall be admitted by lot from all 26698
those submitting applications, except preference shall be given to 26699
students attending the school the previous year and to students 26700
who reside in the district in which the school is located. 26701
Preference may be given to siblings of students attending the 26702
school the previous year. 26703

Notwithstanding divisions (A) to (H) of this section, in the 26704

event the racial composition of the enrollment of the community 26705
school is violative of a federal desegregation order, the 26706
community school shall take any and all corrective measures to 26707
comply with the desegregation order. 26708

Sec. 3314.061. A governing authority may establish a 26709
community school under this chapter that is limited to providing 26710
simultaneously special education and related services to a 26711
specified number of students identified as autistic and regular 26712
educational programs to a specified number of students who are not 26713
handicapped. The contract between the governing authority and the 26714
school's sponsor shall specify the target ratio of number of 26715
autistic students to number of nonhandicapped students in the 26716
school's population, the total number of autistic students that 26717
may be enrolled in the school, and the total number of 26718
nonhandicapped students that may be enrolled in the school. A 26719
school established in accordance with this section is subject to 26720
division (H) of section 3314.06 of the Revised Code, except that 26721
because the governing authority establishes a separate capacity 26722
for autistic students and nonhandicapped students, if the number 26723
of applicants among the group of autistic students or the group of 26724
nonhandicapped students exceeds the capacity restrictions for that 26725
group, students shall be admitted by lot from all those of that 26726
same group submitting applications. However, unless the total 26727
capacity established for the school has been filled, no student 26728
with any handicap shall be denied admission on the basis of that 26729
handicap. 26730

Sec. 3314.074. Divisions (A) and (B) of this section apply 26731
only to the extent permitted under Chapter 1702. of the Revised 26732
Code. 26733

(A) If any community school established under this chapter 26734
permanently closes and ceases its operation as a community school, 26735

the assets of that school shall be distributed first to the 26736
retirement funds of employees of the school, employees of the 26737
school, and private creditors who are owed compensation and then 26738
any remaining funds shall be paid to the state treasury to the 26739
credit of the general revenue fund. 26740

(B) If a community school closes and ceases to operate as a 26741
community school and the school has received computer hardware or 26742
software from the former Ohio SchoolNet commission or the eTech 26743
Ohio commission, such hardware or software shall be returned to 26744
the eTech Ohio commission, and the eTech Ohio commission shall 26745
redistribute the hardware and software, to the extent such 26746
redistribution is possible, to school districts in conformance 26747
with the provisions of the programs operated and administered by 26748
the eTech Ohio commission. 26749

(C) If the assets of the school are insufficient to pay all 26750
persons or entities to whom compensation is owed, the 26751
prioritization of the distribution of the assets to individual 26752
persons or entities within each class of payees may be determined 26753
by decree of a court in accordance with this section and Chapter 26754
1702. of the Revised Code. 26755

Sec. 3314.08. (A) As used in this section: 26756

(1) "Base formula amount" means the amount specified as such 26757
in a community school's financial plan for a school year pursuant 26758
to division (A)(15) of section 3314.03 of the Revised Code. 26759

(2) "Cost-of-doing-business factor" has the same meaning as 26760
in section 3317.02 of the Revised Code. 26761

(3) "IEP" means an individualized education program as 26762
defined in section 3323.01 of the Revised Code. 26763

(4) "Applicable special education weight" means the multiple 26764
specified in section 3317.013 of the Revised Code for a handicap 26765

described in that section. 26766

(5) "Applicable vocational education weight" means: 26767

(a) For a student enrolled in vocational education programs 26768
or classes described in division (A) of section 3317.014 of the 26769
Revised Code, the multiple specified in that division; 26770

(b) For a student enrolled in vocational education programs 26771
or classes described in division (B) of section 3317.014 of the 26772
Revised Code, the multiple specified in that division. 26773

(6) "Entitled to attend school" means entitled to attend 26774
school in a district under section 3313.64 or 3313.65 of the 26775
Revised Code. 26776

(7) A community school student is "included in the ~~DPIA~~ 26777
poverty student count" of a school district if the student is 26778
entitled to attend school in the district and: 26779

~~(a) For school years prior to fiscal year 2004, the student's 26780
family receives assistance under the Ohio works first program. 26781~~

~~(b) For school years in and after fiscal year 2004, the 26782
student's family income does not exceed the federal poverty 26783
guidelines, as defined in section 5101.46 of the Revised Code, and 26784
the student's family receives family assistance, as defined in 26785
section 3317.029 of the Revised Code. 26786~~

(8) "DPIA Poverty-based assistance reduction factor" means 26787
the percentage figure, if any, for reducing the per pupil amount 26788
of ~~disadvantaged pupil impact aid~~ poverty-based assistance a 26789
community school is entitled to receive pursuant to divisions 26790
(D)(5) and (6) of this section in any year, as specified in the 26791
school's financial plan for the year pursuant to division (A)(15) 26792
of section 3314.03 of the Revised Code. 26793

(9) "All-day kindergarten" has the same meaning as in section 26794
3317.029 of the Revised Code. 26795

(10) "SF-3 payment" means the sum of the payments to a school district in a fiscal year under divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022, divisions (J), (P), and (R) of section 3317.024, and sections 3317.029, ~~3317.0212, 3317.0213,~~ 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of the Revised Code after making the adjustments required by sections 3313.981 and 3313.979, divisions (B), (C), (D), (E), (K), (L), ~~and~~ (M), (N), and (O) of section 3317.023, and division (C) of section 3317.20 of the Revised Code.

(B) The state board of education shall adopt rules requiring both of the following:

(1) The board of education of each city, exempted village, and local school district to annually report the number of students entitled to attend school in the district who are enrolled in grades one through twelve in a community school established under this chapter, the number of students entitled to attend school in the district who are enrolled in kindergarten in a community school, the number of those kindergartners who are enrolled in all-day kindergarten in their community school, and for each child, the community school in which the child is enrolled.

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

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

(b) The number of enrolled students in grades one through twelve and the number of enrolled students in kindergarten, who are receiving special education and related services pursuant to

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| an IEP; | 26827 |
| (c) The number of students reported under division (B)(2)(b) of this section receiving special education and related services pursuant to an IEP for a handicap described in each of divisions (A) to (F) of section 3317.013 of the Revised Code; | 26828 26829 26830 26831 |
| (d) The full-time equivalent number of students reported under divisions (B)(2)(a) and (b) of this section who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code that are provided by the community school; | 26832 26833 26834 26835 26836 |
| (e) Twenty per cent of the number of students reported under divisions (B)(2)(a) and (b) of this section who are not reported under division (B)(2)(d) of this section but who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code at a joint vocational school district under a contract between the community school and the joint vocational school district and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district; | 26837 26838 26839 26840 26841 26842 26843 26844 26845 26846 |
| (f) The number of enrolled preschool handicapped students receiving special education services in a state-funded unit; | 26847 26848 |
| (g) The community school's base formula amount; | 26849 |
| (h) For each student, the city, exempted village, or local school district in which the student is entitled to attend school; | 26850 26851 |
| (i) Any DP <u>PIA</u> <u>poverty-based assistance</u> reduction factor that applies to a school year. | 26852 26853 |
| (C) From the SF-3 payment made to a city, exempted village, or local school district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised | 26854 26855 26856 |

Code, the department of education shall annually subtract the sum 26857
of the amounts described in divisions (C)(1) to ~~(6)~~(9) of this 26858
section. However, when deducting payments on behalf of students 26859
enrolled in internet- or computer-based community schools, the 26860
department shall deduct only those amounts described in divisions 26861
(C)(1) and (2) of this section. Furthermore, the aggregate amount 26862
deducted under this division shall not exceed the sum of the 26863
district's SF-3 payment and its payment under sections 321.24 and 26864
323.156 of the Revised Code. 26865

(1) An amount equal to the sum of the amounts obtained when, 26866
for each community school where the district's students are 26867
enrolled, the number of the district's students reported under 26868
divisions (B)(2)(a), (b), and (e) of this section who are enrolled 26869
in grades one through twelve, and one-half the number of students 26870
reported under those divisions who are enrolled in kindergarten, 26871
in that community school is multiplied by the greater of the 26872
following: 26873

(a) The fiscal year 2005 base formula amount of that 26874
community school as adjusted by the school district's fiscal year 26875
2005 cost-of-doing-business factor; 26876

(b) The sum of (the current base formula amount of that 26877
community school times the school district's current 26878
cost-of-doing-business factor) plus the per pupil amount of the 26879
base funding supplements specified in divisions (C)(1) to (4) of 26880
section 3317.012 of the Revised Code. 26881

(2) The sum of the amounts calculated under divisions 26882
(C)(2)(a) and (b) of this section: 26883

(a) For each of the district's students reported under 26884
division (B)(2)(c) of this section as enrolled in a community 26885
school in grades one through twelve and receiving special 26886
education and related services pursuant to an IEP for a handicap 26887

described in section 3317.013 of the Revised Code, the product of 26888
the applicable special education weight times the community 26889
school's base formula amount; 26890

(b) For each of the district's students reported under 26891
division (B)(2)(c) of this section as enrolled in kindergarten in 26892
a community school and receiving special education and related 26893
services pursuant to an IEP for a handicap described in section 26894
3317.013 of the Revised Code, one-half of the amount calculated as 26895
prescribed in division (C)(2)(a) of this section. 26896

(3) For each of the district's students reported under 26897
division (B)(2)(d) of this section for whom payment is made under 26898
division (D)(4) of this section, the amount of that payment; 26899

(4) An amount equal to the sum of the amounts obtained when, 26900
for each community school where the district's students are 26901
enrolled, the number of the district's students enrolled in that 26902
community school who are included in the district's ~~DPIA~~ poverty 26903
student count is multiplied by the per pupil amount of 26904
~~disadvantaged pupil impact aid~~ poverty-based assistance the school 26905
district receives that year pursuant to division (B) or (C) of 26906
section 3317.029 of the Revised Code, as adjusted by any ~~DPIA~~ 26907
poverty-based assistance reduction factor of that community 26908
school. If the district receives ~~disadvantaged pupil impact aid~~ 26909
poverty-based assistance under division (B) of that section, the 26910
per pupil amount of that aid is the quotient of the amount the 26911
district received under that division divided by the district's 26912
~~DPIA~~ poverty student count, as defined in that section. If the 26913
district receives ~~disadvantaged pupil impact aid~~ poverty-based 26914
assistance under division (C) of section 3317.029 of the Revised 26915
Code, the per pupil amount of that aid ~~is the per pupil dollar~~ 26916
~~amount prescribed for the district in division (C)(1) or (2) of~~ 26917
~~that section shall be calculated by the department.~~ 26918

(5) An amount equal to the sum of the amounts obtained when, 26919

for each community school where the district's students are 26920
enrolled, the district's per pupil amount of aid received under 26921
division (E) of section 3317.029 of the Revised Code, as adjusted 26922
by any ~~DPIA~~ poverty-based assistance reduction factor of the 26923
community school, is multiplied by the sum of the following: 26924

(a) The number of the district's students reported under 26925
division (B)(2)(a) of this section who are enrolled in grades one 26926
to three in that community school and who are not receiving 26927
special education and related services pursuant to an IEP; 26928

(b) One-half of the district's students who are enrolled in 26929
all-day or any other kindergarten class in that community school 26930
and who are not receiving special education and related services 26931
pursuant to an IEP; 26932

(c) One-half of the district's students who are enrolled in 26933
all-day kindergarten in that community school and who are not 26934
receiving special education and related services pursuant to an 26935
IEP. 26936

The district's per pupil amount of aid under division (E) of 26937
section 3317.029 of the Revised Code is the quotient of the amount 26938
the district received under that division divided by the 26939
district's kindergarten through third grade ADM, as defined in 26940
that section. 26941

(6) An amount equal to the sum of the amounts obtained when, 26942
for each community school where the district's students are 26943
enrolled, the district's per pupil amount received under division 26944
(F) of section 3317.029 of the Revised Code, as adjusted by any 26945
poverty-based assistance reduction factor of that community 26946
school, is multiplied by the number of the district's students 26947
enrolled in the community school who are identified as 26948
limited-English proficient. 26949

The district's per pupil amount under division (F) of section 26950

3317.029 of the Revised Code is the amount calculated under 26951
division (F)(1) or (2) of that section, times a multiple of 0.40 26952
in fiscal year 2006 and 0.70 in fiscal year 2007. 26953

(7) An amount equal to the sum of the amounts obtained when, 26954
for each community school where the district's students are 26955
enrolled, the district's per pupil amount received under division 26956
(G) of section 3317.029 of the Revised Code, as adjusted by any 26957
poverty-based assistance reduction factor of that community 26958
school, is multiplied by the sum of the following: 26959

(a) The number of the district's students enrolled in grades 26960
one through twelve in that community school; 26961

(b) One-half of the number of the district's students 26962
enrolled in kindergarten in that community school. 26963

The district's per pupil amount under division (G) of section 26964
3317.029 of the Revised Code is the district's amount per teacher 26965
calculated under division (G)(1) or (2) of that section divided by 26966
17, times a multiple of 0.40 in fiscal year 2006 and 0.70 in 26967
fiscal year 2007. 26968

(8) An amount equal to the sum of the amounts obtained when, 26969
for each community school where the district's students are 26970
enrolled, the district's per pupil amount received under divisions 26971
(H) and (I) of section 3317.029 of the Revised Code, as adjusted 26972
by any poverty-based assistance reduction factor of that community 26973
school, is multiplied by the sum of the following: 26974

(a) The number of the district's students enrolled in grades 26975
one through twelve in that community school; 26976

(b) One-half of the number of the district's students 26977
enrolled in kindergarten in that community school. 26978

The district's per pupil amount under divisions (H) and (I) 26979
of section 3317.029 of the Revised Code is the amount calculated 26980

under each division divided by the district's formula ADM, as 26981
defined in section 3317.02 of the Revised Code. 26982

(9) An amount equal to the per pupil state parity aid funding 26983
calculated for the school district under either division (C) or 26984
(D) of section 3317.0217 of the Revised Code multiplied by the sum 26985
of the number of students in grades one through twelve, and 26986
one-half of the number of students in kindergarten, who are 26987
entitled to attend school in the district and are enrolled in a 26988
community school as reported under division (B)(1) of this 26989
section. 26990

(D) The department shall annually pay to a community school 26991
established under this chapter the sum of the amounts described in 26992
divisions (D)(1) to ~~(7)~~(10) of this section. However, the 26993
department shall calculate and pay to each internet- or 26994
computer-based community school only the amounts described in 26995
divisions (D)(1) to (3) of this section. Furthermore, the sum of 26996
the payments to all community schools under divisions (D)(1), (2), 26997
and (4), (5), (6), and (7) to (10) of this section for the 26998
students entitled to attend school in any particular school 26999
district shall not exceed the sum of that district's SF-3 payment 27000
and its payment under sections 321.24 and 323.156 of the Revised 27001
Code. If the sum of the payments calculated under those divisions 27002
for the students entitled to attend school in a particular school 27003
district exceeds the sum of that district's SF-3 payment and its 27004
payment under sections 321.24 and 323.156 of the Revised Code, the 27005
department shall calculate and apply a proration factor to the 27006
payments to all community schools under those divisions for the 27007
students entitled to attend school in that district. 27008

(1) ~~An~~ Subject to section 3314.085 of the Revised Code, an 27009
amount equal to the sum of the amounts obtained when the number of 27010
students enrolled in grades one through twelve, plus one-half of 27011
the kindergarten students in the school, reported under divisions 27012

(B)(2)(a), (b), and (e) of this section who are not receiving 27013
special education and related services pursuant to an IEP for a 27014
handicap described in section 3317.013 of the Revised Code is 27015
multiplied by the greater of the following: 27016

(a) The community school's fiscal year 2005 base formula 27017
amount, as adjusted by the fiscal year 2005 cost-of-doing-business 27018
factor of the school district in which the student is entitled to 27019
attend school; 27020

(b) The sum of (the community school's current base formula 27021
amount times the current cost-of-doing-business factor of the 27022
school district in which the student is entitled to attend school) 27023
plus the per pupil amount of the base funding supplements 27024
specified in divisions (C)(1) to (4) of section 3317.012 of the 27025
Revised Code. 27026

(2) The Prior to fiscal year 2007, the greater of the 27027
following amount calculated under division (D)(2)(a) or (b) of 27028
this section, and in fiscal year 2007 and thereafter, the amount 27029
calculated under division (D)(2)(b) of this section: 27030

(a) The aggregate amount that the department paid to the 27031
community school in fiscal year 1999 for students receiving 27032
special education and related services pursuant to IEPs, excluding 27033
federal funds and state disadvantaged pupil impact aid funds; 27034

(b) The sum of the amounts calculated under divisions 27035
(D)(2)(b)(i) and (ii) of this section: 27036

(i) For each student reported under division (B)(2)(c) of 27037
this section as enrolled in the school in grades one through 27038
twelve and receiving special education and related services 27039
pursuant to an IEP for a handicap described in section 3317.013 of 27040
the Revised Code, the following amount: 27041

the greater of (the community school's fiscal year 2005 base 27042
formula amount 27043

X the fiscal year 2005 cost-of-doing-business factor 27044
of the district where the student 27045
is entitled to attend school) or [(the school's current base 27046
formula amount times the current cost-of-doing-business factor of 27047
the school district where the student is entitled to attend 27048
school) plus the per pupil amount of the base funding supplements 27049
specified in divisions (C)(1) to (4) of section 3317.012 of the 27050
Revised Code] + 27051
(the applicable special education weight X 27052
the community school's base formula amount); 27053

(ii) For each student reported under division (B)(2)(c) of 27054
this section as enrolled in kindergarten and receiving special 27055
education and related services pursuant to an IEP for a handicap 27056
described in section 3317.013 of the Revised Code, one-half of the 27057
amount calculated under the formula prescribed in division 27058
(D)(2)(b)(i) of this section. 27059

(3) An amount received from federal funds to provide special 27060
education and related services to students in the community 27061
school, as determined by the superintendent of public instruction. 27062

(4) For each student reported under division (B)(2)(d) of 27063
this section as enrolled in vocational education programs or 27064
classes that are described in section 3317.014 of the Revised 27065
Code, are provided by the community school, and are comparable as 27066
determined by the superintendent of public instruction to school 27067
district vocational education programs and classes eligible for 27068
state weighted funding under section 3317.014 of the Revised Code, 27069
an amount equal to the applicable vocational education weight 27070
times the community school's base formula amount times the 27071
percentage of time the student spends in the vocational education 27072
programs or classes. 27073

(5) An amount equal to the sum of the amounts obtained when, 27074
for each school district where the community school's students are 27075

entitled to attend school, the number of that district's students 27076
enrolled in the community school who are included in the 27077
district's ~~DPIA~~ poverty student count is multiplied by the per 27078
pupil amount of ~~disadvantaged pupil impact aid~~ poverty-based 27079
assistance that school district receives that year pursuant to 27080
division (B) or (C) of section 3317.029 of the Revised Code, as 27081
adjusted by any ~~DPIA~~ poverty-based assistance reduction factor of 27082
the community school. The per pupil amount of aid shall be 27083
determined as described in division (C)(4) of this section. 27084

(6) An amount equal to the sum of the amounts obtained when, 27085
for each school district where the community school's students are 27086
entitled to attend school, the district's per pupil amount of aid 27087
received under division (E) of section 3317.029 of the Revised 27088
Code, as adjusted by any ~~DPIA~~ poverty-based assistance reduction 27089
factor of the community school, is multiplied by the sum of the 27090
following: 27091

(a) The number of the district's students reported under 27092
division (B)(2)(a) of this section who are enrolled in grades one 27093
to three in that community school and who are not receiving 27094
special education and related services pursuant to an IEP; 27095

(b) One-half of the district's students who are enrolled in 27096
all-day or any other kindergarten class in that community school 27097
and who are not receiving special education and related services 27098
pursuant to an IEP; 27099

(c) One-half of the district's students who are enrolled in 27100
all-day kindergarten in that community school and who are not 27101
receiving special education and related services pursuant to an 27102
IEP. 27103

The district's per pupil amount of aid under division (E) of 27104
section 3317.029 of the Revised Code shall be determined as 27105
described in division (C)(5) of this section. 27106

(7) An amount equal to the sum of the amounts obtained when, 27107
for each school district where the community school's students are 27108
entitled to attend school, the number of that district's students 27109
enrolled in the community school who are identified as 27110
limited-English proficient is multiplied by the district's per 27111
pupil amount received under division (F) of section 3317.029 of 27112
the Revised Code, as adjusted by any poverty-based assistance 27113
reduction factor of the community school. 27114

The district's per pupil amount under division (F) of section 27115
3317.029 of the Revised Code shall be determined as described in 27116
division (C)(6) of this section. 27117

(8) An amount equal to the sum of the amounts obtained when, 27118
for each school district where the community school's students are 27119
entitled to attend school, the district's per pupil amount 27120
received under division (G) of section 3317.029 of the Revised 27121
Code, as adjusted by any poverty-based assistance reduction factor 27122
of the community school, is multiplied by the sum of the 27123
following: 27124

(a) The number of the district's students enrolled in grades 27125
one through twelve in that community school; 27126

(b) One-half of the number of the district's students 27127
enrolled in kindergarten in that community school. 27128

The district's per pupil amount under division (G) of section 27129
3317.029 of the Revised Code shall be determined as described in 27130
division (C)(7) of this section. 27131

(9) An amount equal to the sum of the amounts obtained when, 27132
for each school district where the community school's students are 27133
entitled to attend school, the district's per pupil amount 27134
received under divisions (H) and (I) of section 3317.029 of the 27135
Revised Code, as adjusted by any poverty-based assistance 27136
reduction factor of the community school, is multiplied by the sum 27137

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| <u>of the following:</u> | 27138 |
| <u>(a) The number of the district's students enrolled in grades one through twelve in that community school;</u> | 27139 |
| <u>(b) One-half of the number of the district's students enrolled in kindergarten in that community school.</u> | 27140 |
| <u>The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code shall be determined as described in division (C)(8) of this section.</u> | 27141 |
| <u>(10) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of state parity aid funding calculated under either division (C) or (D) of section 3317.0217 of the Revised Code is multiplied by the sum of the number of that district's students enrolled in grades one through twelve, and one-half of the number of that district's students enrolled in kindergarten, in the community school as reported under division (B)(2)(a) and (b) of this section.</u> | 27142 |
| <u>(E)(1) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a handicap described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an amount equal to the school's costs for the student in excess of the threshold catastrophic costs.</u> | 27143 |
| <u>(2) The community school shall only report under division (E)(1) of this section, and the department shall only pay for, the</u> | 27144 |
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costs of educational expenses and the related services provided to 27169
the student in accordance with the student's individualized 27170
education program. Any legal fees, court costs, or other costs 27171
associated with any cause of action relating to the student may 27172
not be included in the amount. 27173

(F) A community school may apply to the department of 27174
education for preschool handicapped or gifted unit funding the 27175
school would receive if it were a school district. Upon request of 27176
its governing authority, a community school that received unit 27177
funding as a school district-operated school before it became a 27178
community school shall retain any units awarded to it as a school 27179
district-operated school provided the school continues to meet 27180
eligibility standards for the unit. 27181

A community school shall be considered a school district and 27182
its governing authority shall be considered a board of education 27183
for the purpose of applying to any state or federal agency for 27184
grants that a school district may receive under federal or state 27185
law or any appropriations act of the general assembly. The 27186
governing authority of a community school may apply to any private 27187
entity for additional funds. 27188

(G) A board of education sponsoring a community school may 27189
utilize local funds to make enhancement grants to the school or 27190
may agree, either as part of the contract or separately, to 27191
provide any specific services to the community school at no cost 27192
to the school. 27193

(H) A community school may not levy taxes or issue bonds 27194
secured by tax revenues. 27195

(I) No community school shall charge tuition for the 27196
enrollment of any student. 27197

(J)(1)(a) A community school may borrow money to pay any 27198
necessary and actual expenses of the school in anticipation of the 27199

receipt of any portion of the payments to be received by the 27200
school pursuant to division (D) of this section. The school may 27201
issue notes to evidence such borrowing. The proceeds of the notes 27202
shall be used only for the purposes for which the anticipated 27203
receipts may be lawfully expended by the school. 27204

(b) A school may also borrow money for a term not to exceed 27205
fifteen years for the purpose of acquiring facilities. 27206

(2) Except for any amount guaranteed under section 3318.50 of 27207
the Revised Code, the state is not liable for debt incurred by the 27208
governing authority of a community school. 27209

(K) For purposes of determining the number of students for 27210
which divisions (D)(5) and (6) of this section applies in any 27211
school year, a community school may submit to the department of 27212
job and family services, no later than the first day of March, a 27213
list of the students enrolled in the school. For each student on 27214
the list, the community school shall indicate the student's name, 27215
address, and date of birth and the school district where the 27216
student is entitled to attend school. Upon receipt of a list under 27217
this division, the department of job and family services shall 27218
determine, for each school district where one or more students on 27219
the list is entitled to attend school, the number of students 27220
residing in that school district who were included in the 27221
department's report under section 3317.10 of the Revised Code. The 27222
department shall make this determination on the basis of 27223
information readily available to it. Upon making this 27224
determination and no later than ninety days after submission of 27225
the list by the community school, the department shall report to 27226
the state department of education the number of students on the 27227
list who reside in each school district who were included in the 27228
department's report under section 3317.10 of the Revised Code. In 27229
complying with this division, the department of job and family 27230
services shall not report to the state department of education any 27231

personally identifiable information on any student. 27232

(L) The department of education shall adjust the amounts 27233
subtracted and paid under divisions (C) and (D) of this section to 27234
reflect any enrollment of students in community schools for less 27235
than the equivalent of a full school year. The state board of 27236
education within ninety days after April 8, 2003, shall adopt in 27237
accordance with Chapter 119. of the Revised Code rules governing 27238
the payments to community schools under this section including 27239
initial payments in a school year and adjustments and reductions 27240
made in subsequent periodic payments to community schools and 27241
corresponding deductions from school district accounts as provided 27242
under divisions (C) and (D) of this section. For purposes of this 27243
section: 27244

(1) A student shall be considered enrolled in the community 27245
school for any portion of the school year the student is 27246
participating at a college under Chapter 3365. of the Revised 27247
Code. 27248

(2) A student shall be considered to be enrolled in a 27249
community school during a school year for the period of time 27250
between beginning on the later of the date on which the school 27251
both has received documentation of the student's enrollment from a 27252
parent and the student has commenced participation in learning 27253
opportunities as defined in the contract with the sponsor, or 27254
thirty days prior to the date on which the student is entered into 27255
the education management information system established under 27256
section 3301.0714 of the Revised Code. For purposes of applying 27257
this division to a community school student, "learning 27258
opportunities" shall be defined in the contract, which shall 27259
describe both classroom-based and non-classroom-based learning 27260
opportunities and shall be in compliance with criteria and 27261
documentation requirements for student participation which shall 27262
be established by the department. Any student's instruction time 27263

in non-classroom-based learning opportunities shall be certified 27264
by an employee of the community school. A student's enrollment 27265
shall be considered to cease on the date on which any of the 27266
following occur: 27267

(a) The community school receives documentation from a parent 27268
terminating enrollment of the student. 27269

(b) The community school is provided documentation of a 27270
student's enrollment in another public or private school. 27271

(c) The community school ceases to offer learning 27272
opportunities to the student pursuant to the terms of the contract 27273
with the sponsor or the operation of any provision of this 27274
chapter. 27275

(3) A student's percentage of full-time equivalency shall be 27276
considered to be the percentage the hours of learning opportunity 27277
offered to that student is of nine hundred and twenty hours. 27278
However, no internet- or computer-based community school shall be 27279
credited for any time a student spends participating in learning 27280
opportunities beyond ten hours within any period of twenty-four 27281
consecutive hours. 27282

(M) The department of education shall reduce the amounts paid 27283
under division (D) of this section to reflect payments made to 27284
colleges under division (B) of section 3365.07 of the Revised 27285
Code. 27286

(N)(1) No student shall be considered enrolled in any 27287
internet- or computer-based community school or, if applicable to 27288
the student, in any community school that is required to provide 27289
the student with a computer pursuant to division (C) of section 27290
3314.22 of the Revised Code, unless both of the following 27291
conditions are satisfied: 27292

(a) The student possesses or has been provided with all 27293
required hardware and software materials and all such materials 27294

are operational so that the student is capable of fully 27295
participating in the learning opportunities specified in the 27296
contract between the school and the school's sponsor as required 27297
by division (A)(23) of section 3314.03 of the Revised Code; 27298

(b) The school is in compliance with division (A)(1) or (2) 27299
of section ~~3314.032~~ 3314.22 of the Revised Code, relative to such 27300
student. 27301

(2) In accordance with policies adopted jointly by the 27302
superintendent of public instruction and the auditor of state, the 27303
department shall reduce the amounts otherwise payable under 27304
division (D) of this section to any ~~internet or computer based~~ 27305
community school that includes in its program the provision of 27306
computer hardware and software materials to ~~each~~ any student, if 27307
such hardware and software materials have not been delivered, 27308
installed, and activated for ~~all students~~ each such student in a 27309
timely manner or other educational materials or services have not 27310
been provided according to the contract between the individual 27311
community school and its sponsor. 27312

The superintendent of public instruction and the auditor of 27313
state shall jointly establish a method for auditing any community 27314
school to which this division pertains to ensure compliance with 27315
this section. 27316

The superintendent, auditor of state, and the governor shall 27317
jointly make recommendations to the general assembly for 27318
legislative changes that may be required to assure fiscal and 27319
academic accountability for such ~~internet or computer based~~ 27320
schools. 27321

(O)(1) If the department determines that a review of a 27322
community school's enrollment is necessary, such review shall be 27323
completed and written notice of the findings shall be provided to 27324
the governing authority of the community school and its sponsor 27325

within ninety days of the end of the community school's fiscal 27326
year, unless extended for a period not to exceed thirty additional 27327
days for one of the following reasons: 27328

(a) The department and the community school mutually agree to 27329
the extension. 27330

(b) Delays in data submission caused by either a community 27331
school or its sponsor. 27332

(2) If the review results in a finding that additional 27333
funding is owed to the school, such payment shall be made within 27334
thirty days of the written notice. If the review results in a 27335
finding that the community school owes moneys to the state, the 27336
following procedure shall apply: 27337

(a) Within ten business days of the receipt of the notice of 27338
findings, the community school may appeal the department's 27339
determination to the state board of education or its designee. 27340

(b) The board or its designee shall conduct an informal 27341
hearing on the matter within thirty days of receipt of such an 27342
appeal and shall issue a decision within fifteen days of the 27343
conclusion of the hearing. 27344

(c) If the board has enlisted a designee to conduct the 27345
hearing, the designee shall certify its decision to the board. The 27346
board may accept the decision of the designee or may reject the 27347
decision of the designee and issue its own decision on the matter. 27348

(d) Any decision made by the board under this division is 27349
final. 27350

(3) If it is decided that the community school owes moneys to 27351
the state, the department shall deduct such amount from the 27352
school's future payments in accordance with guidelines issued by 27353
the superintendent of public instruction. 27354

Sec. 3314.084. (A) As used in this section: 27355

- (1) "Formula ADM" has the same meaning as in section 3317.03 of the Revised Code. 27356
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- (2) "Home" has the same meaning as in section 3313.64 of the Revised Code. 27358
27359
- (3) "School district of residence" has the same meaning as in section 3323.01 of the Revised Code; however, a community school established under this chapter is not a "school district of residence" for purposes of this section. 27360
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- (B) Notwithstanding anything to the contrary in section 3314.08 or 3317.03 of the Revised Code, all of the following apply in the case of a child who is enrolled in a community school and is also living in a home: 27364
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- (1) For purposes of the report required under division (B)(1) of section 3314.08 of the Revised Code, the child's school district of residence, and not the school district in which the home that the child is living in is located, shall be considered to be the school district in which the child is entitled to attend school. That school district of residence, therefore, shall make the report required under division (B)(1) of section 3314.08 of the Revised Code with respect to the child. 27368
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- (2) For purposes of the report required under division (B)(2) of section 3314.08 of the Revised Code, the community school shall report the name of the child's school district of residence. 27376
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- (3) The child's school district of residence shall count the child in that district's formula ADM. 27379
27380
- (4) The school district in which the home that the child is living in is located shall not count the child in that district's formula ADM. 27381
27382
27383
- (5) The Department of Education shall deduct the applicable amounts prescribed under division (C) of section 3314.08 and 27384
27385

division (D) of section 3314.13 of the Revised Code from the 27386
child's school district of residence and shall not deduct those 27387
amounts from the school district in which the home that the child 27388
is living in is located. 27389

(6) The Department shall make the payments prescribed in 27390
divisions (D) and (E) of section 3314.08 and section 3314.13 of 27391
the Revised Code, as applicable, to the community school. 27392

Sec. 3314.085. (A) In each fiscal year beginning in fiscal 27393
year 2007, each internet- or computer-based community school shall 27394
spend for pupil instruction at least the amount per pupil 27395
designated in division (B)(1) of section 3317.012 of the Revised 27396
Code as the amount for base classroom teachers. For this purpose, 27397
expenditures for pupil instruction include expenditures for 27398
teachers, curriculum, academic materials other than computers, and 27399
any other instructional purposes designated in the rules adopted 27400
under this section. Expenditures to provide the computer hardware 27401
and filtering software required by sections 3314.21 and 3314.22 of 27402
the Revised Code do not qualify as pupil instruction for purposes 27403
of this section. 27404

(B) Beginning in fiscal year 2007, each internet- or 27405
computer-based community school annually shall report data to the 27406
department of education concerning its expenditures for pupil 27407
instruction. Each school shall report the data in the form and 27408
manner required by the department. 27409

(C) If the department determines, after offering the school 27410
an opportunity for a hearing in accordance with Chapter 119. of 27411
the Revised Code, that an internet- or computer-based community 27412
school has failed in any fiscal year to comply with division (A) 27413
or (B) of this section, the department shall assess a fine against 27414
the school equivalent to the greater of the following: 27415

(1) Five per cent of the total state payments to the school 27416

under this chapter for the fiscal year in which the failure 27417
occurred; 27418

(2) The difference between the amount the department 27419
determines the school was required to have spent for pupil 27420
instruction and the amount the department determines the school 27421
actually spent for pupil instruction. 27422

The department's methods of collecting the fine may include 27423
withholding state payments under this chapter in the current or 27424
subsequent fiscal year. 27425

The department may cancel a fine it has imposed under this 27426
section if the school submits a plan for coming into compliance 27427
with the requirements of this section that the department 27428
approves, and the school demonstrates to the department's 27429
satisfaction that it is implementing the plan. 27430

(D) The superintendent of public instruction shall adopt 27431
rules in accordance with Chapter 119. of the Revised Code 27432
specifying expenditures that qualify as expenditures for pupil 27433
instruction for purposes of this section. 27434

Sec. 3314.12. On or before the first day of November each 27435
year, the sponsor of each community school established under this 27436
chapter shall submit to the department of education, in accordance 27437
with guidelines adopted by the department for purposes of this 27438
section, a report that describes the special education and related 27439
services provided by that school to enrolled students during the 27440
previous fiscal year and the school's expenditures for those 27441
services. 27442

Sec. 3314.13. (A) As used in this section: 27443

(1) "All-day kindergarten" has the same meaning as in section 27444
3317.029 of the Revised Code. 27445

(2) "Formula amount" has the same meaning as in section 27446
3317.02 of the Revised Code. 27447

(B) The Except as provided in division (C) of this section, 27448
the department of education annually shall pay each community 27449
school established under this chapter one-half of the formula 27450
amount for each student to whom both of the following apply: 27451

(1) The student is entitled to attend school under section 27452
3313.64 or 3313.65 of the Revised Code in a school district that 27453
is eligible to receive a payment under division (D) of section 27454
3317.029 of the Revised Code if it provides all-day kindergarten; 27455

(2) The student is reported by the community school as 27456
enrolled in all-day kindergarten at the community school. 27457

(C) The department shall make no payments under this section 27458
to any internet- or computer-based community school. 27459

(D) If a student for whom payment is made under division (B) 27460
of this section is entitled to attend school in a district that 27461
receives any payment for all-day kindergarten under division (D) 27462
of section 3317.029 of the Revised Code, the department shall 27463
deduct the payment to the community school under this section from 27464
the amount paid that school district under that division. If that 27465
school district does not receive payment for all-day kindergarten 27466
under that division because it does not provide all-day 27467
kindergarten, the department shall pay the community school from 27468
state funds appropriated generally for ~~disadvantaged pupil impact~~ 27469
~~aid~~ poverty-based assistance to school districts. 27470

~~(D)~~(E) The department shall adjust the amounts deducted from 27471
school districts and paid to community schools under this section 27472
to reflect any enrollments of students in all-day kindergarten in 27473
community schools for less than the equivalent of a full school 27474
year. 27475

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| Sec. 3314.031 <u>3314.21</u>. (A) As used in this section: | 27476 |
| (1) "Harmful to juveniles" has the same meaning as in section 2907.01 of the Revised Code. | 27477 27478 |
| (2) "Obscene" has the same meaning as in division (F) of section 2907.01 of the Revised Code as that division has been construed by the supreme court of this state. | 27479 27480 27481 |
| <u>(3) "Teacher of record" means a teacher who is responsible for the overall academic development and achievement of a student and not merely the student's instruction in any single subject.</u> | 27482 27483 27484 |
| (B) <u>(1)</u> It is the intent of the general assembly that teachers employed by internet- or computer-based community schools conduct visits with their students in person throughout the school year . | 27485 27486 27487 |
| <u>(2) Each internet- or computer-based community school shall retain an affiliation with at least one full-time teacher of record licensed in accordance with division (A)(10) of section 3314.03 of the Revised Code.</u> | 27488 27489 27490 27491 |
| <u>(3) Each student enrolled in an internet- or computer-based community school shall be assigned to at least one teacher of record. No teacher of record shall be primarily responsible for the academic development and achievement of more than one hundred twenty-five students enrolled in the internet- or computer-based community school that has retained that teacher.</u> | 27492 27493 27494 27495 27496 27497 |
| (C) For any internet- or computer-based community school, the contract between the sponsor and the governing authority of the school described in section 3314.03 of the Revised Code shall specify each of the following: | 27498 27499 27500 27501 |
| (1) A requirement that the school use a filtering device or install filtering software that protects against internet access to materials that are obscene or harmful to juveniles on each computer provided to students for instructional use. The school | 27502 27503 27504 27505 |

shall provide such device or software at no cost to any student 27506
who works primarily from the student's residence on a computer 27507
obtained from a source other than the school. 27508

(2) A plan for fulfilling the intent of the general assembly 27509
specified in division (B)(1) of this section. The plan shall 27510
indicate the number of times teachers will visit each student 27511
throughout the school year and the manner in which those visits 27512
will be conducted. 27513

(3) That the school will set up a central base of operation 27514
and the sponsor will maintain a representative within fifty miles 27515
of that base of operation to provide monitoring and assistance. 27516

Sec. ~~3314.032~~ 3314.22. (A)(1) Each child enrolled in an 27517
internet- or computer-based community school is entitled to a 27518
computer supplied by the school. In no case shall an internet- or 27519
computer-based community school provide a stipend or other 27520
substitute to an enrolled child or the child's parent in lieu of 27521
supplying a computer to the child. The prohibition contained in 27522
the preceding sentence is intended to clarify the meaning of this 27523
division as it existed prior to the effective date of this 27524
amendment and is not intended to change that meaning in any way. 27525

(2) Notwithstanding division (A)(1) of this section, if more 27526
than one child living in a single ~~household~~ residence is enrolled 27527
in an internet- or computer-based community school, at the option 27528
of the parent of those children, the school may supply less than 27529
one computer per child, as long as at least one computer is 27530
supplied to the ~~household~~ residence. The parent may amend the 27531
decision to accept less than one computer per child anytime during 27532
the school year, and, in such case, within thirty days after the 27533
parent notifies the school of such amendment, the school shall 27534
provide any additional computers requested by the parent up to the 27535
number necessary to comply with division (A)(1) of this section. 27536

(B) Each internet- or computer-based community school shall provide to each parent who is considering enrolling the parent's child in the school and to the parent of each child already enrolled in the school a written notice of the provisions prescribed in divisions (A)(1) and (2) of this section.

(C) If a community school that is not an internet- or computer-based community school provides any of its enrolled students with nonclassroom-based learning opportunities provided via an internet- or other computer-based instructional method and requires such students to participate in any of those learning opportunities from their residences, the school shall be subject to this section and division (C)(1) of section 3314.21 of the Revised Code relative to each such student in the same manner as an internet- or computer-based community school, unless both of the following conditions apply to the student:

(1) The nonclassroom-based learning opportunities in which the student is required to participate from the student's residence are supplemental in nature or do not constitute a significant portion of the total classroom-based and nonclassroom-based learning opportunities provided to the student by the school;

(2) The student's residence is equipped with a computer available for the student's use.

Sec. ~~3314.034~~ 3314.24. (A) On or after July 1, 2004, no internet- or computer-based community school shall enter into a contract with a nonpublic school to use or rent any facility space at the nonpublic school for the provision of instructional services to students enrolled in the internet- or computer-based community school.

(B) If, on or after July 1, 2004, an internet- or computer-based community school has a contract with a nonpublic

school as described in division (A) of this section, the 27568
department of education shall not make any payments under section 27569
3314.08 of the Revised Code to the internet- or computer-based 27570
community school for any student who is enrolled in the internet- 27571
or computer-based community school and receives any instructional 27572
services from the internet- or computer-based community school at 27573
the nonpublic school. 27574

Sec. 3314.25. Each internet- or computer-based community 27575
school shall provide its students a location within a fifty-mile 27576
radius of the student's residence at which to complete the 27577
statewide achievement tests and diagnostic assessments prescribed 27578
under sections 3301.079 and 3301.0710 of the Revised Code. 27579

Sec. 3314.26. (A) Each internet- or computer-based community 27580
school shall withdraw from the school any student who, for two 27581
consecutive school years, has failed to participate in the spring 27582
administration of any test prescribed under section 3301.0710 or 27583
3301.0712 of the Revised Code for the student's grade level and 27584
was not excused from the test pursuant to division (C)(1) or (3) 27585
of section 3301.0711 of the Revised Code. The school shall report 27586
any such student's data verification code, as assigned pursuant to 27587
section 3301.0714 of the Revised Code, to the department of 27588
education. The department shall maintain a list of all data 27589
verification codes reported under this division and section 27590
3313.6410 of the Revised Code and provide that list to each 27591
internet- or computer-based community school and to each school to 27592
which section 3313.6410 of the Revised Code applies. 27593

(B) No internet- or computer-based community school shall 27594
receive any state funds under this chapter for any enrolled 27595
student whose data verification code appears on the list 27596
maintained by the department under division (A) of this section. 27597

Notwithstanding any provision of the Revised Code to the contrary, the parent of any such student shall pay tuition to the internet- or computer-based community school in an amount equal to the state funds the school otherwise would receive for that student, as determined by the department. An internet- or computer-based community school may withdraw any student for whom the parent does not pay tuition as required by this division.

Sec. 3314.27. No student enrolled in an internet- or computer-based community school may participate in more than ten hours of learning opportunities in any period of twenty-four consecutive hours. Any time such a student participates in learning opportunities beyond the limit prescribed in this section shall not count toward the annual minimum number of hours required to be provided to that student as prescribed in division (A)(11)(a) of section 3314.03 of the Revised Code. If any internet- or computer-based community school requires its students to participate in learning opportunities on the basis of days rather than hours, one day shall consist of a minimum of five hours of such participation.

Sec. 3314.28. (A) Each internet- or computer-based community school established under this chapter shall submit to the school's sponsor a plan for providing special education and related services to disabled students enrolled in the school in accordance with division (A)(1) or (2) of this section.

(1) If the school was established prior to the effective date of this section, the plan shall be submitted to the sponsor on or before September 1, 2005, and on or before the first day of September in each year thereafter that the school is in operation.

(2) If the school is established after the effective date of this section, the plan shall be submitted to the sponsor prior to

the school's receipt of its first payment under this chapter and 27628
on or before the first day of September in each year thereafter 27629
that the school is in operation. 27630

(B) Within thirty days after receiving the plan prescribed in 27631
division (A) of this section, the sponsor of each internet- or 27632
computer-based community school shall certify all of the following 27633
to the department of education: 27634

(1) A statement of whether the plan received is satisfactory 27635
to the sponsor; 27636

(2) If the plan received is not satisfactory to the sponsor, 27637
the sponsor's assurance that it will promptly assist the school in 27638
developing a plan that is satisfactory to the sponsor; 27639

(3) The sponsor's assurance that it will monitor the 27640
implementation of the plan; 27641

(4) The sponsor's assurance that it will take any necessary 27642
corrective action to ensure that the school's plan is properly and 27643
fully implemented. 27644

(C) The department shall develop guidelines for the content 27645
and format of the plan required under this section. 27646

Sec. 3314.35. (A) This section applies to any community 27647
school established under this chapter that meets one or more of 27648
the following criteria: 27649

(1) The school is declared to be in need of continuous 27650
improvement, under an academic watch, or in a state of academic 27651
emergency pursuant to section 3302.03 of the Revised Code. 27652

(2) The school has not been in operation for at least two 27653
full school years. 27654

(3) The school does not offer any grade level for which an 27655
achievement test is prescribed under section 3301.0710 of the 27656

Revised Code or the number of students enrolled in each grade 27657
level offered by the school for which an achievement test is 27658
prescribed is too small to yield statistically reliable data about 27659
student performance, as determined by the department of education. 27660

(B) Beginning in the 2006-2007 school year, each community 27661
school to which this section applies shall administer a reading 27662
and mathematics assessment approved by the department in the fall 27663
and spring of the school year to each student who is enrolled in 27664
any of grades one through twelve to measure the academic progress 27665
made by students during the school year. For each grade level, the 27666
community school shall administer the same assessment in the 27667
spring that the school administers in the fall. 27668

(C) Each community school that administers the assessments 27669
required by division (B) of this section shall be responsible for 27670
all costs associated with the administration and scoring of the 27671
assessments. Each community school shall report the scores of all 27672
students taking the assessments to the department in a manner 27673
prescribed by the department. 27674

(D) The department shall establish a list of nationally 27675
normed assessments in reading and mathematics that it approves for 27676
use by community schools under this section. The department may 27677
approve assessments in other subject areas, but no community 27678
school shall be required to administer an assessment in a subject 27679
area other than reading or mathematics under this section. 27680

(E) The sponsor of any community school to which this section 27681
does not apply may elect to have the school administer reading and 27682
mathematics assessments in accordance with this section. 27683

Sec. 3314.36. (A) Not later than July 1, 2006, the state 27684
board of education shall adopt rules establishing reasonable 27685
standards for expected gains in student achievement between the 27686
fall and spring administrations of the reading and mathematics 27687

assessments administered under section 3314.35 of the Revised Code 27688
and for expected gains in the graduation rate. 27689

(B) Any community school that is declared to be under an 27690
academic watch or in a state of academic emergency pursuant to 27691
section 3302.03 of the Revised Code after July 1, 2006, or to 27692
which division (A)(3) of section 3314.35 of the Revised Code 27693
applies shall be subject to division (C) of this section beginning 27694
the next school year if either of the following apply to the 27695
school: 27696

(1) The percentage of the school's total student population 27697
showing the expected gains in student achievement established 27698
under division (A) of this section on the reading or mathematics 27699
assessments administered most recently under section 3314.35 of 27700
the Revised Code is less than fifty-five per cent. 27701

(2) The school offers a high school diploma but is not 27702
showing the expected gains in the graduation rate established 27703
under division (A) of this section. 27704

A community school that has been in operation for one school 27705
year shall not be subject to division (C) of this section. 27706

(C)(1) In the first school year that a community school is 27707
subject to division (C) of this section, if the school is an 27708
internet- or computer-based community school, the school shall not 27709
enroll any students in excess of the number of students the school 27710
enrolled at the conclusion of the preceding school year. 27711

(2) In the second consecutive school year that a community 27712
school is subject to division (C) of this section, if the school 27713
is an internet- or computer-based community school, the school 27714
shall do both of the following: 27715

(a) Continue to comply with division (C)(1) of this section; 27716

(b) Withdraw from the school at the conclusion of the school 27717

year any student for whom any of the following conditions apply, 27718
unless the student's parent agrees to pay tuition to the school in 27719
an amount equal to the state funds the school otherwise would 27720
receive for that student as determined by the department of 27721
education: 27722

(i) For two consecutive school years, the student has taken 27723
the reading and mathematics assessments administered under section 27724
3314.35 of the Revised Code but has failed to show the expected 27725
gains in student achievement established under division (A) of 27726
this section for both reading and mathematics. 27727

(ii) For two consecutive school years, the student has not 27728
taken one or more of the reading and mathematics assessments 27729
described in division (C)(2)(b)(i) of this section. 27730

(iii) For one of two consecutive school years, the student 27731
took the reading and mathematics assessments described in division 27732
(C)(2)(b)(i) of this section but failed to show the expected gains 27733
in student achievement also described in that division for both 27734
reading and mathematics, and, for the other school year, the 27735
student did not take one or more of those assessments. 27736

After the conclusion of the school year, the school shall not 27737
receive state funds for any student who is required to be 27738
withdrawn or for whom tuition is owed under division (C)(2)(b) of 27739
this section. 27740

(3) In the third consecutive school year that any community 27741
school is subject to division (C) of this section, the following 27742
shall apply: 27743

(a) If the school is an internet- or computer-based community 27744
school, the school shall continue to comply with division 27745
(C)(1)(a) of this section. 27746

(b) The school shall be permanently closed at the conclusion 27747
of the school year. 27748

(D) The sponsor of any community school that is declared to be in need of continuous improvement, effective, or excellent pursuant to section 3302.03 of the Revised Code and offers one or more grade levels for which an achievement test is prescribed under section 3301.0710 of the Revised Code may elect to evaluate the performance of the school in accordance with division (B) of this section, provided the school administers reading and mathematics assessments under section 3314.35 of the Revised Code. If the sponsor so elects, the evaluation method shall be used for a minimum of three school years and shall be specified in the contract required by section 3314.03 of the Revised Code. Nothing in this division requires the sponsor of a community school that elects to evaluate the school in accordance with division (B) of this section to take any action specified in division (C) of this section, unless the contract requires such action.

(E) In calculating the gains in student achievement demonstrated by a community school for the purposes of division (B) of this section, the department shall include the scores of all students who participated in the fall and spring administrations of the assessments administered under section 3314.35 of the Revised Code. If the school's participation rate for any grade level is less than ninety per cent, the department shall calculate the gains in academic achievement demonstrated by the students in that grade level as if the participation rate was ninety per cent by assuming a score of zero for each student that it is necessary to add to the participation rate to make that rate equal ninety per cent.

Sec. 3315.17. (A) The board of education of each city, exempted village, local, and joint vocational school district shall establish a textbook and instructional materials fund. Each board annually shall deposit into that fund an amount derived from revenues received by the district for operating expenses that is

equal to three per cent of the formula amount for the preceding 27781
fiscal year, as defined in section 3317.02 of the Revised Code, or 27782
another percentage if established by the auditor of state under 27783
division (C) of this section, multiplied by the district's student 27784
population for the preceding fiscal year. Money in the fund shall 27785
be used solely for textbooks, instructional software, and 27786
instructional materials, supplies, and equipment. Any money in the 27787
fund that is not used in any fiscal year shall carry forward to 27788
the next fiscal year. 27789

(B)(1) Notwithstanding division (A) of this section, if in a 27790
fiscal year a district board deposits in the textbook and 27791
instructional materials fund an amount of money greater than the 27792
amount required to be deposited by this section or the rules 27793
adopted under division (C) of this section, the board may deduct 27794
the excess amount of money from the amount of money required to be 27795
deposited in succeeding fiscal years. 27796

(2) Notwithstanding division (A) of this section, in any year 27797
a district is in fiscal emergency status as declared pursuant to 27798
section 3316.03 of the Revised Code, the district may deposit an 27799
amount less than required by division (A) of this section, or make 27800
no deposit, into the district textbook and instructional materials 27801
fund for that year. 27802

(3) Notwithstanding division (A) of this section, in any 27803
fiscal year that a school district is either in fiscal watch 27804
status, as declared pursuant to section 3316.03 of the Revised 27805
Code, or in fiscal caution status, as declared pursuant to section 27806
3316.031 of the Revised Code, the district may apply to the 27807
superintendent of public instruction for a waiver from the 27808
requirements of division (A) of this section, under which the 27809
district may be permitted to deposit an amount less than required 27810
by that division or permitted to make no deposit into the district 27811

textbook and instructional materials fund for that year. The 27812
superintendent may grant a waiver under division (B)(3) of this 27813
section if the district demonstrates to the satisfaction of the 27814
superintendent that compliance with division (A) of this section 27815
that year will create an undue financial hardship on the district. 27816

(4) Notwithstanding division (A) of this section, not more 27817
often than one fiscal year in every three consecutive fiscal 27818
years, any school district that does not satisfy the conditions 27819
for the exemption described in division (B)(2) of this section or 27820
the conditions to apply for the waiver described in division 27821
(B)(3) of this section may apply to the superintendent of public 27822
instruction for a waiver from the requirements of division (A) of 27823
this section, under which the district may be permitted to deposit 27824
an amount less than required by that division or permitted to make 27825
no deposit into the district textbook and instructional materials 27826
fund for that year. The superintendent may grant a waiver under 27827
division (B)(4) of this section if the district demonstrates to 27828
the satisfaction of the superintendent that compliance with 27829
division (A) of this section that year will necessitate the 27830
reduction or elimination of a program currently offered by the 27831
district that is critical to the academic success of students of 27832
the district and that no reasonable alternatives exist for 27833
spending reductions in other areas of operation within the 27834
district that negate the necessity of the reduction or elimination 27835
of that program. 27836

(C) The state superintendent of public instruction and the 27837
auditor of state jointly shall adopt rules in accordance with 27838
Chapter 119. of the Revised Code defining what constitutes 27839
textbooks, instructional software, and instructional materials, 27840
supplies, and equipment for which money in a school district's 27841
textbook and instructional materials fund may be used. The auditor 27842
of state also may designate a percentage, other than three per 27843

cent, of the formula amount multiplied by the district's student population that must be deposited into the fund. 27844
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(D) Notwithstanding division (A) of this section, a district board of education in any fiscal year may appropriate money in the district textbook and instructional materials fund for purposes other than those permitted by that division if both of the following occur during that fiscal year: 27846
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(1) All of the following certify to the district board in writing that the district has sufficient textbooks, instructional software, and instructional materials, supplies, and equipment to ensure a thorough and efficient education within the district: 27851
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(a) The district superintendent; 27855

(b) In districts required to have a business advisory council, a person designated by vote of the business advisory council; 27856
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(c) If the district teachers are represented by an exclusive bargaining representative for purposes of Chapter 4117. of the Revised Code, the president of that organization or the president's designee. 27859
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(2) The district board adopts, by unanimous vote of all members of the board, a resolution stating that the district has sufficient textbooks, instructional software, and instructional materials, supplies, and equipment to ensure a thorough and efficient education within the district. 27863
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(E) Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the requirements of this section prevail over any conflicting provisions of agreements between employee organizations and public employers entered into on or after November 21, 1997. 27868
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(F) As used in this section and in section 3315.18 of the 27873

Revised Code, "student population" means the average, daily, 27874
full-time-equivalent number of students in kindergarten through 27875
twelfth grade receiving any educational services from the school 27876
district during the first full school week in October, excluding 27877
students enrolled in adult education classes, but including all of 27878
the following: 27879

(1) Adjacent or other district students enrolled in the 27880
district under an open enrollment policy pursuant to section 27881
3313.98 of the Revised Code; 27882

(2) Students receiving services in the district pursuant to a 27883
compact, cooperative education agreement, or a contract, but who 27884
are entitled to attend school in another district pursuant to 27885
section 3313.64 or 3313.65 of the Revised Code; 27886

(3) Students for whom tuition is payable pursuant to sections 27887
3317.081 and 3323.141 of the Revised Code. 27888

The department of education shall determine a district's 27889
student population using data reported to it under section 3317.03 27890
of the Revised Code for the applicable fiscal year. 27891

Sec. 3315.18. (A) The board of education of each city, 27892
exempted village, local, and joint vocational school district 27893
shall establish a capital and maintenance fund. Each board 27894
annually shall deposit into that fund an amount derived from 27895
revenues received by the district that would otherwise have been 27896
deposited in the general fund that is equal to three per cent of 27897
the formula amount for the preceding fiscal year, as defined in 27898
section 3317.02 of the Revised Code, or another percentage if 27899
established by the auditor of state under division (B) of this 27900
section, multiplied by the district's student population for the 27901
preceding fiscal year, except that money received from a permanent 27902
improvement levy authorized by section 5705.21 of the Revised Code 27903
may replace general revenue moneys in meeting the requirements of 27904

this section. Money in the fund shall be used solely for 27905
acquisition, replacement, enhancement, maintenance, or repair of 27906
permanent improvements, as that term is defined in section 5705.01 27907
of the Revised Code. Any money in the fund that is not used in any 27908
fiscal year shall carry forward to the next fiscal year. 27909

(B) The state superintendent of public instruction and the 27910
auditor of state jointly shall adopt rules in accordance with 27911
Chapter 119. of the Revised Code defining what constitutes 27912
expenditures permitted by division (A) of this section. The 27913
auditor of state may designate a percentage, other than three per 27914
cent, of the formula amount multiplied by the district's student 27915
population that must be deposited into the fund. 27916

(C) Within its capital and maintenance fund, a school 27917
district board of education may establish a separate account 27918
solely for the purpose of depositing funds transferred from the 27919
district's reserve balance account established under former 27920
division (H) of section 5705.29 of the Revised Code. After ~~the~~ 27921
~~effective date of this amendment~~ April 10, 2001, a board may 27922
deposit all or part of the funds formerly included in such reserve 27923
balance account in the separate account established under this 27924
section. Funds deposited in this separate account and interest on 27925
such funds shall be utilized solely for the purpose of providing 27926
the district's portion of the basic project costs of any project 27927
undertaken in accordance with Chapter 3318. of the Revised Code. 27928

(D) (1) Notwithstanding division (A) of this section, in any 27929
year a district is in fiscal emergency status as declared pursuant 27930
to section 3316.03 of the Revised Code, the district may deposit 27931
an amount less than required by division (A) of this section, or 27932
make no deposit, into the district capital and maintenance fund 27933
for that year. 27934

(2) Notwithstanding division (A) of this section, in any 27935
fiscal year that a school district is either in fiscal watch 27936

status, as declared pursuant to section 3316.03 of the Revised Code, or in fiscal caution status, as declared pursuant to section 3316.031 of the Revised Code, the district may apply to the superintendent of public instruction for a waiver from the requirements of division (A) of this section, under which the district may be permitted to deposit an amount less than required by that division or permitted to make no deposit into the district capital and maintenance fund for that year. The superintendent may grant a waiver under division (D)(2) of this section if the district demonstrates to the satisfaction of the superintendent that compliance with division (A) of this section that year will create an undue financial hardship on the district.

(3) Notwithstanding division (A) of this section, not more often than one fiscal year in every three consecutive fiscal years, any school district that does not satisfy the conditions for the exemption described in division (D)(1) of this section or the conditions to apply for the waiver described in division (D)(2) of this section may apply to the superintendent of public instruction for a waiver from the requirements of division (A) of this section, under which the district may be permitted to deposit an amount less than required by that division or permitted to make no deposit into the district capital and maintenance fund for that year. The superintendent may grant a waiver under division (D)(3) of this section if the district demonstrates to the satisfaction of the superintendent that compliance with division (A) of this section that year will necessitate the reduction or elimination of a program currently offered by the district that is critical to the academic success of students of the district and that no reasonable alternatives exist for spending reductions in other areas of operation within the district that negate the necessity of the reduction or elimination of that program.

(E) Notwithstanding any provision to the contrary in Chapter

4117. of the Revised Code, the requirements of this section 27969
prevail over any conflicting provisions of agreements between 27970
employee organizations and public employers entered into after 27971
November 21, 1997. 27972

Sec. 3315.37. The board of education of a school district may 27973
establish a teacher education loan program and may expend school 27974
funds for the program. The program shall be for the purpose of 27975
making loans to students who are residents of the school district 27976
or graduates of schools in the school district, who are enrolled 27977
in teacher preparation programs at institutions approved by the 27978
state board pursuant to section 3319.23 of the Revised Code, and 27979
who indicate an intent to teach in the school district providing 27980
the loan. The district board may forgive the obligation to repay 27981
any or all of the principal and interest on the loan if the 27982
borrower teaches in that school district. 27983

The district board shall adopt rules establishing eligibility 27984
criteria, application procedures, procedures for review of 27985
applications, loan amounts, interest, repayment schedules, 27986
conditions under which principal and interest obligations incurred 27987
under the program will be forgiven, and any other matter 27988
incidental to the operation of the program. 27989

The board may contract with a private, nonprofit foundation, 27990
one or more institutions of higher education, or other educational 27991
agencies to administer the program. 27992

The receipt of a loan under this section does not affect a 27993
student's eligibility for assistance, or the amount of such 27994
assistance, granted under section 3315.33, 3333.12, 3333.122, 27995
3333.22, 3333.26, 3333.27, 5910.04, or 5919.34 of the Revised 27996
Code, but the board's rules may provide for taking such assistance 27997
into consideration when determining a student's eligibility for a 27998
loan under this section. 27999

Sec. 3316.043. Upon the approval by the superintendent of 28000
public instruction of an initial financial plan under section 28001
3316.04 of the Revised Code or a financial recovery plan under 28002
section 3316.06 of the Revised Code, the board of education of the 28003
school district for which the plan was approved shall revise the 28004
district's five-year projection of revenues and expenditures in 28005
accordance with rules adopted under section 5705.391 of the 28006
Revised Code so that the five-year projection is consistent with 28007
the financial plan or financial recovery plan. In the case of a 28008
school district declared to be in a state of fiscal emergency, the 28009
five-year projection shall be revised by the financial planning 28010
and supervision commission for that district. 28011

Sec. 3316.06. (A) Within one hundred twenty days after the 28012
first meeting of a school district financial planning and 28013
supervision commission, the commission shall adopt a financial 28014
recovery plan regarding the school district for which the 28015
commission was created. During the formulation of the plan, the 28016
commission shall seek appropriate input from the school district 28017
board and from the community. This plan shall contain the 28018
following: 28019

(1) Actions to be taken to: 28020

(a) Eliminate all fiscal emergency conditions declared to 28021
exist pursuant to division (B) of section 3316.03 of the Revised 28022
Code; 28023

(b) Satisfy any judgments, past-due accounts payable, and all 28024
past-due and payable payroll and fringe benefits; 28025

(c) Eliminate the deficits in all deficit funds, except that 28026
any prior year deficits in the textbook and instructional 28027
materials fund established pursuant to section 3315.17 of the 28028
Revised Code and the capital and maintenance fund established 28029

pursuant to section 3315.18 of the Revised Code shall be forgiven; 28030

(d) Restore to special funds any moneys from such funds that 28031
were used for purposes not within the purposes of such funds, or 28032
borrowed from such funds by the purchase of debt obligations of 28033
the school district with the moneys of such funds, or missing from 28034
the special funds and not accounted for, if any; 28035

(e) Balance the budget, avoid future deficits in any funds, 28036
and maintain on a current basis payments of payroll, fringe 28037
benefits, and all accounts; 28038

(f) Avoid any fiscal emergency condition in the future; 28039

(g) Restore the ability of the school district to market 28040
long-term general obligation bonds under provisions of law 28041
applicable to school districts generally. 28042

(2) The management structure that will enable the school 28043
district to take the actions enumerated in division (A)(1) of this 28044
section. The plan shall specify the level of fiscal and management 28045
control that the commission will exercise within the school 28046
district during the period of fiscal emergency, and shall 28047
enumerate respectively, the powers and duties of the commission 28048
and the powers and duties of the school board during that period. 28049
The commission may elect to assume any of the powers and duties of 28050
the school board it considers necessary, including all powers 28051
related to personnel, curriculum, and legal issues in order to 28052
successfully implement the actions described in division (A)(1) of 28053
this section. 28054

(3) The target dates for the commencement, progress upon, and 28055
completion of the actions enumerated in division (A)(1) of this 28056
section and a reasonable period of time expected to be required to 28057
implement the plan. The commission shall prepare a reasonable time 28058
schedule for progress toward and achievement of the requirements 28059
for the plan, and the plan shall be consistent with that time 28060

schedule. 28061

(4) The amount and purpose of any issue of debt obligations 28062
that will be issued, together with assurances that any such debt 28063
obligations that will be issued will not exceed debt limits 28064
supported by appropriate certifications by the fiscal officer of 28065
the school district and the county auditor. Debt obligations 28066
issued pursuant to section 133.301 of the Revised Code shall 28067
include assurances that such debt shall be in an amount not to 28068
exceed the amount certified under division (B) of such section. If 28069
the commission considers it necessary in order to maintain or 28070
improve educational opportunities of pupils in the school 28071
district, the plan may include a proposal to restructure or 28072
refinance outstanding debt obligations incurred by the board under 28073
section 3313.483 of the Revised Code contingent upon the approval, 28074
during the period of the fiscal emergency, by district voters of a 28075
tax levied under section 718.09, 718.10, 5705.194, 5705.21, 28076
5748.02, or 5748.08 of the Revised Code, that is not a renewal or 28077
replacement levy and that will provide new operating revenue. 28078
Notwithstanding any provision of Chapter 133. or sections 3313.483 28079
to 3313.4811 of the Revised Code, following the required approval 28080
of the district voters and with the approval of the commission, 28081
the school district may issue securities to evidence the 28082
restructuring or refinancing. Those securities may extend the 28083
original period for repayment, not to exceed ten years, and may 28084
alter the frequency and amount of repayments, interest or other 28085
financing charges, and other terms of agreements under which the 28086
debt originally was contracted, at the discretion of the 28087
commission, provided that any loans received pursuant to section 28088
3313.483 of the Revised Code shall be paid from funds the district 28089
would otherwise receive under sections 3317.022 to 3317.025 of the 28090
Revised Code, as required under division (E)(3) of section 28091
3313.483 of the Revised Code. The securities issued for the 28092
purpose of restructuring or refinancing the debt shall be repaid 28093

in equal payments and at equal intervals over the term of the debt 28094
and are not eligible to be included in any subsequent proposal for 28095
the purpose of restructuring or refinancing debt under this 28096
section. 28097

(B) Any financial recovery plan may be amended subsequent to 28098
its adoption. Each financial recovery plan shall be updated 28099
annually. 28100

(C) Each school district financial planning and supervision 28101
commission shall submit the financial recovery plan it adopts or 28102
updates under this section to the state superintendent of public 28103
instruction for approval immediately following its adoption or 28104
updating. The state superintendent shall evaluate the plan and 28105
either approve or disapprove it within thirty calendar days from 28106
the date of its submission. If the plan is disapproved, the state 28107
superintendent shall recommend modifications that will render it 28108
acceptable. No financial planning and supervision commission shall 28109
implement a financial recovery plan that is adopted or updated on 28110
or after ~~the effective date of this amendment~~ April 10, 2001, 28111
unless the state superintendent has approved it. 28112

Sec. 3316.16. (A) A school district financial planning and 28113
supervision commission, with respect to its functions under this 28114
chapter, shall continue in existence until such time as a 28115
determination is made under division (B) of this section that all 28116
of the following have occurred: 28117

(1) An effective financial accounting and reporting system in 28118
accordance with section 3316.10 of the Revised Code is in the 28119
process of being implemented, and it is reasonably expected that 28120
this implementation will be completed within two years. 28121

(2) All of the fiscal emergency conditions determined 28122
pursuant to division (B) of section 3316.03 of the Revised Code 28123
have been corrected or eliminated, and no new fiscal emergency 28124

| | |
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| conditions have occurred. | 28125 |
| (3) The objectives of the financial recovery plan described in section 3316.06 of the Revised Code are being met. | 28126 28127 |
| (4) The school district board has prepared a financial forecast for a five-year period in accordance with the standards issued by the auditor of state and an opinion has been rendered by the auditor of state that the financial forecast is considered to be nonadverse. <u>The forecast shall display the district's projected compliance with sections 3315.17 and 3315.18 of the Revised Code beginning in the year the commission is proposed for termination.</u> | 28128 28129 28130 28131 28132 28133 28134 |
| (B) The determination that all conditions listed in division (A) of this section for the termination of the existence of the commission and its functions exist may be made either by the auditor of state or by the commission and shall be certified to the commission, the auditor of state, the governor, the director of budget and management, and the budget commission, whereupon such commission and its functions under this chapter shall terminate. This determination shall be made by the auditor of state upon the filing with the auditor of state of a written request for such a determination by the school district board, the governor, or the commission, or may be made by the auditor of state upon the auditor of state's own initiative. | 28135 28136 28137 28138 28139 28140 28141 28142 28143 28144 28145 28146 |
| (C) The commission shall prepare and submit at the time of such certification a final report of its activities, in such form as is appropriate for the purpose of providing a record of its activities and assisting other commissions created under this chapter in the conduct of their functions. All of the books and records of the commission shall be delivered to the auditor of state for retention and safekeeping. | 28147 28148 28149 28150 28151 28152 28153 |
| (D) Upon receipt of the certification provided for in division (B) of this section, the director of budget and | 28154 28155 |

management shall follow the procedures set forth in section 126.29 28156
of the Revised Code. 28157

(E) If, at the time of termination of the commission, an 28158
effective financial accounting and reporting system has not been 28159
fully implemented, the auditor of state shall monitor the progress 28160
of implementation and shall exercise authority under this section 28161
and Chapter 117. of the Revised Code to secure full implementation 28162
at the earliest time feasible but within two years after such 28163
termination. 28164

Sec. 3317.01. As used in this section and section 3317.011 of 28165
the Revised Code, "school district," unless otherwise specified, 28166
means any city, local, exempted village, joint vocational, or 28167
cooperative education school district and any educational service 28168
center. 28169

This chapter shall be administered by the state board of 28170
education. The superintendent of public instruction shall 28171
calculate the amounts payable to each school district and shall 28172
certify the amounts payable to each eligible district to the 28173
treasurer of the district as provided by this chapter. As soon as 28174
possible after such amounts are calculated, the superintendent 28175
shall certify to the treasurer of each school district the 28176
district's adjusted charge-off amount, as defined in section 28177
5705.211 of the Revised Code, for the fiscal year for which those 28178
amounts are computed and for the fiscal year preceding that fiscal 28179
year. A separate certification of the adjusted charge-off amounts 28180
is not required if the certification of other amounts computed 28181
under this chapter indicates those adjusted charge-off amounts. No 28182
moneys shall be distributed pursuant to this chapter without the 28183
approval of the controlling board. 28184

The state board of education shall, in accordance with 28185
appropriations made by the general assembly, meet the financial 28186

obligations of this chapter. 28187

Annually, the department of education shall calculate and 28188
report to each school district the district's total state and 28189
local funds for providing an adequate basic education to the 28190
district's nonhandicapped students, utilizing the determination in 28191
section 3317.012 of the Revised Code. In addition, the department 28192
shall calculate and report separately for each school district the 28193
district's total state and local funds for providing an adequate 28194
education for its handicapped students, utilizing the 28195
determinations in both sections 3317.012 and 3317.013 of the 28196
Revised Code. 28197

Not later than the thirty-first day of August of each fiscal 28198
year, the department of education shall provide to each school 28199
district and county MR/DD board a preliminary estimate of the 28200
amount of funding that the department calculates the district will 28201
receive under each of divisions (C)(1) and (4) of section 3317.022 28202
of the Revised Code. No later than the first day of December of 28203
each fiscal year, the department shall update that preliminary 28204
estimate. 28205

Moneys distributed pursuant to this chapter shall be 28206
calculated and paid on a fiscal year basis, beginning with the 28207
first day of July and extending through the thirtieth day of June. 28208
The moneys appropriated for each fiscal year shall be distributed 28209
at least monthly to each school district unless otherwise provided 28210
for. The state board shall submit a yearly distribution plan to 28211
the controlling board at its first meeting in July. The state 28212
board shall submit any proposed midyear revision of the plan to 28213
the controlling board in January. Any year-end revision of the 28214
plan shall be submitted to the controlling board in June. If 28215
moneys appropriated for each fiscal year are distributed other 28216
than monthly, such distribution shall be on the same basis for 28217
each school district. 28218

The total amounts paid each month shall constitute, as nearly
as possible, one-twelfth of the total amount payable for the
entire year. ~~Payments~~

Until fiscal year 2006, payments made during the first six
months of the fiscal year may be based on an estimate of the
amounts payable for the entire year. Payments made in the last six
months shall be based on the final calculation of the amounts
payable to each school district for that fiscal year. Payments
made in the last six months may be adjusted, if necessary, to
correct the amounts distributed in the first six months, and to
reflect enrollment increases when such are at least three per
cent. ~~Except~~

Beginning in fiscal year 2006, payments shall be calculated
to reflect the biannual reporting of average daily membership. In
fiscal year 2006 and in each fiscal year thereafter, payments for
July through December shall be based on student counts certified
pursuant to section 3317.03 of the Revised Code for the first full
week in October, and payments for January through June shall be
based on the average of student counts certified pursuant to that
section for the first full week of the previous October and the
third full week in February.

Except as otherwise provided, payments under this chapter
shall be made only to those school districts in which:

(A) The school district, except for any educational service
center and any joint vocational or cooperative education school
district, levies for current operating expenses at least twenty
mills. Levies for joint vocational or cooperative education school
districts or county school financing districts, limited to or to
the extent apportioned to current expenses, shall be included in
this qualification requirement. School district income tax levies
under Chapter 5748. of the Revised Code, limited to or to the
extent apportioned to current operating expenses, shall be

included in this qualification requirement to the extent 28251
determined by the tax commissioner under division (D) of section 28252
3317.021 of the Revised Code. 28253

(B) The school year next preceding the fiscal year for which 28254
such payments are authorized meets the requirement of section 28255
3313.48 or 3313.481 of the Revised Code, with regard to the 28256
minimum number of days or hours school must be open for 28257
instruction with pupils in attendance, for individualized 28258
parent-teacher conference and reporting periods, and for 28259
professional meetings of teachers. This requirement shall be 28260
waived by the superintendent of public instruction if it had been 28261
necessary for a school to be closed because of disease epidemic, 28262
hazardous weather conditions, inoperability of school buses or 28263
other equipment necessary to the school's operation, damage to a 28264
school building, or other temporary circumstances due to utility 28265
failure rendering the school building unfit for school use, 28266
provided that for those school districts operating pursuant to 28267
section 3313.48 of the Revised Code the number of days the school 28268
was actually open for instruction with pupils in attendance and 28269
for individualized parent-teacher conference and reporting periods 28270
is not less than one hundred seventy-five, or for those school 28271
districts operating on a trimester plan the number of days the 28272
school was actually open for instruction with pupils in attendance 28273
not less than seventy-nine days in any trimester, for those school 28274
districts operating on a quarterly plan the number of days the 28275
school was actually open for instruction with pupils in attendance 28276
not less than fifty-nine days in any quarter, or for those school 28277
districts operating on a pentamester plan the number of days the 28278
school was actually open for instruction with pupils in attendance 28279
not less than forty-four days in any pentamester. 28280

A school district shall not be considered to have failed to 28281
comply with this division or section 3313.481 of the Revised Code 28282

because schools were open for instruction but either twelfth grade 28283
students were excused from attendance for up to three days or only 28284
a portion of the kindergarten students were in attendance for up 28285
to three days in order to allow for the gradual orientation to 28286
school of such students. 28287

The superintendent of public instruction shall waive the 28288
requirements of this section with reference to the minimum number 28289
of days or hours school must be in session with pupils in 28290
attendance for the school year succeeding the school year in which 28291
a board of education initiates a plan of operation pursuant to 28292
section 3313.481 of the Revised Code. The minimum requirements of 28293
this section shall again be applicable to such a district 28294
beginning with the school year commencing the second July 28295
succeeding the initiation of one such plan, and for each school 28296
year thereafter. 28297

A school district shall not be considered to have failed to 28298
comply with this division or section 3313.48 or 3313.481 of the 28299
Revised Code because schools were open for instruction but the 28300
length of the regularly scheduled school day, for any number of 28301
days during the school year, was reduced by not more than two 28302
hours due to hazardous weather conditions. 28303

(C) The school district has on file, and is paying in 28304
accordance with, a teachers' salary schedule which complies with 28305
section 3317.13 of the Revised Code. 28306

A board of education or governing board of an educational 28307
service center which has not conformed with other law and the 28308
rules pursuant thereto, shall not participate in the distribution 28309
of funds authorized by sections 3317.022 to 3317.0211, 3317.11, 28310
3317.16, 3317.17, and 3317.19 of the Revised Code, except for good 28311
and sufficient reason established to the satisfaction of the state 28312
board of education and the state controlling board. 28313

All funds allocated to school districts under this chapter, 28314
except those specifically allocated for other purposes, shall be 28315
used to pay current operating expenses only. 28316

Sec. 3317.012. (A) The general assembly, having deliberated 28317
on the model with which to calculate the base cost of an adequate 28318
education per pupil, has made a policy decision to calculate that 28319
amount as consisting of the following building blocks: 28320

(1) Base classroom teachers; 28321

(2) Other personnel support, which includes additional 28322
teachers, such as music, arts, and physical education teachers 28323
funded by state, local, or federal funds or other funds that are 28324
above the base cost funding level, and other school personnel 28325
including administrators; 28326

(3) Nonpersonnel support. 28327

This model reflects policy decisions made by the general 28328
assembly concerning the cost of base classroom teachers, which 28329
decisions entail two policy variables: the number of students per 28330
base classroom teacher necessary for an adequate education and the 28331
average compensation for a base classroom teacher necessary for an 28332
adequate education. The model requires the general assembly to 28333
decide the amount of other personnel support necessary for an 28334
adequate education, and increase that amount from year to year by 28335
the same percentage as it increases the average compensation for 28336
base classroom teachers. The model finally requires the general 28337
assembly to decide the nonpersonnel costs necessary for an 28338
adequate education and to inflate the nonpersonnel costs from year 28339
to year using the projected inflationary measure for the gross 28340
domestic product deflator (all items) prepared by the bureau of 28341
labor statistics of the United States department of labor. 28342

(B)(1) For fiscal year 2006, the general assembly has 28343

resolved that a ratio of one base classroom teacher per twenty 28344
students is necessary for an adequate education. The general 28345
assembly has made a policy decision that the average compensation 28346
for base classroom teachers is \$53,680 for fiscal year 2006, which 28347
includes an amount for the value of fringe benefits. For fiscal 28348
year 2007, the general assembly has resolved that a ratio of one 28349
base classroom teacher per twenty students is necessary for an 28350
adequate education. The general assembly has made a policy 28351
decision that the average compensation for base classroom teachers 28352
is \$54,941, which includes an amount for the value of fringe 28353
benefits. Based on a ratio of twenty students per base classroom 28354
teacher, these amounts equal \$2,684 per pupil in fiscal year 2006 28355
and \$2,747 per pupil in fiscal year 2007. 28356

(2) The general assembly has made a policy decision that the 28357
per pupil cost of salary and benefits of other personnel support 28358
is \$1,807 in fiscal year 2006. Based on the percentage increase 28359
for the average compensation of base classroom teachers from 28360
fiscal year 2006 to fiscal year 2007, the per pupil cost of other 28361
personnel support is \$1,850 in fiscal year 2007. 28362

(3) The general assembly has made a policy decision that the 28363
per pupil cost of nonpersonnel support is \$792 in fiscal year 2006 28364
and \$806 in fiscal year 2007. The amount for fiscal year 2007 28365
reflects the projected inflationary measure for the gross domestic 28366
product deflator (all items) of 1.80%. 28367

(4) Based on the determinations specified in divisions (B)(1) 28368
to (3) of this section, the per-pupil base cost is \$5,283 in 28369
fiscal year 2006 and \$5,403 in fiscal year 2007. 28370

(C) In addition to the per-pupil base cost as determined 28371
under divisions (A) and (B) of this section, the general assembly 28372
determines that the following base funding supplements shall be 28373
paid to each school district: 28374

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| <u>(1) Base funding for large-group academic intervention for</u> | 28375 |
| <u>all students, based on 25 hours per group of students per year at</u> | 28376 |
| <u>an hourly rate of \$20.00 in fiscal year 2006 and \$20.40 in fiscal</u> | 28377 |
| <u>year 2007, as follows:</u> | 28378 |
| <u>large-group intervention units X 25 hours X hourly rate</u> | 28379 |
| <u>Where:</u> | 28380 |
| <u>(a) "Large-group intervention units" equals the district's</u> | 28381 |
| <u>formula ADM divided by 20;</u> | 28382 |
| <u>(b) "Hourly rate" equals \$20.00 in fiscal year 2006 and</u> | 28383 |
| <u>\$20.40 in fiscal year 2007.</u> | 28384 |
| <u>(2) Base funding for professional development, phased in</u> | 28385 |
| <u>according to the following formula:</u> | 28386 |
| <u>district's teacher factor X 0.045 X</u> | 28387 |
| <u>formula amount X phase-in percentage</u> | 28388 |
| <u>Where:</u> | 28389 |
| <u>(a) For each school district, the district's "teacher factor"</u> | 28390 |
| <u>is the district's formula ADM divided by 17;</u> | 28391 |
| <u>(b) "Phase-in percentage" equals 0.25 in fiscal year 2006 and</u> | 28392 |
| <u>0.75 in fiscal year 2007.</u> | 28393 |
| <u>(3) Base funding for data-based decision making, calculated</u> | 28394 |
| <u>according to the following formula:</u> | 28395 |
| <u>0.001 X formula amount X formula ADM</u> | 28396 |
| <u>(4) Base funding for professional development regarding</u> | 28397 |
| <u>data-based decision making, calculated according to the following</u> | 28398 |
| <u>formula:</u> | 28399 |
| <u>(0.20 X the district's teacher factor X 0.08 X formula amount) +</u> | 28400 |
| <u>(the district's principal factor X</u> | 28401 |
| <u>0.08 X formula amount)</u> | 28402 |
| <u>Where:</u> | 28403 |
| <u>(a) For each school district, the district's "teacher factor"</u> | 28404 |

| | |
|--|--|
| <u>is the district's formula ADM divided by 17;</u> | 28405 |
| <u>(b) For each school district, the district's "principal factor" is the district's formula ADM divided by 340.</u> | 28406 28407 |
| <u>(D) The general assembly intends that school districts spend the state funds calculated and paid for each component of the building blocks methodology described in divisions (B)(1) to (3) and (C)(1) to (4) of this section according to the purposes described in those divisions.</u> | 28408 28409 28410 28411 28412 |
| Sec. 3317.013. This section does not apply to handicapped preschool students. | 28413 28414 |
| Analysis of special education cost data has resulted in a finding that the average special education additional cost per pupil, including the costs of related services, can be expressed as a multiple of the base cost per pupil calculated under section 3317.012 of the Revised Code. The multiples for the following categories of special education programs, as these programs are defined for purposes of Chapter 3323. of the Revised Code, and adjusted as provided in this section, are as follows: | 28415 28416 28417 28418 28419 28420 28421 28422 |
| (A) A multiple of 0.2892 for students whose primary or only identified handicap is a speech and language handicap, as this term is defined pursuant to Chapter 3323. of the Revised Code; | 28423 28424 28425 |
| (B) A multiple of 0.3691 for students identified as specific learning disabled or developmentally handicapped, as these terms are defined pursuant to Chapter 3323. of the Revised Code, or other health handicapped-minor; | 28426 28427 28428 28429 |
| (C) A multiple of 1.7695 for students identified as hearing handicapped, vision impaired, or severe behavior handicapped, as these terms are defined pursuant to Chapter 3323. of the Revised Code; | 28430 28431 28432 28433 |
| (D) A multiple of 2.3646 for students identified as | 28434 |

orthopedically handicapped, as this term is defined pursuant to 28435
Chapter 3323. of the Revised Code or other health handicapped - 28436
major; 28437

(E) A multiple of 3.1129 for students identified as 28438
multihandicapped, as this term is defined pursuant to Chapter 28439
3323. of the Revised Code; 28440

(F) A multiple of 4.7342 for students identified as autistic, 28441
having traumatic brain injuries, or as both visually and hearing 28442
disabled, as these terms are defined pursuant to Chapter 3323. of 28443
the Revised Code. 28444

In fiscal year 2004, the multiples specified in divisions (A) 28445
to (F) of this section shall be adjusted by multiplying them by 28446
0.88. In fiscal ~~year~~ years 2005, 2006, and 2007, the multiples 28447
specified in those divisions shall be adjusted by multiplying them 28448
by 0.90. 28449

Not later than the thirtieth day of May 30, in 2004, and May 28450
30, 2005, 2006, and 2007, the department shall submit to the 28451
office of budget and management a report that specifies for each 28452
city, local, exempted village, and joint vocational school 28453
district the fiscal year allocation of the state and local shares 28454
of special education and related services additional weighted 28455
funding and federal special education funds passed through to the 28456
district. 28457

Sec. 3317.016. In addition to its form SF-3, or any successor 28458
to that form, the department of education shall publish on its web 28459
site a spreadsheet for each school district that specifies the 28460
constituent components of the district's "building blocks" funds, 28461
as follows: 28462

(A) For compensation of base classroom teachers, as described 28463
in division (B)(1) of section 3317.012 of the Revised Code, each 28464

spreadsheet shall specify the district's aggregate and per pupil amounts of state funds and of combined state and local funds, the average compensation decided by the general assembly for base classroom teachers, as specified in that division, and the number of base classroom teachers attributable to the district based on the student-teacher ratio decided by the general assembly, as specified in that division. 28465
28466
28467
28468
28469
28470
28471

(B) Each spreadsheet shall specify the district's aggregate and per pupil amounts of state funds and of combined state and local funds for each of the following: 28472
28473
28474

(1) Other personnel support, as described in division (B)(2) of section 3317.012 of the Revised Code; 28475
28476

(2) Nonpersonnel support, as described in division (B)(3) of that section; 28477
28478

(3) Academic intervention services, as described in division (C)(1) of that section; 28479
28480

(4) Professional development, as described in division (C)(2) of that section; 28481
28482

(5) Data-based decision making, as described in division (C)(3) of that section; 28483
28484

(6) Professional development for data-based decision making, as described in division (C)(4) of that section. 28485
28486

(C) Each spreadsheet shall separately specify the district's aggregate and per pupil state funds for each of the following components of poverty-based assistance under section 3317.029 of the Revised Code: 28487
28488
28489
28490

(1) Poverty-based assistance guarantee payment under division (B) of that section; 28491
28492

(2) Academic intervention funding under division (C) of that section; 28493
28494

| | |
|--|----------------|
| <u>(3) All-day kindergarten under division (D) of that section;</u> | 28495 |
| <u>(4) Class-size reduction under division (E) of that section;</u> | 28496 |
| <u>(5) Services to limited English proficient students under</u> <u>division (F) of that section;</u> | 28497 28498 |
| <u>(6) Professional development, under division (G) of that</u> <u>section;</u> | 28499 28500 |
| <u>(7) Dropout prevention under division (H) of that section;</u> | 28501 |
| <u>(8) Community outreach under division (I) of that section.</u> | 28502 |
| <u>Sec. 3317.017. (A) Not later than July 1, 2006, the</u> | 28503 |
| <u>superintendent of public instruction shall adopt a rule under</u> | 28504 |
| <u>which the superintendent may issue an order with respect to the</u> | 28505 |
| <u>spending, by a school district declared to be under an academic</u> | 28506 |
| <u>watch or in a state of academic emergency under section 3302.03 of</u> | 28507 |
| <u>the Revised Code, of the following state building block funds</u> | 28508 |
| <u>intended to pay instructional-related costs:</u> | 28509 |
| <u>(1) State funds for compensation of base classroom teachers,</u> | 28510 |
| <u>as described in division (B)(1) of section 3317.012 of the Revised</u> | 28511 |
| <u>Code;</u> | 28512 |
| <u>(2) State funds for academic intervention services under</u> | 28513 |
| <u>division (C)(1) of section 3317.012 and division (C) of section</u> | 28514 |
| <u>3317.029 of the Revised Code;</u> | 28515 |
| <u>(3) State funds for professional development under divisions</u> | 28516 |
| <u>(C)(2) and (4) of section 3317.012 and division (G) of section</u> | 28517 |
| <u>3317.029 of the Revised Code;</u> | 28518 |
| <u>(4) State funds for data based decision making under division</u> | 28519 |
| <u>(C)(3) of section 3317.012 of the Revised Code;</u> | 28520 |
| <u>(5) The poverty-based assistance guarantee payment under</u> | 28521 |
| <u>division (B) of section 3317.029 of the Revised Code;</u> | 28522 |
| <u>(6) State funds for all-day kindergarten under division (D)</u> | 28523 |

| | |
|--|-------|
| <u>of section 3317.029 of the Revised Code;</u> | 28524 |
| <u>(7) State funds for class-size reduction under division (E)</u> | 28525 |
| <u>of section 3317.029 of the Revised Code;</u> | 28526 |
| <u>(8) State funds for services to limited English proficient</u> | 28527 |
| <u>students under division (F) of section 3317.029 of the Revised</u> | 28528 |
| <u>Code;</u> | 28529 |
| <u>(9) State funds for dropout prevention under division (H) of</u> | 28530 |
| <u>section 3317.029 of the Revised Code;</u> | 28531 |
| <u>(10) State funds for community outreach under division (I) of</u> | 28532 |
| <u>section 3317.029 of the Revised Code.</u> | 28533 |
| <u>(B) The rule shall authorize the superintendent of public</u> | 28534 |
| <u>instruction to issue an order that does one or a combination of</u> | 28535 |
| <u>the following:</u> | 28536 |
| <u>(1) Requires the school district to periodically report to</u> | 28537 |
| <u>the superintendent of public instruction on its spending of the</u> | 28538 |
| <u>state funds paid for each building blocks component described in</u> | 28539 |
| <u>divisions (A)(1) to (10) of this section;</u> | 28540 |
| <u>(2) Requires the district to establish a separate account for</u> | 28541 |
| <u>each of the building blocks components described in divisions</u> | 28542 |
| <u>(A)(1) to (10) of this section to which the district shall credit</u> | 28543 |
| <u>the state funds paid for each;</u> | 28544 |
| <u>(3) Directs the district's spending of any or all of the</u> | 28545 |
| <u>state funds paid for the components described in divisions (A)(1)</u> | 28546 |
| <u>to (10) of this section in accordance with the descriptions and</u> | 28547 |
| <u>requirements of sections 3317.012 and 3317.029 of the Revised</u> | 28548 |
| <u>Code.</u> | 28549 |
| <u>(C) The rule shall specify situations in which the</u> | 28550 |
| <u>superintendent may issue an order and the types of orders the</u> | 28551 |
| <u>superintendent will issue for each of those situations. The rule,</u> | 28552 |
| <u>however, shall authorize the superintendent to issue orders in</u> | 28553 |

situations that are not enumerated or described in the rule. 28554

(D) The board of education of each school district to which 28555
the superintendent of public instruction issues an order pursuant 28556
to the rule adopted under this section shall comply with that 28557
order. 28558

Sec. 3317.02. As used in this chapter: 28559

(A) Unless otherwise specified, "school district" means city, 28560
local, and exempted village school districts. 28561

(B) "Formula amount" means the base cost for the fiscal year 28562
specified in division (B)(4) of section 3317.012 of the Revised 28563
Code. 28564

(C) "FTE basis" means a count of students based on full-time 28565
equivalency, in accordance with rules adopted by the department of 28566
education pursuant to section 3317.03 of the Revised Code. In 28567
adopting its rules under this division, the department shall 28568
provide for counting any student in category one, two, three, 28569
four, five, or six special education ADM or in category one or two 28570
vocational education ADM in the same proportion the student is 28571
counted in formula ADM. 28572

(D)~~(1)~~ "Formula ADM" means, for a city, local, or exempted 28573
village school district, the number reported pursuant to division 28574
(A) of section 3317.03 of the Revised Code, and for a joint 28575
vocational school district, the number reported pursuant to 28576
division (D) of ~~that~~ section 3317.03 of the Revised Code. 28577

Beginning in fiscal year 2006, for payments in which formula ADM 28578
is a factor, for the months of July through December, formula ADM 28579
means the number reported in October of that year, and for the 28580
months of January through June, formula ADM means the average of 28581
the numbers reported in the previous October and in February. 28582

~~(2)~~(E) "Three-year average formula ADM" means the average of 28583

formula ADMs for the current and preceding two fiscal years. 28584

~~However, as applicable in fiscal years 1999 and 2000, the 28585~~

~~three year average for city, local, and exempted village school 28586~~

~~districts shall be determined utilizing the FY 1997 ADM or FY 1998 28587~~

~~ADM in lieu of formula ADM for fiscal year 1997 or 1998. In fiscal 28588~~

~~years 2000 and 2001, the three year average for joint vocational 28589~~

~~school districts shall be determined utilizing the average daily 28590~~

~~membership reported in fiscal years 1998 and 1999 under division 28591~~

~~(D) of section 3317.03 of the Revised Code in lieu of formula ADM 28592~~

~~for fiscal years 1998 and 1999. 28593~~

~~(E) "FY 1997 ADM" or "FY 1998 ADM" means the school 28594~~

~~district's average daily membership reported for the applicable 28595~~

~~fiscal year under the version of division (A) of section 3317.03 28596~~

~~of the Revised Code in effect during that fiscal year, adjusted as 28597~~

~~follows: 28598~~

~~(1) Minus the average daily membership of handicapped 28599~~

~~preschool children; 28600~~

~~(2) Minus one half of the average daily membership attending 28601~~

~~kindergarten; 28602~~

~~(3) Minus three fourths of the average daily membership 28603~~

~~attending a joint vocational school district; 28604~~

~~(4) Plus the average daily membership entitled under section 28605~~

~~3313.64 or 3313.65 of the Revised Code to attend school in the 28606~~

~~district but receiving educational services in approved units from 28607~~

~~an educational service center or another school district under a 28608~~

~~compact or a cooperative education agreement, as determined by the 28609~~

~~department; 28610~~

~~(5) Minus the average daily membership receiving educational 28611~~

~~services from the district in approved units but entitled under 28612~~

~~section 3313.64 or 3313.65 of the Revised Code to attend school in 28613~~

~~another school district, as determined by the department. 28614~~

(F)(1) "Category one special education ADM" means the average 28615
daily membership of handicapped children receiving special 28616
education services for the handicap specified in division (A) of 28617
section 3317.013 of the Revised Code and reported under division 28618
(B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code. 28619

(2) "Category two special education ADM" means the average 28620
daily membership of handicapped children receiving special 28621
education services for those handicaps specified in division (B) 28622
of section 3317.013 of the Revised Code and reported under 28623
division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised 28624
Code. 28625

(3) "Category three special education ADM" means the average 28626
daily membership of students receiving special education services 28627
for those handicaps specified in division (C) of section 3317.013 28628
of the Revised Code, and reported under division (B)(7) or 28629
(D)(2)(d) of section 3317.03 of the Revised Code. 28630

(4) "Category four special education ADM" means the average 28631
daily membership of students receiving special education services 28632
for those handicaps specified in division (D) of section 3317.013 28633
of the Revised Code and reported under division (B)(8) or 28634
(D)(2)(e) of section 3317.03 of the Revised Code. 28635

(5) "Category five special education ADM" means the average 28636
daily membership of students receiving special education services 28637
for the handicap specified in division (E) of section 3317.013 of 28638
the Revised Code and reported under division (B)(9) or (D)(2)(f) 28639
of section 3317.03 of the Revised Code. 28640

(6) "Category six special education ADM" means the average 28641
daily membership of students receiving special education services 28642
for the handicap specified in division (F) of section 3317.013 of 28643
the Revised Code and reported under division (B)(10) or (D)(2)(g) 28644
of section 3317.03 of the Revised Code. 28645

(7) "Category one vocational education ADM" means the average daily membership of students receiving vocational education services described in division (A) of section 3317.014 of the Revised Code and reported under division (B)(11) or (D)(2)(h) of section 3317.03 of the Revised Code.

(8) "Category two vocational education ADM" means the average daily membership of students receiving vocational education services described in division (B) of section 3317.014 of the Revised Code and reported under division (B)(12) or (D)(2)(i) of section 3317.03 of the Revised Code.

Beginning in fiscal year 2006, for payments in which category one through six special education ADM or category one or two vocational education ADM is a factor, for the months of July through December, those terms mean the numbers as described in division (F)(1) through (8) of this section, respectively, reported in October of that year, and for the months of January through June, those terms mean the average of the numbers as described in division (F)(1) through (8) of this section, respectively, reported in the previous October and in February.

(G) "Handicapped preschool child" means a handicapped child, as defined in section 3323.01 of the Revised Code, who is at least age three but is not of compulsory school age, as defined in section 3321.01 of the Revised Code, and who is not currently enrolled in kindergarten.

(H) "County MR/DD board" means a county board of mental retardation and developmental disabilities.

(I) "Recognized valuation" means the amount calculated for a school district pursuant to section 3317.015 of the Revised Code.

(J) "Transportation ADM" means the number of children reported under division (B)(13) of section 3317.03 of the Revised Code.

(K) "Average efficient transportation use cost per student" 28677
means a statistical representation of transportation costs as 28678
calculated under division (D)(2) of section 3317.022 of the 28679
Revised Code. 28680

(L) "Taxes charged and payable" means the taxes charged and 28681
payable against real and public utility property after making the 28682
reduction required by section 319.301 of the Revised Code, plus 28683
the taxes levied against tangible personal property. 28684

(M) "Total taxable value" means the sum of the amounts 28685
certified for a city, local, exempted village, or joint vocational 28686
school district under divisions (A)(1) and (2) of section 3317.021 28687
of the Revised Code. 28688

(N) "Cost-of-doing-business factor" means the amount 28689
indicated in ~~this~~ division (N)(1) or (2) of this section for the 28690
county in which a city, local, exempted village, or joint 28691
vocational school district is located. If a city, local, or 28692
exempted village school district is located in more than one 28693
county, the factor is the amount indicated for the county to which 28694
the district is assigned by the state department of education. If 28695
a joint vocational school district is located in more than one 28696
county, the factor is the amount indicated for the county in which 28697
the joint vocational school with the greatest formula ADM operated 28698
by the district is located. 28699

(1) In fiscal year 2006, the cost-of-doing-business factor 28700
for each county is: 28701

| | COST-OF-DOING-BUSINESS | |
|-----------|------------------------|----------------|
| COUNTY | FACTOR | AMOUNT |
| Adams | 1.0035 | <u>1.00233</u> |
| Allen | 1.0206 | <u>1.01373</u> |
| Ashland | 1.0297 | <u>1.01980</u> |
| Ashtabula | 1.0397 | <u>1.02647</u> |

| | | |
|------------|----------------------------------|-------|
| Athens | 1.0014 <u>1.00093</u> | 28708 |
| Auglaize | 1.0247 <u>1.01647</u> | 28709 |
| Belmont | 1.0064 <u>1.00427</u> | 28710 |
| Brown | 1.0177 <u>1.01180</u> | 28711 |
| Butler | 1.0646 <u>1.04307</u> | 28712 |
| Carroll | 1.0137 <u>1.00913</u> | 28713 |
| Champaign | 1.0446 <u>1.02973</u> | 28714 |
| Clark | 1.0447 <u>1.02980</u> | 28715 |
| Clermont | 1.0541 <u>1.03607</u> | 28716 |
| Clinton | 1.0329 <u>1.02193</u> | 28717 |
| Columbiana | 1.0214 <u>1.01427</u> | 28718 |
| Coshocton | 1.0173 <u>1.01153</u> | 28719 |
| Crawford | 1.0164 <u>1.01093</u> | 28720 |
| Cuyahoga | 1.0626 <u>1.04173</u> | 28721 |
| Darke | 1.0338 <u>1.02253</u> | 28722 |
| Defiance | 1.0146 <u>1.00973</u> | 28723 |
| Delaware | 1.0528 <u>1.03520</u> | 28724 |
| Erie | 1.0388 <u>1.02587</u> | 28725 |
| Fairfield | 1.0366 <u>1.02440</u> | 28726 |
| Fayette | 1.0319 <u>1.02127</u> | 28727 |
| Franklin | 1.0608 <u>1.04053</u> | 28728 |
| Fulton | 1.0330 <u>1.0220</u> | 28729 |
| Gallia | 1.0000 <u>1.00000</u> | 28730 |
| Geauga | 1.0501 <u>1.03340</u> | 28731 |
| Greene | 1.0444 <u>1.02960</u> | 28732 |
| Guernsey | 1.0066 <u>1.00440</u> | 28733 |
| Hamilton | 1.0750 <u>1.05000</u> | 28734 |
| Hancock | 1.0215 <u>1.01433</u> | 28735 |
| Hardin | 1.0356 <u>1.02373</u> | 28736 |
| Harrison | 1.0074 <u>1.00493</u> | 28737 |
| Henry | 1.0318 <u>1.02120</u> | 28738 |
| Highland | 1.0148 <u>1.00987</u> | 28739 |
| Hocking | 1.0188 <u>1.01253</u> | 28740 |

| | | |
|------------|----------------------------------|-------|
| Holmes | 1.0178 <u>1.01187</u> | 28741 |
| Huron | 1.0293 <u>1.01953</u> | 28742 |
| Jackson | 1.0138 <u>1.00920</u> | 28743 |
| Jefferson | 1.0073 <u>1.00487</u> | 28744 |
| Knox | 1.0279 <u>1.01860</u> | 28745 |
| Lake | 1.0524 <u>1.03493</u> | 28746 |
| Lawrence | 1.0081 <u>1.00540</u> | 28747 |
| Licking | 1.0381 <u>1.02540</u> | 28748 |
| Logan | 1.0385 <u>1.02567</u> | 28749 |
| Lorain | 1.0515 <u>1.03433</u> | 28750 |
| Lucas | 1.0390 <u>1.02600</u> | 28751 |
| Madison | 1.0488 <u>1.03253</u> | 28752 |
| Mahoning | 1.0346 <u>1.02307</u> | 28753 |
| Marion | 1.0306 <u>1.02040</u> | 28754 |
| Medina | 1.0536 <u>1.03573</u> | 28755 |
| Meigs | 1.0026 <u>1.00173</u> | 28756 |
| Mercer | 1.0203 <u>1.01353</u> | 28757 |
| Miami | 1.0411 <u>1.02740</u> | 28758 |
| Monroe | 1.0050 <u>1.00333</u> | 28759 |
| Montgomery | 1.0453 <u>1.03020</u> | 28760 |
| Morgan | 1.0089 <u>1.00593</u> | 28761 |
| Morrow | 1.0301 <u>1.02007</u> | 28762 |
| Muskingum | 1.0127 <u>1.00847</u> | 28763 |
| Noble | 1.0073 <u>1.00487</u> | 28764 |
| Ottawa | 1.0486 <u>1.03240</u> | 28765 |
| Paulding | 1.0115 <u>1.00767</u> | 28766 |
| Perry | 1.0160 <u>1.01067</u> | 28767 |
| Pickaway | 1.0391 <u>1.02607</u> | 28768 |
| Pike | 1.0103 <u>1.00687</u> | 28769 |
| Portage | 1.0472 <u>1.03147</u> | 28770 |
| Preble | 1.0442 <u>1.02947</u> | 28771 |
| Putnam | 1.0216 <u>1.01440</u> | 28772 |
| Richland | 1.0199 <u>1.01327</u> | 28773 |

| | | |
|------------|----------------------------------|-------|
| Ross | 1.0151 <u>1.01007</u> | 28774 |
| Sandusky | 1.0321 <u>1.02140</u> | 28775 |
| Scioto | 1.0012 <u>1.00080</u> | 28776 |
| Seneca | 1.0223 <u>1.01487</u> | 28777 |
| Shelby | 1.0278 <u>1.01853</u> | 28778 |
| Stark | 1.0255 <u>1.01700</u> | 28779 |
| Summit | 1.0542 <u>1.03613</u> | 28780 |
| Trumbull | 1.0351 <u>1.02340</u> | 28781 |
| Tuscarawas | 1.0089 <u>1.00593</u> | 28782 |
| Union | 1.0500 <u>1.03333</u> | 28783 |
| Van Wert | 1.0133 <u>1.00887</u> | 28784 |
| Vinton | 1.0095 <u>1.00633</u> | 28785 |
| Warren | 1.0658 <u>1.04387</u> | 28786 |
| Washington | 1.0060 <u>1.00400</u> | 28787 |
| Wayne | 1.0348 <u>1.02320</u> | 28788 |
| Williams | 1.0228 <u>1.01520</u> | 28789 |
| Wood | 1.0360 <u>1.02400</u> | 28790 |
| Wyandot | 1.0171 <u>1.01140</u> | 28791 |

(2) In fiscal year 2007, the cost-of-doing-business factor 28792
for each county is: 28793

| <u>COST-OF-DOING-BUSINESS</u> | | 28794 |
|-------------------------------|----------------------|-------|
| <u>COUNTY</u> | <u>FACTOR AMOUNT</u> | 28795 |
| <u>Adams</u> | <u>1.00117</u> | 28796 |
| <u>Allen</u> | <u>1.00687</u> | 28797 |
| <u>Ashland</u> | <u>1.00990</u> | 28798 |
| <u>Ashtabula</u> | <u>1.01323</u> | 28799 |
| <u>Athens</u> | <u>1.00047</u> | 28800 |
| <u>Auglaize</u> | <u>1.00823</u> | 28801 |
| <u>Belmont</u> | <u>1.00213</u> | 28802 |
| <u>Brown</u> | <u>1.00590</u> | 28803 |
| <u>Butler</u> | <u>1.02153</u> | 28804 |
| <u>Carroll</u> | <u>1.00457</u> | 28805 |
| <u>Champaign</u> | <u>1.01487</u> | 28806 |

| | | |
|-------------------|----------------|-------|
| <u>Clark</u> | <u>1.01490</u> | 28807 |
| <u>Clermont</u> | <u>1.01803</u> | 28808 |
| <u>Clinton</u> | <u>1.01097</u> | 28809 |
| <u>Columbiana</u> | <u>1.00713</u> | 28810 |
| <u>Coshocton</u> | <u>1.00577</u> | 28811 |
| <u>Crawford</u> | <u>1.00547</u> | 28812 |
| <u>Cuyahoga</u> | <u>1.02087</u> | 28813 |
| <u>Darke</u> | <u>1.01127</u> | 28814 |
| <u>Defiance</u> | <u>1.00487</u> | 28815 |
| <u>Delaware</u> | <u>1.01760</u> | 28816 |
| <u>Erie</u> | <u>1.01293</u> | 28817 |
| <u>Fairfield</u> | <u>1.01220</u> | 28818 |
| <u>Fayette</u> | <u>1.01063</u> | 28819 |
| <u>Franklin</u> | <u>1.02027</u> | 28820 |
| <u>Fulton</u> | <u>1.01100</u> | 28821 |
| <u>Gallia</u> | <u>1.00000</u> | 28822 |
| <u>Geauga</u> | <u>1.01670</u> | 28823 |
| <u>Greene</u> | <u>1.01480</u> | 28824 |
| <u>Guernsey</u> | <u>1.00220</u> | 28825 |
| <u>Hamilton</u> | <u>1.02500</u> | 28826 |
| <u>Hancock</u> | <u>1.00717</u> | 28827 |
| <u>Hardin</u> | <u>1.01187</u> | 28828 |
| <u>Harrison</u> | <u>1.00247</u> | 28829 |
| <u>Henry</u> | <u>1.01060</u> | 28830 |
| <u>Highland</u> | <u>1.00493</u> | 28831 |
| <u>Hocking</u> | <u>1.00627</u> | 28832 |
| <u>Holmes</u> | <u>1.00593</u> | 28833 |
| <u>Huron</u> | <u>1.00977</u> | 28834 |
| <u>Jackson</u> | <u>1.00460</u> | 28835 |
| <u>Jefferson</u> | <u>1.00243</u> | 28836 |
| <u>Knox</u> | <u>1.00930</u> | 28837 |
| <u>Lake</u> | <u>1.01747</u> | 28838 |
| <u>Lawrence</u> | <u>1.00270</u> | 28839 |

| | | |
|-------------------|----------------|-------|
| <u>Licking</u> | <u>1.01270</u> | 28840 |
| <u>Logan</u> | <u>1.01283</u> | 28841 |
| <u>Lorain</u> | <u>1.01717</u> | 28842 |
| <u>Lucas</u> | <u>1.01300</u> | 28843 |
| <u>Madison</u> | <u>1.01627</u> | 28844 |
| <u>Mahoning</u> | <u>1.01153</u> | 28845 |
| <u>Marion</u> | <u>1.01020</u> | 28846 |
| <u>Medina</u> | <u>1.01787</u> | 28847 |
| <u>Meigs</u> | <u>1.00087</u> | 28848 |
| <u>Mercer</u> | <u>1.00677</u> | 28849 |
| <u>Miami</u> | <u>1.01370</u> | 28850 |
| <u>Monroe</u> | <u>1.00167</u> | 28851 |
| <u>Montgomery</u> | <u>1.01510</u> | 28852 |
| <u>Morgan</u> | <u>1.00297</u> | 28853 |
| <u>Morrow</u> | <u>1.01003</u> | 28854 |
| <u>Muskingum</u> | <u>1.00423</u> | 28855 |
| <u>Noble</u> | <u>1.00243</u> | 28856 |
| <u>Ottawa</u> | <u>1.01620</u> | 28857 |
| <u>Paulding</u> | <u>1.00383</u> | 28858 |
| <u>Perry</u> | <u>1.00533</u> | 28859 |
| <u>Pickaway</u> | <u>1.01303</u> | 28860 |
| <u>Pike</u> | <u>1.00343</u> | 28861 |
| <u>Portage</u> | <u>1.01573</u> | 28862 |
| <u>Preble</u> | <u>1.01473</u> | 28863 |
| <u>Putnam</u> | <u>1.00720</u> | 28864 |
| <u>Richland</u> | <u>1.00663</u> | 28865 |
| <u>Ross</u> | <u>1.00503</u> | 28866 |
| <u>Sandusky</u> | <u>1.01070</u> | 28867 |
| <u>Scioto</u> | <u>1.00040</u> | 28868 |
| <u>Seneca</u> | <u>1.00743</u> | 28869 |
| <u>Shelby</u> | <u>1.00927</u> | 28870 |
| <u>Stark</u> | <u>1.00850</u> | 28871 |
| <u>Summit</u> | <u>1.01807</u> | 28872 |

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| <u>Trumbull</u> | <u>1.01170</u> | 28873 |
| <u>Tuscarawas</u> | <u>1.00297</u> | 28874 |
| <u>Union</u> | <u>1.01667</u> | 28875 |
| <u>Van Wert</u> | <u>1.00443</u> | 28876 |
| <u>Vinton</u> | <u>1.00317</u> | 28877 |
| <u>Warren</u> | <u>1.02193</u> | 28878 |
| <u>Washington</u> | <u>1.00200</u> | 28879 |
| <u>Wayne</u> | <u>1.01160</u> | 28880 |
| <u>Williams</u> | <u>1.00760</u> | 28881 |
| <u>Wood</u> | <u>1.01200</u> | 28882 |
| <u>Wyandot</u> | <u>1.00570</u> | 28883 |

(O) "Tax exempt value" of a school district means the amount certified for a school district under division (A)(4) of section 3317.021 of the Revised Code.

(P) "Potential value" of a school district means the recognized valuation of a school district plus the tax exempt value of the district.

(Q) "District median income" means the median Ohio adjusted gross income certified for a school district. On or before the first day of July of each year, the tax commissioner shall certify to the department of education for each city, exempted village, and local school district the median Ohio adjusted gross income of the residents of the school district determined on the basis of tax returns filed for the second preceding tax year by the residents of the district.

(R) "Statewide median income" means the median district median income of all city, exempted village, and local school districts in the state.

(S) "Income factor" for a city, exempted village, or local school district means the quotient obtained by dividing that district's median income by the statewide median income.

(T) "Medically fragile child" means a child to whom all of 28904
the following apply: 28905

(1) The child requires the services of a doctor of medicine 28906
or osteopathic medicine at least once a week due to the 28907
instability of the child's medical condition. 28908

(2) The child requires the services of a registered nurse on 28909
a daily basis. 28910

(3) The child is at risk of institutionalization in a 28911
hospital, skilled nursing facility, or intermediate care facility 28912
for the mentally retarded. 28913

(U) A child may be identified as "other health 28914
handicapped-major" if the child's condition meets the definition 28915
of "other health impaired" established in rules adopted by the 28916
state board of education prior to July 1, 2001, and if either of 28917
the following apply: 28918

(1) The child is identified as having a medical condition 28919
that is among those listed by the superintendent of public 28920
instruction as conditions where a substantial majority of cases 28921
fall within the definition of "medically fragile child." The 28922
superintendent of public instruction shall issue an initial list 28923
no later than September 1, 2001. 28924

(2) The child is determined by the superintendent of public 28925
instruction to be a medically fragile child. A school district 28926
superintendent may petition the superintendent of public 28927
instruction for a determination that a child is a medically 28928
fragile child. 28929

(V) A child may be identified as "other health 28930
handicapped-minor" if the child's condition meets the definition 28931
of "other health impaired" established in rules adopted by the 28932
state board of education prior to July 1, 2001, but the child's 28933
condition does not meet either of the conditions specified in 28934

division (U)(1) or (2) of this section. 28935

(W) "SF-3 payment" means the sum of the payments to a school district in a fiscal year under divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022, divisions (J), (P), and (R) of section 3317.024, and sections 3317.029, 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of the Revised Code after making the adjustments required by sections 3313.981 and 3313.979 of the Revised Code, divisions (B), (C), (D), (E), (K), (L), (M), (N), and (O) of section 3317.023, and division (C) of section 3317.20 of the Revised Code. 28936
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(X) "Property exemption value" means zero in fiscal year 2006, and in fiscal year 2007 and each fiscal year thereafter, the amount certified for a school district under divisions (A)(6) and (7) of section 3317.021 of the Revised Code. 28945
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Sec. 3317.021. (A) On or before the first day of June of each year, the tax commissioner shall certify to the department of education the following information for each city, exempted village, and local school district, and the information required by divisions (A)(1) and (2) of this section for each joint vocational school district, and it shall be used, along with the information certified under division (B) of this section, in making the computations for the district under sections 3317.022 and 3317.0217 or section 3317.16 of the Revised Code: 28949
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(1) The taxable value of real and public utility real property in the school district subject to taxation in the preceding tax year, by class and by county of location; 28958
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(2) The taxable value of tangible personal property, including public utility personal property, subject to taxation by the district for the preceding tax year; 28961
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(3)(a) The total property tax rate and total taxes charged 28964

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| and payable for the current expenses for the preceding tax year | 28965 |
| and the total property tax rate and the total taxes charged and | 28966 |
| payable to a joint vocational district for the preceding tax year | 28967 |
| that are limited to or to the extent apportioned to current | 28968 |
| expenses; | 28969 |
| (b) The portion of the amount of taxes charged and payable | 28970 |
| reported for each city, local, and exempted village school | 28971 |
| district under division (A)(3)(a) of this section attributable to | 28972 |
| a joint vocational school district. | 28973 |
| (4) The value of all real and public utility real property in | 28974 |
| the school district exempted from taxation minus both of the | 28975 |
| following: | 28976 |
| (a) The value of real and public utility real property in the | 28977 |
| district owned by the United States government and used | 28978 |
| exclusively for a public purpose; | 28979 |
| (b) The value of real and public utility real property in the | 28980 |
| district exempted from taxation under Chapter 725. or 1728. or | 28981 |
| section 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, | 28982 |
| 5709.73, or 5709.78 of the Revised Code. | 28983 |
| (5) The total federal adjusted gross income of the residents | 28984 |
| of the school district, based on tax returns filed by the | 28985 |
| residents of the district, for the most recent year for which this | 28986 |
| information is available; | 28987 |
| <u>(6) The aggregate value of real property in the school</u> | 28988 |
| <u>district exempted from taxation pursuant to an ordinance adopted</u> | 28989 |
| <u>by the legislative authority of a municipal corporation under</u> | 28990 |
| <u>division (C) of section 5709.40 of the Revised Code or pursuant to</u> | 28991 |
| <u>a resolution adopted by a board of township trustees or board of</u> | 28992 |
| <u>county commissioners under division (C) of section 5709.73 or</u> | 28993 |
| <u>division (B) of section 5709.78 of the Revised Code, respectively,</u> | 28994 |
| <u>but not including payments in lieu of taxes provided under</u> | 28995 |

division (D)(1) of section 5709.40, division (D)(1) of section 28996
5709.73, or division (C)(1) of section 5709.78 of the Revised 28997
Code, respectively, as indicated on the list of exempted property 28998
for the preceding tax year under section 5713.08 of the Revised 28999
Code and as if such property had been assessed for taxation that 29000
year, minus the following amounts: 29001

(a) The aggregate value of the improvements to parcels of 29002
real property in the school district exempted from taxation 29003
pursuant to such ordinance or resolution, if the ordinance or 29004
resolution is adopted prior to January 1, 2006, and the 29005
legislative authority or board of township trustees or county 29006
commissioners, prior to January 1, 2006, executes a contract or 29007
agreement with a developer, whether for-profit or not-for-profit, 29008
with respect to the development of a project undertaken or to be 29009
undertaken and identified in the ordinance or resolution, and upon 29010
which parcels such project is being, or will be, undertaken; 29011

(b) The product determined by multiplying (i) the aggregate 29012
value of the improvements to parcels of real property in the 29013
school district exempted from taxation pursuant to any such 29014
ordinance or resolution, minus the aggregate value of any 29015
improvement excluded pursuant to division (A)(6)(a) of this 29016
section, by (ii) a fraction, the numerator of which is the 29017
difference between (I) the amount of anticipated revenue such 29018
school district would have received in the preceding fiscal year 29019
if the real property exempted from taxation pursuant to such 29020
ordinance or resolution had not been exempted from taxation and 29021
(II) the aggregate amount of payments and other compensation 29022
received in the preceding fiscal year by the school district 29023
pursuant to all agreements between the school district and a 29024
legislative authority or board of township trustees or county 29025
commissioners that were entered into in relation to such ordinance 29026
or resolution, and the denominator of which is the amount of 29027

anticipated revenue such school district would have received in 29028
the preceding fiscal year if the real property exempted from 29029
taxation pursuant to such ordinance or resolution had not been 29030
exempted from taxation; 29031

(c) The aggregate value of the improvements to parcels of 29032
real property in the school district exempted from taxation 29033
pursuant to such ordinance or resolution, if and to the extent 29034
that, on or before April 1, 2006, the fiscal officer of the 29035
municipal corporation that adopted the ordinance, or of the 29036
township or county that adopted the resolution, certifies and 29037
provides appropriate supporting documentation to the tax 29038
commissioner and the director of development that, based on 29039
hold-harmless provisions in any agreement between the school 29040
district and the legislative authority of the municipal 29041
corporation, board of township trustees, or board of county 29042
commissioners that was entered into on or before June 1, 2005, the 29043
ability or obligation of the municipal corporation, township, or 29044
county to repay bonds, notes, or other financial obligations 29045
issued or entered into prior to January 1, 2006, will be impaired, 29046
including obligations to or of any other body corporate and 29047
politic with whom the legislative authority of the municipal 29048
corporation or board of township trustees or county commissioners 29049
has entered into an agreement pertaining to the use of service 29050
payments derived from the improvements exempted; 29051

(d) The aggregate value of the improvements to parcels of 29052
real property in the school district exempted from taxation 29053
pursuant to such ordinance or resolution, if the ordinance or 29054
resolution is adopted prior to January 1, 2006, in a municipal 29055
corporation with a population that exceeds one hundred thousand, 29056
as shown by the most recent federal decennial census, that 29057
includes a major employment center and that is adjacent to 29058
historically distressed neighborhoods, if the legislative 29059

authority of the municipal corporation, the board of township trustees, or the board of county commissioners that exempted the property prepares an economic analysis that demonstrates that all taxes generated within the incentive district accruing to the state by reason of improvements constructed within the district during its existence exceed the amount the state pays the school district under section 3317.022 of the Revised Code attributable to such property exemption from the school district's recognized valuation. The analysis shall be submitted to and approved by the department of development prior to January 1, 2006, and the department shall not unreasonably withhold approval. Approval shall permit use of the aggregate value for the life of the incentive district as designated in the ordinance or resolution creating it.

(e) The aggregate value of the improvements to parcels of real property in the school district exempted from taxation under such ordinance or resolution, if the ordinance or resolution is adopted prior to January 1, 2006, and if service payments have been pledged to be used for mixed-use riverfront entertainment development in any county with a population that exceeds six hundred thousand, as shown by the most recent federal decennial census;

(f) The aggregate value of the improvements to parcels of real property in the school district exempted from taxation under such ordinance or resolution, if, prior to January 1, 2006, the legislative authority of a municipal corporation, board of township trustees, or board of county commissioners has pledged service payments for a designated transportation capacity project approved by the transportation review advisory council under Chapter 5512. of the Revised Code;

(g) The aggregate value of the improvements to parcels of real property in the school district exempted from taxation under

such ordinance or resolution if the legislative authority of a 29092
municipal corporation, board of township trustees, or board of 29093
county commissioners have, by January 1, 2006, pledged proceeds 29094
for designated transportation improvement projects that involve 29095
federal funds for which the proceeds are used to meet a local 29096
share match requirement for such funding. 29097

As used in division (A)(6) of this section, "project" has the 29098
same meaning as in section 5709.40 of the Revised Code. 29099

(7) The aggregate value of real property in the school 29100
district for which an exemption from taxation is granted on or 29101
after January 1, 2006, under Chapter 725. or 1728., sections 29102
3735.65 to 3735.70, or section 5709.62, 5709.63, 5709.632, 29103
5709.84, or 5709.88 of the Revised Code, as indicated on the list 29104
of exempted property for the preceding tax year under section 29105
5713.08 of the Revised Code and as if such property had been 29106
assessed for taxation that year, but not including compensation 29107
for tax revenue foregone pursuant to an agreement entered into on 29108
or after January 1, 2006, under section 5709.82 of the Revised 29109
Code, and minus the product determined by multiplying (a) the 29110
aggregate value of the real property in the school district 29111
exempted from taxation under any of the chapters or sections 29112
specified in this division, by (b) a fraction, the numerator of 29113
which is the difference between (i) the amount of anticipated 29114
revenue such school district would have received in the preceding 29115
fiscal year if the real property exempted from taxation had not 29116
been exempted from taxation and (ii) the aggregate amount of 29117
payments and other compensation received in the preceding fiscal 29118
year by the school district pursuant to any agreements between the 29119
school district and the legislative authority of a political 29120
subdivision that acted under the authority of a chapter or statute 29121
specified in this division, that were entered into in relation to 29122
such exemption, and the denominator of which is the amount of 29123

anticipated revenue such school district would have received in 29124
the preceding fiscal year if the real property exempted from 29125
taxation had not been exempted. 29126

(B) On or before the first day of May each year, the tax 29127
commissioner shall certify to the department of education the 29128
total taxable real property value of railroads and, separately, 29129
the total taxable tangible personal property value of all public 29130
utilities for the preceding tax year, by school district and by 29131
county of location. 29132

(C) If a public utility has properly and timely filed a 29133
petition for reassessment under section 5727.47 of the Revised 29134
Code with respect to an assessment issued under section 5727.23 of 29135
the Revised Code affecting taxable property apportioned by the tax 29136
commissioner to a school district, the taxable value of public 29137
utility tangible personal property included in the certification 29138
under divisions (A)(2) and (B) of this section for the school 29139
district shall include only the amount of taxable value on the 29140
basis of which the public utility paid tax for the preceding year 29141
as provided in division (B)(1) or (2) of section 5727.47 of the 29142
Revised Code. 29143

(D) If on the basis of the information certified under 29144
division (A) of this section, the department determines that any 29145
district fails in any year to meet the qualification requirement 29146
specified in division (A) of section 3317.01 of the Revised Code, 29147
the department shall immediately request the tax commissioner to 29148
determine the extent to which any school district income tax 29149
levied by the district under Chapter 5748. of the Revised Code 29150
shall be included in meeting that requirement. Within five days of 29151
receiving such a request from the department, the tax commissioner 29152
shall make the determination required by this division and report 29153
the quotient obtained under division (D)(3) of this section to the 29154
department. This quotient represents the number of mills that the 29155

department shall include in determining whether the district meets 29156
the qualification requirement of division (A) of section 3317.01 29157
of the Revised Code. 29158

The tax commissioner shall make the determination required by 29159
this division as follows: 29160

(1) Multiply one mill times the total taxable value of the 29161
district as determined in divisions (A)(1) and (2) of this 29162
section; 29163

(2) Estimate the total amount of tax liability for the 29164
current tax year under taxes levied by Chapter 5748. of the 29165
Revised Code that are apportioned to current operating expenses of 29166
the district; 29167

(3) Divide the amount estimated under division (D)(2) of this 29168
section by the product obtained under division (D)(1) of this 29169
section. 29170

(E) On or before June 1, 2006, and the first day of June of 29171
each year thereafter, the director of development shall certify to 29172
the department of education the total amount of payments received 29173
by each city, local, exempted village, or joint vocational school 29174
district during the preceding tax year pursuant to an agreement 29175
entered into under division (B) of section 5709.82 of the Revised 29176
Code in relation to exemptions from taxation granted pursuant to 29177
an ordinance adopted by the legislative authority of a municipal 29178
corporation under division (C)(1) of section 5709.40 of the 29179
Revised Code, or a resolution adopted by a board of township 29180
trustees or board of county commissioners under division (C)(1) of 29181
section 5709.73 or division (B)(1) of section 5709.78 of the 29182
Revised Code, respectively. On or before April 1, 2006, and the 29183
first day of April of each year thereafter, the treasurer of each 29184
city, local, exempted village, or joint vocational school district 29185
that has entered into such an agreement shall report to the 29186

director of development the total amount of such payments the 29187
district received during the preceding tax year pursuant to each 29188
such agreement. The state board of education, in accordance with 29189
sections 3319.31 and 3319.311 of the Revised Code, may suspend or 29190
revoke the license of a treasurer found to have willfully reported 29191
erroneous, inaccurate, or incomplete data under this division. 29192

Sec. 3317.022. (A)~~(1)~~ The department of education shall 29193
compute and distribute state base cost funding to each school 29194
district for the fiscal year ~~in accordance with the following~~ 29195
~~formula, making any adjustment required by division (A)(2) of this~~ 29196
~~section and~~ using the information obtained under section 3317.021 29197
of the Revised Code in the calendar year in which the fiscal year 29198
begins. 29199

(1) Compute the following for each eligible district: 29200

[(cost-of-doing-business factor X 29201

the formula amount X 29202

formula ADM) + the sum of the base funding supplements prescribed 29203

in divisions (C)(1) to (4) of section 3317.012 of the Revised 29204

Code] - 29205

~~(.023 x recognized valuation)~~[.023 x (the sum of recognized 29206

valuation and property exemption (value)] 29207

If the difference obtained is a negative number, the 29208
district's computation shall be zero. 29209

(2) Compute both of the following for each school district: 29210

(a) The difference of (i) the district's fiscal year 2005 29211

base cost payment under the version of division (A)(1) of this 29212

section in effect in fiscal year 2005, minus (ii) the amount 29213

computed for the district for the current fiscal year under 29214

current division (A)(1) of this section; 29215

(b) The following amount: 29216

[(fiscal year 2005 base cost payment/fiscal year 2005 formula 29217
ADM) X current year formula ADM] minus the amount computed for the 29218
district under current division (A)(1) of this section 29219

If one of the amounts computed under division (A)(2)(a) or 29220
(b) of this section is a positive amount, the department shall pay 29221
the district that amount in addition to the amount calculated 29222
under division (A)(1) of this section. If both amounts are 29223
positive amounts, the department shall pay the district the lesser 29224
of the two amounts in addition to the amount calculated under 29225
division (A)(1) of this section. 29226

(3)(a) For each school district for which the tax exempt 29227
value of the district equals or exceeds twenty-five per cent of 29228
the potential value of the district, the department of education 29229
shall calculate the difference between the district's tax exempt 29230
value and twenty-five per cent of the district's potential value. 29231

(b) For each school district to which division (A)~~(2)~~(3)(a) 29232
of this section applies, the department shall adjust the 29233
recognized valuation used in the calculation under division (A)(1) 29234
of this section by subtracting from it the amount calculated under 29235
division (A)~~(2)~~(3)(a) of this section. 29236

(B) As used in this section: 29237

(1) The "total special education weight" for a district means 29238
the sum of the following amounts: 29239

(a) The district's category one special education ADM 29240
multiplied by the multiple specified in division (A) of section 29241
3317.013 of the Revised Code; 29242

(b) The district's category two special education ADM 29243
multiplied by the multiple specified in division (B) of section 29244
3317.013 of the Revised Code; 29245

(c) The district's category three special education ADM 29246
multiplied by the multiple specified in division (C) of section 29247

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| 3317.013 of the Revised Code; | 29248 |
| (d) The district's category four special education ADM | 29249 |
| multiplied by the multiple specified in division (D) of section | 29250 |
| 3317.013 of the Revised Code; | 29251 |
| (e) The district's category five special education ADM | 29252 |
| multiplied by the multiple specified in division (E) of section | 29253 |
| 3317.013 of the Revised Code; | 29254 |
| (f) The district's category six special education ADM | 29255 |
| multiplied by the multiple specified in division (F) of section | 29256 |
| 3317.013 of the Revised Code. | 29257 |
| (2) "State share percentage" means the percentage calculated | 29258 |
| for a district as follows: | 29259 |
| (a) Calculate the state base cost funding amount for the | 29260 |
| district for the fiscal year under division (A) of this section. | 29261 |
| If the district would not receive any state base cost funding for | 29262 |
| that year under that division, the district's state share | 29263 |
| percentage is zero. | 29264 |
| (b) If the district would receive state base cost funding | 29265 |
| under that division, divide that amount by an amount equal to the | 29266 |
| following: | 29267 |
| (Cost-of-doing-business factor X | 29268 |
| the formula amount X | 29269 |
| <u>formula ADM) + the sum of the base funding supplements prescribed</u> | 29270 |
| <u>in divisions (C)(1) to (4) of section 3317.012 of the Revised Code</u> | 29271 |
| The resultant number is the district's state share | 29272 |
| percentage. | 29273 |
| (3) "Related services" includes: | 29274 |
| (a) Child study, special education supervisors and | 29275 |
| coordinators, speech and hearing services, adaptive physical | 29276 |
| development services, occupational or physical therapy, teacher | 29277 |

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| assistants for handicapped children whose handicaps are described | 29278 |
| in division (B) of section 3317.013 or division (F)(3) of section | 29279 |
| 3317.02 of the Revised Code, behavioral intervention, interpreter | 29280 |
| services, work study, nursing services, and specialized | 29281 |
| integrative services as those terms are defined by the department; | 29282 |
| (b) Speech and language services provided to any student with | 29283 |
| a handicap, including any student whose primary or only handicap | 29284 |
| is a speech and language handicap; | 29285 |
| (c) Any related service not specifically covered by other | 29286 |
| state funds but specified in federal law, including but not | 29287 |
| limited to, audiology and school psychological services; | 29288 |
| (d) Any service included in units funded under former | 29289 |
| division (O)(1) of section 3317.023 of the Revised Code; | 29290 |
| (e) Any other related service needed by handicapped children | 29291 |
| in accordance with their individualized education plans. | 29292 |
| (4) The "total vocational education weight" for a district | 29293 |
| means the sum of the following amounts: | 29294 |
| (a) The district's category one vocational education ADM | 29295 |
| multiplied by the multiple specified in division (A) of section | 29296 |
| 3317.014 of the Revised Code; | 29297 |
| (b) The district's category two vocational education ADM | 29298 |
| multiplied by the multiple specified in division (B) of section | 29299 |
| 3317.014 of the Revised Code. | 29300 |
| (C)(1) The department shall compute and distribute state | 29301 |
| special education and related services additional weighted costs | 29302 |
| funds to each school district in accordance with the following | 29303 |
| formula: | 29304 |
| The district's state share percentage | 29305 |
| X the formula amount for the year | 29306 |
| for which the aid is calculated | 29307 |

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| X the district's total special education weight | 29308 |
| (2) The attributed local share of special education and related services additional weighted costs equals: | 29309 |
| (1 - the district's state share percentage) X | 29310 |
| the district's total special education weight X | 29311 |
| the formula amount | 29312 |
| (3)(a) The department shall compute and pay in accordance with this division additional state aid to school districts for students in categories two through six special education ADM. If a district's costs for the fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following: | 29313 |
| (i) One-half of the district's costs for the student in excess of the threshold catastrophic cost; | 29314 |
| (ii) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage. | 29315 |
| (b) For purposes of division (C)(3)(a) of this section, the threshold catastrophic cost for serving a student equals: | 29316 |
| (i) For a student in the school district's category two, three, four, or five special education ADM, twenty-five thousand dollars in fiscal year 2002 and , twenty-five thousand seven hundred dollars in fiscal years 2003, 2004, and 2005, <u>and</u> <u>twenty-six thousand five hundred dollars in fiscal years 2006 and 2007;</u> | 29317 |
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(ii) For a student in the district's category six special education ADM, thirty thousand dollars in fiscal year 2002 ~~and~~, thirty thousand eight hundred forty dollars in fiscal years 2003, 2004, and 2005, and thirty-one thousand eight hundred dollars in fiscal years 2006 and 2007.

(c) The district shall only report under division (C)(3)(a) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(4)(a) As used in this division, the "personnel allowance" means thirty thousand dollars in fiscal years 2002, 2003, 2004, ~~and~~, 2005, 2006, and 2007.

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

(formula ADM divided by 2000) X

the personnel allowance X the state share percentage

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

(cost-of-doing-business factor X

formula amount X the sum of categories

one through six special education ADM) +

(total special education weight X formula amount)

The purposes approved by the department for special education expenses shall include, but shall not be limited to, identification of handicapped children, compliance with state rules governing the education of handicapped children and prescribing the continuum of program options for handicapped children, provision of speech language pathology services, and the portion of the school district's overall administrative and overhead costs that are attributable to the district's special education student population.

The department shall require school districts to report data annually to allow for monitoring compliance with division (C)(5) of this section. The department shall annually report to the governor and the general assembly the amount of money spent by each school district for special education and related services.

(6) In any fiscal year, a school district shall spend for the provision of speech language pathology services not less than the sum of the amount calculated under division (C)(1) of this section for the students in the district's category one special education ADM and the amount calculated under division (C)(4) of this section.

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

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

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

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

(d) "Transportation cost per student" equals total operating

costs for board-owned or contractor-operated school buses divided 29401
by transportation base. 29402

(2) Analysis of student transportation cost data has resulted 29403
in a finding that an average efficient transportation use cost per 29404
student can be calculated by means of a regression formula that 29405
has as its two independent variables the number of daily bus miles 29406
per student and the transported student percentage. For fiscal 29407
year 1998 transportation cost data, the average efficient 29408
transportation use cost per student is expressed as follows: 29409

$$51.79027 + (139.62626 \times \text{daily bus miles per student}) + 29410$$
$$(116.25573 \times \text{transported student percentage}) 29411$$

The department of education shall annually determine the 29412
average efficient transportation use cost per student in 29413
accordance with the principles stated in division (D)(2) of this 29414
section, updating the intercept and regression coefficients of the 29415
regression formula modeled in this division, based on an annual 29416
statewide analysis of each school district's daily bus miles per 29417
student, transported student percentage, and transportation cost 29418
per student data. The department shall conduct the annual update 29419
using data, including daily bus miles per student, transported 29420
student percentage, and transportation cost per student data, from 29421
the prior fiscal year. The department shall notify the office of 29422
budget and management of such update by the fifteenth day of 29423
February of each year. 29424

(3) In addition to funds paid under divisions (A), (C), and 29425
(E) of this section, each district with a transported student 29426
percentage greater than zero shall receive a payment equal to a 29427
percentage of the product of the district's transportation base 29428
from the prior fiscal year times the annually updated average 29429
efficient transportation use cost per student, times an inflation 29430
factor of two and eight tenths per cent to account for the 29431
one-year difference between the data used in updating the formula 29432

and calculating the payment and the year in which the payment is 29433
made. The percentage shall be the following percentage of that 29434
product specified for the corresponding fiscal year: 29435

| FISCAL YEAR | PERCENTAGE | |
|---------------------|---|----------------|
| 2000 | 52.5% | 29436 |
| 2001 | 55% | 29437 |
| 2002 | 57.5% | 29438 |
| 2003 and thereafter | The greater of 60% or the district's state share percentage | 29439 29440 |

The payments made under division (D)(3) of this section each 29441
year shall be calculated based on all of the same prior year's 29442
data used to update the formula. 29443

(4) In addition to funds paid under divisions (D)(2) and (3) 29444
of this section, a school district shall receive a rough road 29445
subsidy if both of the following apply: 29446

(a) Its county rough road percentage is higher than the 29447
statewide rough road percentage, as those terms are defined in 29448
division (D)(5) of this section; 29449

(b) Its district student density is lower than the statewide 29450
student density, as those terms are defined in that division. 29451

(5) The rough road subsidy paid to each district meeting the 29452
qualifications of division (D)(4) of this section shall be 29453
calculated in accordance with the following formula: 29454

(per rough mile subsidy X total rough road miles) X 29455
density multiplier 29456

where: 29457

(a) "Per rough mile subsidy" equals the amount calculated in 29458
accordance with the following formula: 29459

0.75 - {0.75 X [(maximum rough road percentage - 29460

county rough road percentage)/(maximum rough road percentage -
statewide rough road percentage)]]} 29461
29462

(i) "Maximum rough road percentage" means the highest county
rough road percentage in the state. 29463
29464

(ii) "County rough road percentage" equals the percentage of
the mileage of state, municipal, county, and township roads that
is rated by the department of transportation as type A, B, C, E2,
or F in the county in which the school district is located or, if
the district is located in more than one county, the county to
which it is assigned for purposes of determining its
cost-of-doing-business factor. 29465
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(iii) "Statewide rough road percentage" means the percentage
of the statewide total mileage of state, municipal, county, and
township roads that is rated as type A, B, C, E2, or F by the
department of transportation. 29472
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(b) "Total rough road miles" means a school district's total
bus miles traveled in one year times its county rough road
percentage. 29476
29477
29478

(c) "Density multiplier" means a figure calculated in
accordance with the following formula: 29479
29480

1 - [(minimum student density - district student
density)/(minimum student density -
statewide student density)] 29481
29482
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(i) "Minimum student density" means the lowest district
student density in the state. 29484
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(ii) "District student density" means a school district's
transportation base divided by the number of square miles in the
district. 29486
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(iii) "Statewide student density" means the sum of the
transportation bases for all school districts divided by the sum
of the square miles in all school districts. 29489
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(6) In addition to funds paid under divisions (D)(2) to (5) 29492
of this section, each district shall receive in accordance with 29493
rules adopted by the state board of education a payment for 29494
students transported by means other than board-owned or 29495
contractor-operated buses and whose transportation is not funded 29496
under division (J) of section 3317.024 of the Revised Code. The 29497
rules shall include provisions for school district reporting of 29498
such students. 29499

(E)(1) The department shall compute and distribute state 29500
vocational education additional weighted costs funds to each 29501
school district in accordance with the following formula: 29502
state share percentage X 29503
the formula amount X 29504
total vocational education weight 29505

In any fiscal year, a school district receiving funds under 29506
division (E)(1) of this section shall spend those funds only for 29507
the purposes that the department designates as approved for 29508
vocational education expenses. Vocational educational expenses 29509
approved by the department shall include only expenses connected 29510
to the delivery of career-technical programming to 29511
career-technical students. The department shall require the school 29512
district to report data annually so that the department may 29513
monitor the district's compliance with the requirements regarding 29514
the manner in which funding received under division (E)(1) of this 29515
section may be spent. 29516

(2) The department shall compute for each school district 29517
state funds for vocational education associated services in 29518
accordance with the following formula: 29519
state share percentage X .05 X 29520
the formula amount X the sum of categories one and two 29521
vocational education ADM 29522

In any fiscal year, a school district receiving funds under 29523

division (E)(2) of this section, or through a transfer of funds 29524
pursuant to division (L) of section 3317.023 of the Revised Code, 29525
shall spend those funds only for the purposes that the department 29526
designates as approved for vocational education associated 29527
services expenses, which may include such purposes as 29528
apprenticeship coordinators, coordinators for other vocational 29529
education services, vocational evaluation, and other purposes 29530
designated by the department. The department may deny payment 29531
under division (E)(2) of this section to any district that the 29532
department determines is not operating those services or is using 29533
funds paid under division (E)(2) of this section, or through a 29534
transfer of funds pursuant to division (L) of section 3317.023 of 29535
the Revised Code, for other purposes. 29536

(F) The actual local share in any fiscal year for the 29537
combination of special education and related services additional 29538
weighted costs funding calculated under division (C)(1) of this 29539
section, transportation funding calculated under divisions (D)(2) 29540
and (3) of this section, and vocational education and associated 29541
services additional weighted costs funding calculated under 29542
divisions (E)(1) and (2) of this section shall not exceed for any 29543
school district the product of three and three-tenths mills times 29544
the district's recognized valuation. The department annually shall 29545
pay each school district as an excess cost supplement any amount 29546
by which the sum of the district's attributed local shares for 29547
that funding exceeds that product. For purposes of calculating the 29548
excess cost supplement: 29549

(1) The attributed local share for special education and 29550
related services additional weighted costs funding is the amount 29551
specified in division (C)(2) of this section. 29552

(2) The attributed local share of transportation funding 29553
equals the difference of the total amount calculated for the 29554
district using the formula developed under division (D)(2) of this 29555

section minus the actual amount paid to the district after 29556
applying the percentage specified in division (D)(3) of this 29557
section. 29558

(3) The attributed local share of vocational education and 29559
associated services additional weighted costs funding is the 29560
amount determined as follows: 29561

(1 - state share percentage) X 29562
[(total vocational education weight X the formula amount) + 29563
the payment under division (E)(2) of this section] 29564

Sec. 3317.023. (A) Notwithstanding section 3317.022 of the 29565
Revised Code, the amounts required to be paid to a district under 29566
this chapter shall be adjusted by the amount of the computations 29567
made under divisions (B) to ~~(M)~~(O) of this section. 29568

As used in this section: 29569

(1) "Classroom teacher" means a licensed employee who 29570
provides direct instruction to pupils, excluding teachers funded 29571
from money paid to the district from federal sources; educational 29572
service personnel; and vocational and special education teachers. 29573

(2) "Educational service personnel" shall not include such 29574
specialists funded from money paid to the district from federal 29575
sources or assigned full-time to vocational or special education 29576
students and classes and may only include those persons employed 29577
in the eight specialist areas in a pattern approved by the 29578
department of education under guidelines established by the state 29579
board of education. 29580

(3) "Annual salary" means the annual base salary stated in 29581
the state minimum salary schedule for the performance of the 29582
teacher's regular teaching duties that the teacher earns for 29583
services rendered for the first full week of October of the fiscal 29584
year for which the adjustment is made under division (C) of this 29585

section. It shall not include any salary payments for supplemental 29586
teachers contracts. 29587

(4) "Regular student population" means the formula ADM plus 29588
the number of students reported as enrolled in the district 29589
pursuant to division (A)(1) of section 3313.981 of the Revised 29590
Code; minus the number of students reported under division (A)(2) 29591
of section 3317.03 of the Revised Code; minus the FTE of students 29592
reported under division (B)(6), (7), (8), (9), (10), (11), or (12) 29593
of that section who are enrolled in a vocational education class 29594
or receiving special education; and minus twenty per cent of the 29595
students enrolled concurrently in a joint vocational school 29596
district. 29597

(5) "State share percentage" has the same meaning as in 29598
section 3317.022 of the Revised Code. 29599

(6) "VEPD" means a school district or group of school 29600
districts designated by the department of education as being 29601
responsible for the planning for and provision of vocational 29602
education services to students within the district or group. 29603

(7) "Lead district" means a school district, including a 29604
joint vocational school district, designated by the department as 29605
a VEPD, or designated to provide primary vocational education 29606
leadership within a VEPD composed of a group of districts. 29607

(B) If the district employs less than one full-time 29608
equivalent classroom teacher for each twenty-five pupils in the 29609
regular student population in any school district, deduct the sum 29610
of the amounts obtained from the following computations: 29611

(1) Divide the number of the district's full-time equivalent 29612
classroom teachers employed by one twenty-fifth; 29613

(2) Subtract the quotient in (1) from the district's regular 29614
student population; 29615

(3) Multiply the difference in (2) by seven hundred fifty-two 29616
dollars. 29617

(C) If a positive amount, add one-half of the amount obtained 29618
by multiplying the number of full-time equivalent classroom 29619
teachers by: 29620

(1) The mean annual salary of all full-time equivalent 29621
classroom teachers employed by the district at their respective 29622
training and experience levels minus; 29623

(2) The mean annual salary of all such teachers at their 29624
respective levels in all school districts receiving payments under 29625
this section. 29626

The number of full-time equivalent classroom teachers used in 29627
this computation shall not exceed one twenty-fifth of the 29628
district's regular student population. In calculating the 29629
district's mean salary under this division, those full-time 29630
equivalent classroom teachers with the highest training level 29631
shall be counted first, those with the next highest training level 29632
second, and so on, in descending order. Within the respective 29633
training levels, teachers with the highest years of service shall 29634
be counted first, the next highest years of service second, and so 29635
on, in descending order. 29636

(D) This division does not apply to a school district that 29637
has entered into an agreement under division (A) of section 29638
3313.42 of the Revised Code. Deduct the amount obtained from the 29639
following computations if the district employs fewer than five 29640
full-time equivalent educational service personnel, including 29641
elementary school art, music, and physical education teachers, 29642
counselors, librarians, visiting teachers, school social workers, 29643
and school nurses for each one thousand pupils in the regular 29644
student population: 29645

(1) Divide the number of full-time equivalent educational 29646

service personnel employed by the district by five 29647
one-thousandths; 29648

(2) Subtract the quotient in (1) from the district's regular 29649
student population; 29650

(3) Multiply the difference in (2) by ninety-four dollars. 29651

(E) If a local school district, or a city or exempted village 29652
school district to which a governing board of an educational 29653
service center provides services pursuant to section 3313.843 of 29654
the Revised Code, deduct the amount of the payment required for 29655
the reimbursement of the governing board under section 3317.11 of 29656
the Revised Code. 29657

(F)(1) If the district is required to pay to or entitled to 29658
receive tuition from another school district under division (C)(2) 29659
or (3) of section 3313.64 or section 3313.65 of the Revised Code, 29660
or if the superintendent of public instruction is required to 29661
determine the correct amount of tuition and make a deduction or 29662
credit under section 3317.08 of the Revised Code, deduct and 29663
credit such amounts as provided in division (J) of section 3313.64 29664
or section 3317.08 of the Revised Code. 29665

(2) For each child for whom the district is responsible for 29666
tuition or payment under division (A)(1) of section 3317.082 or 29667
section 3323.091 of the Revised Code, deduct the amount of tuition 29668
or payment for which the district is responsible. 29669

(G) If the district has been certified by the superintendent 29670
of public instruction under section 3313.90 of the Revised Code as 29671
not in compliance with the requirements of that section, deduct an 29672
amount equal to ten per cent of the amount computed for the 29673
district under section 3317.022 of the Revised Code. 29674

(H) If the district has received a loan from a commercial 29675
lending institution for which payments are made by the 29676
superintendent of public instruction pursuant to division (E)(3) 29677

of section 3313.483 of the Revised Code, deduct an amount equal to 29678
such payments. 29679

(I)(1) If the district is a party to an agreement entered 29680
into under division (D), (E), or (F) of section 3311.06 or 29681
division (B) of section 3311.24 of the Revised Code and is 29682
obligated to make payments to another district under such an 29683
agreement, deduct an amount equal to such payments if the district 29684
school board notifies the department in writing that it wishes to 29685
have such payments deducted. 29686

(2) If the district is entitled to receive payments from 29687
another district that has notified the department to deduct such 29688
payments under division (I)(1) of this section, add the amount of 29689
such payments. 29690

(J) If the district is required to pay an amount of funds to 29691
a cooperative education district pursuant to a provision described 29692
by division (B)(4) of section 3311.52 or division (B)(8) of 29693
section 3311.521 of the Revised Code, deduct such amounts as 29694
provided under that provision and credit those amounts to the 29695
cooperative education district for payment to the district under 29696
division (B)(1) of section 3317.19 of the Revised Code. 29697

(K)(1) If a district is educating a student entitled to 29698
attend school in another district pursuant to a shared education 29699
contract, compact, or cooperative education agreement other than 29700
an agreement entered into pursuant to section 3313.842 of the 29701
Revised Code, credit to that educating district on an FTE basis 29702
both of the following: 29703

(a) An amount equal to the greater of the following: 29704

(i) The fiscal year 2005 formula amount times the fiscal year 29705
2005 cost of doing business factor of the school district where 29706
the student is entitled to attend school pursuant to section 29707
3313.64 or 3313.65 of the Revised Code; 29708

(ii) The sum of (the current formula amount times the current cost-of-doing-business factor of the school district when the student is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code) plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.

(b) An amount equal to the current formula amount times the state share percentage times any multiple applicable to the student pursuant to section 3317.013 or 3317.014 of the Revised Code.

(2) Deduct any amount credited pursuant to division (K)(1) of this section from amounts paid to the school district in which the student is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(3) If the district is required by a shared education contract, compact, or cooperative education agreement to make payments to an educational service center, deduct the amounts from payments to the district and add them to the amounts paid to the service center pursuant to section 3317.11 of the Revised Code.

(L)(1) If a district, including a joint vocational school district, is a lead district of a VEPD, credit to that district the amounts calculated for all the school districts within that VEPD pursuant to division (E)(2) of section 3317.022 of the Revised Code.

(2) Deduct from each appropriate district that is not a lead district, the amount attributable to that district that is credited to a lead district under division (L)(1) of this section.

(M) If the department pays a joint vocational school district under division (G)(4) of section 3317.16 of the Revised Code for excess costs of providing special education and related services to a handicapped student, as calculated under division (G)(2) of

that section, the department shall deduct the amount of that 29740
payment from the city, local, or exempted village school district 29741
that is responsible as specified in that section for the excess 29742
costs. 29743

(N)(1) If the district reports an amount of excess cost for 29744
special education services for a child under division (C) of 29745
section 3323.14 of the Revised Code, the department shall pay that 29746
amount to the district. 29747

(2) If the district reports an amount of excess cost for 29748
special education services for a child under division (C) of 29749
section 3323.14 of the Revised Code, the department shall deduct 29750
that amount from the district of residence of that child. 29751

(O) If the department of job and family services presents to 29752
the department of education a payment request through an 29753
intrastate transfer voucher for the nonfederal share of 29754
reimbursements made to a school district for medicaid services 29755
provided by the district, the department of education shall pay 29756
the amount of that request to the department of job and family 29757
services and shall deduct the amount of that payment from the 29758
district. 29759

Sec. 3317.024. In addition to the moneys paid to eligible 29760
school districts pursuant to section 3317.022 of the Revised Code, 29761
moneys appropriated for the education programs in divisions (A) to 29762
(H), (J) to (L), (O), (P), and (R) of this section shall be 29763
distributed to school districts meeting the requirements of 29764
section 3317.01 of the Revised Code; in the case of divisions (J) 29765
and (P) of this section, to educational service centers as 29766
provided in section 3317.11 of the Revised Code; in the case of 29767
divisions (E), (M), and (N) of this section, to county MR/DD 29768
boards; in the case of division (R) of this section, to joint 29769
vocational school districts; in the case of division (K) of this 29770

section, to cooperative education school districts; and in the 29771
case of division (Q) of this section, to the institutions defined 29772
under section 3317.082 of the Revised Code providing elementary or 29773
secondary education programs to children other than children 29774
receiving special education under section 3323.091 of the Revised 29775
Code. The following shall be distributed monthly, quarterly, or 29776
annually as may be determined by the state board of education: 29777

(A) A per pupil amount to each school district that 29778
establishes a summer school remediation program that complies with 29779
rules of the state board of education. 29780

(B) An amount for each island school district and each joint 29781
state school district for the operation of each high school and 29782
each elementary school maintained within such district and for 29783
capital improvements for such schools. Such amounts shall be 29784
determined on the basis of standards adopted by the state board of 29785
education. 29786

(C) An amount for each school district operating classes for 29787
children of migrant workers who are unable to be in attendance in 29788
an Ohio school during the entire regular school year. The amounts 29789
shall be determined on the basis of standards adopted by the state 29790
board of education, except that payment shall be made only for 29791
subjects regularly offered by the school district providing the 29792
classes. 29793

(D) An amount for each school district with guidance, 29794
testing, and counseling programs approved by the state board of 29795
education. The amount shall be determined on the basis of 29796
standards adopted by the state board of education. 29797

(E) An amount for the emergency purchase of school buses as 29798
provided for in section 3317.07 of the Revised Code; 29799

(F) An amount for each school district required to pay 29800
tuition for a child in an institution maintained by the department 29801

of youth services pursuant to section 3317.082 of the Revised Code, provided the child was not included in the calculation of the district's average daily membership for the preceding school year. 29802
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(G) In fiscal year 2000 only, an amount to each school district for supplemental salary allowances for each licensed employee except those licensees serving as superintendents, assistant superintendents, principals, or assistant principals, whose term of service in any year is extended beyond the term of service of regular classroom teachers, as described in section 3301.0725 of the Revised Code; 29806
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(H) An amount for adult basic literacy education for each district participating in programs approved by the state board of education. The amount shall be determined on the basis of standards adopted by the state board of education. 29813
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(I) Notwithstanding section 3317.01 of the Revised Code, but only until June 30, 1999, to each city, local, and exempted village school district, an amount for conducting driver education courses at high schools for which the state board of education prescribes minimum standards and to joint vocational and cooperative education school districts and educational service centers, an amount for conducting driver education courses to pupils enrolled in a high school for which the state board prescribes minimum standards. No payments shall be made under this division after June 30, 1999. 29817
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(J) An amount for the approved cost of transporting developmentally handicapped eligible pupils with disabilities attending a special education program approved by the department of education whom it is impossible or impractical to transport by regular school bus in the course of regular route transportation provided by the district or service center. No district or service center is eligible to receive a payment under this division for 29827
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the cost of transporting any pupil whom it transports by regular 29834
school bus and who is included in the district's transportation 29835
ADM. The state board of education shall establish standards and 29836
guidelines for use by the department of education in determining 29837
the approved cost of such transportation for each district or 29838
service center. 29839

(K) An amount to each school district, including each 29840
cooperative education school district, pursuant to section 3313.81 29841
of the Revised Code to assist in providing free lunches to needy 29842
children and an amount to assist needy school districts in 29843
purchasing necessary equipment for food preparation. The amounts 29844
shall be determined on the basis of rules adopted by the state 29845
board of education. 29846

(L) An amount to each school district, for each pupil 29847
attending a chartered nonpublic elementary or high school within 29848
the district. The amount shall equal the amount appropriated for 29849
the implementation of section 3317.06 of the Revised Code divided 29850
by the average daily membership in grades kindergarten through 29851
twelve in nonpublic elementary and high schools within the state 29852
as determined during the first full week in October of each school 29853
year. 29854

(M) An amount for each county MR/DD board, distributed on the 29855
basis of standards adopted by the state board of education, for 29856
the approved cost of transportation required for children 29857
attending special education programs operated by the county MR/DD 29858
board under section 3323.09 of the Revised Code; 29859

(N) An amount for each county MR/DD board, distributed on the 29860
basis of standards adopted by the state board of education, for 29861
supportive home services for preschool children; 29862

(O) An amount for each school district that establishes a 29863
mentor teacher program that complies with rules of the state board 29864

of education. No school district shall be required to establish or 29865
maintain such a program in any year unless sufficient funds are 29866
appropriated to cover the district's total costs for the program. 29867

(P) An amount to each school district or educational service 29868
center for the total number of gifted units approved pursuant to 29869
section 3317.05 of the Revised Code. The amount for each such unit 29870
shall be the sum of the minimum salary for the teacher of the 29871
unit, calculated on the basis of the teacher's training level and 29872
years of experience pursuant to the salary schedule prescribed in 29873
the version of section 3317.13 of the Revised Code in effect prior 29874
to July 1, 2001, plus fifteen per cent of that minimum salary 29875
amount, plus two thousand six hundred seventy-eight dollars. 29876

(Q) An amount to each institution defined under section 29877
3317.082 of the Revised Code providing elementary or secondary 29878
education to children other than children receiving special 29879
education under section 3323.091 of the Revised Code. This amount 29880
for any institution in any fiscal year shall equal the total of 29881
all tuition amounts required to be paid to the institution under 29882
division (A)(1) of section 3317.082 of the Revised Code. 29883

(R) A grant to each school district and joint vocational 29884
school district that operates a "graduation, reality, and 29885
dual-role skills" (GRADS) program for pregnant and parenting 29886
students that is approved by the department. The amount of the 29887
payment shall be the district's state share percentage, as defined 29888
in section 3317.022 or 3317.16 of the Revised Code, times the 29889
GRADS personnel allowance times the full-time-equivalent number of 29890
GRADS teachers approved by the department. The GRADS personnel 29891
allowance is \$47,555 in fiscal years 2004 ~~and~~, 2005, 2006, and 29892
2007. 29893

The state board of education or any other board of education 29894
or governing board may provide for any resident of a district or 29895
educational service center territory any educational service for 29896

which funds are made available to the board by the United States 29897
under the authority of public law, whether such funds come 29898
directly or indirectly from the United States or any agency or 29899
department thereof or through the state or any agency, department, 29900
or political subdivision thereof. 29901

Sec. 3317.026. (A) As used in this section, "refunded taxes" 29902
means taxes charged and payable from real and tangible personal 29903
property, including public utility property, that have been found 29904
to have been overpaid as the result of reductions in the taxable 29905
value of such property and that have been refunded, including any 29906
interest or penalty refunded with those taxes. If taxes are 29907
refunded over a period of time pursuant to division (B)(2), (3), 29908
or (4) of section 319.36 or division (C) of section 5727.471 of 29909
the Revised Code, the total amount of taxes required to be 29910
refunded, excluding any interest accruing after the day the 29911
undertaking is entered into, shall be considered to have been 29912
refunded on the day the first portion of the overpayment is paid 29913
or credited. 29914

(B) Not later than the last day of February each year, each 29915
county auditor shall certify to the tax commissioner, for each 29916
school district in the county, the amount of refunded taxes 29917
refunded in the preceding calendar year and the reductions in 29918
taxable value that resulted in those refunds, except for 29919
reductions in taxable value that previously have been reported to 29920
the tax commissioner on an abstract. If the tax commissioner 29921
determines that the amount of refunded taxes certified for a 29922
school district exceeds three per cent of the total taxes charged 29923
and payable for current expenses of the school district for the 29924
calendar year in which those taxes were refunded, the tax 29925
commissioner shall certify the reductions in taxable value that 29926
resulted in those refunds on or before the first day of June to 29927
the department of education. Upon receiving the certification by 29928

the tax commissioner, the department of education shall reduce the 29929
total taxable value of the school district, as defined in section 29930
3317.02 of the Revised Code, by the total amount of the reductions 29931
in taxable value that resulted in those refunds for the purpose of 29932
computing the ~~state aid~~ SF-3 payment for the school district for 29933
the current fiscal year ~~under section 3317.022 of the Revised~~ 29934
~~Code~~. The increase in the amount of such aid resulting from the 29935
adjustment required by this section shall be paid to the school 29936
district on or before the ~~thirtieth~~ thirty-first day of ~~June~~ July 29937
of the ~~current~~ following fiscal year. 29938

If an adjustment is made under this division in the amount of 29939
state aid paid to a school district, the tax value reductions from 29940
which that adjustment results shall not be used in recomputing aid 29941
to a school district under section 3317.027 of the Revised Code. 29942

~~(D)~~(C) If a school district received a grant from the 29943
catastrophic expenditures account pursuant to division (C) of 29944
section 3316.20 of the Revised Code on the basis of the same 29945
circumstances for which an adjustment is made under this section, 29946
the amount of the adjustment shall be reduced and transferred in 29947
accordance with division (C) of section 3316.20 of the Revised 29948
Code. 29949

(D) Not later than the first day of June each year, the tax 29950
commissioner shall certify to the department of education for each 29951
school district the total of the increases in taxable value above 29952
the amount of taxable value on which tax was paid, as provided in 29953
division (B)(1) or (2) of section 5727.47 of the Revised Code, as 29954
determined by the commissioner, and for which a notification was 29955
sent pursuant to section 5727.471 of the Revised Code, in the 29956
preceding calendar year. Upon receiving the certification, the 29957
department shall increase the total taxable value, as defined in 29958
section 3317.02 of the Revised Code, of the school district by the 29959
total amount of the increase in taxable value certified by the 29960

commissioner for the school district for the purpose of computing 29961
the school district's ~~state aid~~ SF-3 payment for the following 29962
fiscal year ~~under sections 3317.022 and 3317.0212 of the Revised~~ 29963
~~Code.~~ 29964

Sec. 3317.027. On or before the fifteenth day of May of each 29965
year, the tax commissioner shall certify to the department of 29966
education: 29967

(A) The amount by which applications filed under section 29968
5713.38 of the Revised Code or complaints filed under section 29969
5715.19 of the Revised Code resulted in a reduction in the second 29970
preceding year's taxable value in each school district in which 29971
such a reduction occurred, and the amount by which such reduction 29972
reduced the district's taxes charged and payable for such year; 29973
and 29974

(B) The taxes charged and payable for the second preceding 29975
tax year that were remitted under section 5713.081 of the Revised 29976
Code and the taxable value against which such taxes were imposed. 29977

Upon receipt of such certifications, the department shall 29978
recompute the ~~state aid for such year under section 3317.022 of~~ 29979
~~the Revised Code~~ district's SF-3 payment and determine the amount 29980
~~of aid that~~ the SF-3 payment would have been paid had the taxable 29981
value not been used in the computation made under division (A)(1) 29982
of section 3317.021 of the Revised Code and had the taxes charged 29983
and payable not been included in the certification made under 29984
division (A)(3) of such section. The department shall ~~adjust~~ 29985
calculate the amount that the remainder of the fiscal year's 29986
payments ~~so the district's total payments should have been~~ for the 29987
fiscal year ~~equal~~ including the amount of the ~~recomputation~~ SF-3 29988
payment as recomputed. The increase or decrease in the amount of 29989
aid resulting from the adjustment required under this section 29990
shall be paid to the school district on or before the thirty-first 29991

day of July of the following fiscal year. 29992

If a school district received a grant from the catastrophic 29993
expenditures account pursuant to division (C) of section 3316.20 29994
of the Revised Code on the basis of the same circumstances for 29995
which a recomputation is made under this section, the amount of 29996
the recomputation shall be reduced and transferred in accordance 29997
with division (C) of section 3316.20 of the Revised Code. 29998

Sec. 3317.028. (A) On or before the fifteenth day of May in 29999
each calendar year prior to calendar year 2007, the tax 30000
commissioner shall determine for each school district whether the 30001
taxable value of all tangible personal property, including utility 30002
tangible personal property, subject to taxation by the district in 30003
the preceding tax year was less or greater than the taxable value 30004
of such property during the second preceding tax year. If any such 30005
decrease exceeds five per cent of the district's tangible personal 30006
property taxable value included in the total taxable value used in 30007
computing the district's ~~state-aid computation~~ SF-3 payment for 30008
the fiscal year that ends in the current calendar year, or if any 30009
such increase exceeds five per cent of the district's total 30010
taxable value used in computing the district's ~~state-aid~~ 30011
~~computation~~ SF-3 payment for the fiscal year that ends in the 30012
current calendar year, the tax commissioner shall certify both of 30013
the following to the department of education: 30014

(1) The taxable value of the tangible personal property 30015
increase or decrease, including utility tangible personal property 30016
increase or decrease, which shall be considered a change in 30017
valuation; 30018

(2) The decrease or increase in taxes charged and payable on 30019
such change in taxable value calculated in the same manner as in 30020
division (A)(3) of section 3317.021 of the Revised Code. 30021

(B) ~~Notwithstanding division (A) of this section, when~~ 30022

determining under that division in calendar year 2002 whether the taxable value of tangible personal property subject to taxation by each school district in the preceding tax year was less or greater than the taxable value of such property during the second preceding tax year, the tax commissioner shall exclude from the taxable value for both years the tax value loss, as defined in section 5727.84 of the Revised Code On or before May 15, 2007, and the fifteenth day of May in each calendar year thereafter, the tax commissioner shall determine for each school district whether the taxable value of all utility tangible personal property subject to taxation by the district in the preceding tax year was less or greater than the taxable value of such property during the second preceding tax year. If any decrease exceeds five per cent of the district's tangible personal property taxable value included in the total taxable value used in the district's state aid computation for the fiscal year that ends in the current calendar year, or if any increase exceeds five per cent of the district's total taxable value used in the district's state aid computation for the fiscal year that ends in the current calendar year, the tax commissioner shall certify both of the following to the department of education:

(1) The taxable value of the utility tangible personal property increase or decrease, which shall be considered a change in valuation;

(2) The decrease or increase in taxes charged and payable on such change in taxable value calculated in the same manner as in division (A)(3) of section 3317.021 of the Revised Code.

(C) Upon receipt of ~~such a~~ certification specified in this section, the department of education shall reduce or increase by the respective amounts certified, and the taxable value and the taxes charged and payable that were used in computing the district's ~~state aid computation under section 3317.022 of the~~

~~Revised Code SF-3 payment~~ for the fiscal year that ends in the 30055
current calendar year and shall recompute the ~~state-aid SF-3~~ 30056
~~payment~~ for such fiscal year. ~~During the last six months of the~~ 30057
~~fiscal year, the~~ The department shall pay the district a sum equal 30058
to one-half of the recomputed payments in lieu of the payments 30059
otherwise required under ~~such sections~~ that section on or before 30060
the thirty-first day of July of the following fiscal year. 30061

(D) If a school district received a grant from the 30062
catastrophic expenditures account pursuant to division (C) of 30063
section 3316.20 of the Revised Code on the basis of the same 30064
circumstances for which a recomputation is made under this 30065
section, the amount of the recomputation shall be reduced and 30066
transferred in accordance with division (C) of section 3316.20 of 30067
the Revised Code. 30068

Sec. 3317.029. (A) As used in this section: 30069

(1) "~~DPIA~~ Poverty percentage" means: 30070

~~(a) In fiscal years prior to fiscal year 2004,~~ the quotient 30071
obtained by dividing the five-year average number of children ages 30072
five to seventeen residing in the school district and living in a 30073
family receiving assistance under the Ohio works first program or 30074
an antecedent program known as TANF or ADC, as certified or 30075
adjusted under section 3317.10 of the Revised Code, by the 30076
district's three-year average formula ADM. 30077

~~(b) Beginning in fiscal year 2004, the unduplicated number of~~ 30078
~~children ages five to seventeen residing in the school district~~ 30079
~~and living in a family that has family income not exceeding the~~ 30080
~~federal poverty guidelines and that receives family assistance, as~~ 30081
~~certified or adjusted under section 3317.10 of the Revised Code,~~ 30082
~~divided by the district's three year average formula ADM.~~ 30083

(2) "~~Family assistance~~" means assistance received under one 30084

| | |
|--|--|
| of the following: | 30085 |
| (a) The Ohio works first program; | 30086 |
| (b) The food stamp program; | 30087 |
| (c) The medical assistance program, including the healthy start program, established under Chapter 5111. of the Revised Code; | 30088 30089 30090 |
| (d) The children's health insurance program part I established under section 5101.50 of the Revised Code or, prior to fiscal year 2000, an executive order issued under section 107.17 of the Revised Code; | 30091 30092 30093 30094 |
| (e) The disability financial assistance program established under Chapter 5115. of the Revised Code; | 30095 30096 |
| (f) The disability medical assistance program established under Chapter 5115. of the Revised Code. | 30097 30098 |
| (3) "Statewide <u>DPIA poverty</u> percentage" means: | 30099 |
| (a) In fiscal years prior to fiscal year 2004, the five-year average of the total number of children ages five to seventeen residing in the state and receiving assistance under the Ohio works first program or an antecedent program known as TANF or ADC, divided by the sum of the three-year average formula ADMS for all school districts in the state. | 30100 30101 30102 30103 30104 30105 |
| (b) Beginning in fiscal year 2004, the total unduplicated number of children ages five to seventeen residing in the state and living in a family that has family income not exceeding the federal poverty guidelines and that receives family assistance, divided by the sum of the three year average formula ADMS for all school districts in the state. | 30106 30107 30108 30109 30110 30111 |
| (4)(3) "<u>DPIA Poverty</u> index" means the quotient obtained by dividing the school district's <u>DPIA poverty</u> percentage by the statewide <u>DPIA poverty</u> percentage. | 30112 30113 30114 |

| | |
|---|-------|
| (5) "Federal poverty guidelines" has the same meaning as in | 30115 |
| section 5101.46 of the Revised Code. | 30116 |
| (6)(4) "DPIA Poverty student count" means: | 30117 |
| (a) In fiscal years prior to fiscal year 2004, the five-year | 30118 |
| average number of children ages five to seventeen residing in the | 30119 |
| school district and living in a family receiving assistance under | 30120 |
| the Ohio works first program or an antecedent program known as | 30121 |
| TANF or ADC, as certified under section 3317.10 of the Revised | 30122 |
| Code; | 30123 |
| (b) Beginning in fiscal year 2004, the unduplicated number of | 30124 |
| children ages five to seventeen residing in the school district | 30125 |
| and living in a family that has family income not exceeding the | 30126 |
| federal poverty guidelines and that receives family assistance, as | 30127 |
| certified or adjusted under section 3317.10 of the Revised Code. | 30128 |
| (7)(5) "Kindergarten ADM" means the number of students | 30129 |
| reported under section 3317.03 of the Revised Code as enrolled in | 30130 |
| kindergarten, <u>excluding any kindergarten students reported under</u> | 30131 |
| <u>division (B)(3)(e) or (f) of section 3317.03 of the Revised Code.</u> | 30132 |
| (8)(6) "Kindergarten through third grade ADM" means the | 30133 |
| amount calculated as follows: | 30134 |
| (a) Multiply the kindergarten ADM by the sum of one plus the | 30135 |
| all-day kindergarten percentage; | 30136 |
| (b) Add the number of students in grades one through three; | 30137 |
| (c) Subtract from the sum calculated under division (A)(6)(b) | 30138 |
| of this section the number of special education students in grades | 30139 |
| kindergarten through three. | 30140 |
| (9) "Statewide average teacher salary" means forty two | 30141 |
| thousand four hundred sixty nine dollars in fiscal year 2002, and | 30142 |
| forty three thousand six hundred fifty eight dollars in fiscal | 30143 |
| year 2003, which includes an amount for the value of fringe | 30144 |

benefits- 30145

~~(10)~~ "Kindergarten through third grade ADM" shall not include 30146
any students reported under division (B)(3)(e) or (f) of section 30147
3317.03 of the Revised Code. 30148

(7) "All-day kindergarten" means a kindergarten class that is 30149
in session five days per week for not less than the same number of 30150
clock hours each day as for pupils in grades one through six. 30151

~~(11)~~(8) "All-day kindergarten percentage" means the 30152
percentage of a district's actual total number of students 30153
enrolled in kindergarten who are enrolled in all-day kindergarten. 30154

~~(12)~~(9) "Buildings with the highest concentration of need" 30155
means- 30156

~~(a)~~ In fiscal years prior to fiscal year 2004, the school 30157
buildings in a district with percentages of students in grades 30158
kindergarten through three receiving assistance under Ohio works 30159
first at least as high as the district-wide percentage of students 30160
receiving such assistance. 30161

~~(b)~~ Beginning in fiscal year 2004, the school buildings in a 30162
district with percentages of students in grades kindergarten 30163
through three receiving family assistance at least as high as the 30164
district wide percentage of students receiving family assistance. 30165

~~(c)~~ If, in any fiscal year, the information provided by the 30166
department of job and family services under section 3317.10 of the 30167
Revised Code is insufficient to determine the Ohio works first ~~or~~ 30168
~~family assistance~~ percentage in each building, "buildings with the 30169
highest concentration of need" has the meaning given in rules that 30170
the department of education shall adopt. The rules shall base the 30171
definition of "buildings with the highest concentration of need" 30172
on family income of students in grades kindergarten through three 30173
in a manner that, to the extent possible with available data, 30174
approximates the intent of this division and division ~~(G)~~(K) of 30175

this section to designate buildings where the Ohio works first ~~or~~ 30176
family assistance percentage in those grades equals or exceeds the 30177
district-wide Ohio works first ~~or family assistance~~ percentage. 30178

(B) In addition to the amounts required to be paid to a 30179
school district under section 3317.022 of the Revised Code, ~~a~~ the 30180
department of education shall compute and distribute to each 30181
school district ~~shall receive~~ for poverty-based assistance the 30182
greater of the following: 30183

(1) The amount the district received in fiscal year ~~1998~~ 2005 30184
for disadvantaged pupil impact aid pursuant to division (B) of 30185
section 3317.023 of the Revised Code as it existed at that time or 30186
the Section 41.10 of Am. Sub. H.B. 95 of the 125th General 30187
Assembly, as amended, minus the amount deducted from the district 30188
under Section 16 of Am. Sub. S.B. 2 of the 125th General Assembly 30189
that year for payments to internet- and computer-based community 30190
schools; 30191

(2) The sum of the computations made under divisions (C) to 30192
~~(E)~~(I) of this section. 30193

(C) A ~~supplemental~~ payment ~~that may be utilized for measures~~ 30194
~~related to safety and security and for remediation or similar~~ 30195
academic intervention programs, if the district's poverty index is 30196
greater than or equal to 0.25, calculated as follows: 30197

~~(1) If the DPIA index of the school district is greater than~~ 30198
~~or equal to thirty five hundredths, but less than one, an amount~~ 30199
~~obtained by multiplying the district's DPIA student count by two~~ 30200
~~hundred thirty dollars;~~ 30201

~~(2) If the DPIA index of the school district is greater than~~ 30202
~~or equal to one, an amount obtained by multiplying the DPIA index~~ 30203
~~by two hundred thirty dollars and multiplying that product by the~~ 30204
~~district's DPIA student count.~~ 30205

~~Except as otherwise provided in division (F) of this section,~~ 30206

~~beginning with the school year that starts July 1, 2002, each 30207
school district annually shall use at least twenty per cent of the 30208
funds calculated for the district under this division for 30209
intervention services required by section 3313.608 of the Revised 30210
Code. 30211~~

(1) If the district's poverty index is greater than or equal 30212
to 0.25, calculate the district's level one amount for large-group 30213
academic intervention for all students as follows: 30214

(a) If the district's poverty index is greater than or equal 30215
to 0.25 but less than 0.75: 30216

large-group intervention units X hourly rate X 30217

level one hours X [(poverty index - 0.25)/0.5] 30218

X phase-in percentage 30219

Where: 30220

(i) "Large-group intervention units" equals the district's 30221
formula ADM divided by 20; 30222

(ii) "Hourly rate" equals \$20.00 in fiscal year 2006 and 30223
\$20.40 in fiscal year 2007; 30224

(iii) "Level one hours" equals 25 hours; 30225

(iv) "Phase-in percentage" equals 0.60 in fiscal year 2006 30226
and 1.00 in fiscal year 2007. 30227

(b) If the district's poverty index is greater than or equal 30228
to 0.75: 30229

large-group intervention units X hourly rate X level one hours 30230

X phase-in percentage 30231

Where "large-group intervention units," "hourly rate," "level 30232
one hours," and "phase-in percentage" have the same meanings as in 30233
division (C)(1)(a) of this section. 30234

(2) If the district's poverty index is greater than or equal 30235
to 0.75, calculate the district's level two amount for 30236

| | |
|--|-------|
| <u>medium-group academic intervention for all students as follows:</u> | 30237 |
| <u>(a) If the district's poverty index is greater than or equal</u> | 30238 |
| <u>to 0.75 but less than 1.50:</u> | 30239 |
| <u>medium-group intervention units X hourly rate X</u> | 30240 |
| <u>{level one hours + [25 hours X ((poverty index - 0.75)/0.75)]}</u> | 30241 |
| <u>X phase-in percentage</u> | 30242 |
| <u>Where:</u> | 30243 |
| <u>(i) "Medium group intervention units" equals the district's</u> | 30244 |
| <u>formula ADM divided by 15;</u> | 30245 |
| <u>(ii) "Hourly rate," "level one hours," and "phase-in</u> | 30246 |
| <u>percentage" have the same meanings as in division (C)(1)(a) of</u> | 30247 |
| <u>this section.</u> | 30248 |
| | 30249 |
| <u>(b) If the district's poverty index is greater than or equal</u> | 30250 |
| <u>to 1.50:</u> | 30251 |
| <u>medium-group intervention units X hourly rate X level two hours</u> | 30252 |
| <u>X phase-in percentage</u> | 30253 |
| <u>Where:</u> | 30254 |
| <u>(i) "Medium group intervention units" has the same meaning as</u> | 30255 |
| <u>in division (C)(2)(a)(i) of this section;</u> | 30256 |
| <u>(ii) "Hourly rate" and "phase-in percentage" have the same</u> | 30257 |
| <u>meanings as in division (C)(1)(a) of this section;</u> | 30258 |
| <u>(iii) "Level two hours" equals 50 hours.</u> | 30259 |
| <u>(3) If the district's poverty index is greater than or equal</u> | 30260 |
| <u>to 1.50, calculate the district's level three amount for</u> | 30261 |
| <u>small-group academic intervention for impoverished students as</u> | 30262 |
| <u>follows:</u> | 30263 |
| <u>(a) If the district's poverty index is greater than or equal</u> | 30264 |
| <u>to 1.50 but less than 2.50:</u> | 30265 |

small group intervention units X hourly rate X 30266
{level one hours + [level three hours X (poverty index - 1.50)]} 30267
X phase-in percentage 30268

Where: 30269

(i) "Small group intervention units" equals the quotient of 30270
(the district's poverty student count times 3) divided by 10; 30271

(ii) "Hourly rate," "level one hours," and "phase-in 30272
percentage" have the same meanings as in division (C)(1)(a) of 30273
this section; 30274

(iii) "Level three hours" equals 135 hours. 30275

(b) If the district's poverty index is greater than or equal 30276
to 2.50: 30277

small group intervention units X hourly rate X level three hours 30278
X phase-in percentage 30279

Where: 30280

(i) "Small group intervention units" has the same meaning as 30281
in division (C)(3)(a)(i) of this section; 30282

(ii) "Hourly rate" and "phase-in percentage" have the same 30283
meanings as in division (C)(1)(a) of this section; 30284

(iii) "Level three hours" equals 160 hours. 30285

Any district that receives funds under division (C)(2) or (3) 30286
of this section annually shall submit to the department of 30287
education by a date established by the department a plan 30288
describing how the district will deploy those funds. The 30289
deployment measures described in that plan shall comply with any 30290
applicable spending requirements prescribed in division (J)(6) of 30291
this section or with any order issued by the superintendent of 30292
public instruction under section 3317.017 of the Revised Code. 30293

(D) A payment for all-day kindergarten if the ~~DPIA~~ poverty 30294
index of the school district is greater than or equal to ~~one~~ 1.0 30295

or if the district's three-year average formula ADM exceeded 30296
seventeen thousand five hundred, ~~calculated.~~ In addition, the 30297
department shall make a payment under this division to any school 30298
district that, in a prior fiscal year, qualified for this payment 30299
and provided all-day kindergarten, regardless of changes to the 30300
district's poverty index. The department shall calculate the 30301
payment under this division by multiplying the all-day 30302
kindergarten percentage by the kindergarten ADM and multiplying 30303
that product by the formula amount. 30304

(E) A class-size reduction payment based on calculating the 30305
number of new teachers necessary to achieve a lower 30306
student-teacher ratio, as follows: 30307

(1) Determine or calculate a formula number of teachers per 30308
one thousand students based on the ~~DPIA~~ poverty index of the 30309
school district as follows: 30310

(a) If the ~~DPIA~~ poverty index of the school district is less 30311
than ~~six-tenths~~ 1.0, the formula number of teachers is ~~43.478~~ 30312
50.0, which is the number of teachers per one thousand students at 30313
a student-teacher ratio of ~~twenty-three~~ twenty to one; 30314

(b) If the ~~DPIA~~ poverty index of the school district is 30315
greater than or equal to ~~six-tenths~~ 1.0, but less than ~~two and~~ 30316
~~one-half~~ 1.5, the formula number of teachers is calculated as 30317
follows: 30318

$$43.478 + \{[(\text{DPIA index} - 0.6) / 1.9] \times 23.188\} \quad 30319$$
$$50.0 + \{[(\text{poverty index} - 1.0) / 0.5] \times 16.667\} \quad 30320$$

Where ~~43.478~~ 50.0 is the number of teachers per one thousand 30321
students at a student-teacher ratio of ~~twenty-three~~ twenty to one; 30322
~~1.9~~ 0.5 is the interval from a ~~DPIA~~ poverty index of ~~six-tenths~~ 30323
1.0 to a ~~DPIA~~ poverty index of ~~two and one-half~~ 1.5; and ~~23.188~~ 30324
16.667 is the difference in the number of teachers per one 30325
thousand students at a student-teacher ratio of fifteen to one and 30326

the number of teachers per one thousand students at a 30327
student-teacher ratio of ~~twenty-three~~ twenty to one. 30328

(c) If the ~~DPIA~~ poverty index of the school district is 30329
greater than or equal to ~~two and one-half~~ 1.5, the formula number 30330
of teachers is 66.667, which is the number of teachers per one 30331
thousand students at a student-teacher ratio of fifteen to one. 30332

(2) Multiply the formula number of teachers determined or 30333
calculated in division (E)(1) of this section by the kindergarten 30334
through third grade ADM for the district and divide that product 30335
by one thousand; 30336

(3) Calculate the number of new teachers as follows: 30337

(a) Multiply the kindergarten through third grade ADM by 30338
~~43.478~~ 50.0, which is the number of teachers per one thousand 30339
students at a student-teacher ratio of ~~twenty-three~~ twenty to one, 30340
and divide that product by one thousand; 30341

(b) Subtract the quotient obtained in division (E)(3)(a) of 30342
this section from the product in division (E)(2) of this section. 30343

(4) Multiply the greater of the difference obtained under 30344
division (E)(3) of this section or zero by the statewide average 30345
teachers ~~salary~~ compensation. For this purpose, the "statewide 30346
average teacher compensation" is \$53,680 in fiscal year 2006 and 30347
\$54,941 in fiscal year 2007, which includes an amount for the 30348
value of fringe benefits. 30349

(F) A payment for services to limited English proficient 30350
students, if the district's poverty index is greater than or equal 30351
to 1.0 and the proportion of its students who are limited English 30352
proficient, as reported in 2003 on its school district report 30353
issued under section 3302.03 of the Revised Code for the 2002-2003 30354
school year, is greater than or equal to 2.0%, calculated as 30355
follows: 30356

(1) If the district's poverty index is greater than or equal to 1.0, but less than 1.75, determine the amount per limited English proficient student as follows: 30357
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30359

{0.125 + [0.125 X ((poverty index - 1.0)/0.75)]} X formula amount 30360

(2) If the district's poverty index is greater than or equal to 1.75, the amount per limited English proficient student equals: 30361
30362

0.25 X formula amount 30363

(3) Multiply the per student amount determined for the district under division (F)(1) or (2) of this section by the number of the district's limited English proficient students, times a phase-in percentage of 0.40 in fiscal year 2006 and 0.70 in fiscal year 2007. For purposes of this calculation, the number of limited English proficient students for each district shall be the number determined by the department when it calculated the district's percentage of limited English students for its school district report card issued in 2003 for the 2002-2003 school year. 30364
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Not later than December 31, 2006, the department of education shall recommend to the general assembly and the director of budget and management a method of identifying the number of limited English proficient students for purposes of calculating payments under this division after fiscal year 2007. 30373
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(G) A payment for professional development of teachers, if the district's poverty index is greater than or equal to 1.0, calculated as follows: 30378
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(1) If the district's poverty index is greater than or equal to 1.0, but less than 1.75, determine the amount per teacher as follows: 30381
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[(poverty index - 1.0)/ 0.75] X 0.045 X formula amount 30384

(2) If the district's poverty index is greater than or equal to 1.75, the amount per teacher equals: 30385
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0.045 X formula amount 30387

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|---|-------|
| <u>(3) Determine the number of teachers, as follows:</u> | 30388 |
| <u>(formula ADM/17)</u> | 30389 |
| <u>(4) Multiply the per teacher amount determined for the</u> | 30390 |
| <u>district under division (G)(1) or (2) of this section by the</u> | 30391 |
| <u>number of teachers determined under division (G)(3) of this</u> | 30392 |
| <u>section, times a phase-in percentage of 0.40 in fiscal year 2006</u> | 30393 |
| <u>and 0.70 in fiscal year 2007.</u> | 30394 |
| <u>(H) A payment for dropout prevention, if the district is a</u> | 30395 |
| <u>big eight school district as defined in section 3314.02 of the</u> | 30396 |
| <u>Revised Code, calculated as follows:</u> | 30397 |
| <u>0.005 X formula amount X poverty index</u> | 30398 |
| <u>X formula ADM X phase-in percentage</u> | 30399 |
| <u>Where "phase-in percentage" equals 0.40 in fiscal year 2006</u> | 30400 |
| <u>and 0.70 in fiscal year 2007.</u> | 30401 |
| <u>(I) An amount for community outreach, if the district is an</u> | 30402 |
| <u>urban school district as defined in section 3314.02 of the Revised</u> | 30403 |
| <u>Code, calculated as follows:</u> | 30404 |
| <u>0.005 X formula amount X poverty index X</u> | 30405 |
| <u>formula ADM X phase-in percentage</u> | 30406 |
| <u>Where "phase-in percentage" equals 0.40 in fiscal year 2006</u> | 30407 |
| <u>and 0.70 in fiscal year 2007.</u> | 30408 |
| <u>(J) This division applies only to school districts whose DPIA</u> | 30409 |
| <u>poverty index is one <u>1.0</u> or greater.</u> | 30410 |
| (1) Each school district subject to this division shall first | 30411 |
| utilize funds received under this section so that, when combined | 30412 |
| with other funds of the district, sufficient funds exist to | 30413 |
| provide all-day kindergarten to at least the number of children in | 30414 |
| the district's all-day kindergarten percentage. | 30415 |
| (2) Up to an amount equal to the district's DPIA index | 30416 |
| multiplied by its DPIA student count multiplied by two hundred | 30417 |

~~thirty dollars of the money distributed under this section may be~~ 30418
~~utilized~~ Each school district shall use its payment under division 30419
(F) of this section for one or more of the following purposes: 30420

(a) To hire teachers for limited English proficient students 30421
or other personnel to provide intervention services for those 30422
students; 30423

(b) To contract for intervention services for those students; 30424

(c) To provide other services to assist those students in 30425
passing the third-grade reading achievement test, and to provide 30426
for those students the intervention services required by section 30427
3313.608 of the Revised Code. 30428

(3) Each school district shall use its payment under division 30429
(G) of this section for professional development of teachers or 30430
other licensed personnel providing educational services to 30431
students only in one or more of the following areas: 30432

(a) Data-based decision making; 30433

(b) Standards-based curriculum models; 30434

(c) Job-embedded professional development activities that are 30435
research-based, as defined in federal law. 30436

In addition, each district shall use the payment only to 30437
implement programs identified on a list of eligible professional 30438
development programs provided by the department of education. The 30439
department annually shall provide the list to each district 30440
receiving a payment under division (G) of this section. However, a 30441
district may apply to the department for a waiver to implement an 30442
alternative professional development program in one or more of the 30443
areas specified in divisions (J)(3)(a) to (c) of this section. If 30444
the department grants the waiver, the district may use its payment 30445
under division (G) of this section to implement the alternative 30446
program. 30447

(4) Each big eight school district shall use its payment under division (H) of this section either for preventing at-risk students from dropping out of school, for safety and security measures described in division (J)(5)(b) of this section, for academic intervention services described in division (J)(6) of this section, or for a combination of those purposes. Not later than September 1, 2005, the department of education shall provide each big eight school district with a list of dropout prevention programs that it has determined are successful. The department subsequently may update the list. Each district that elects to use its payment under division (H) of this section for dropout prevention shall use the payment only to implement a dropout prevention program specified on the department's list. However, a district may apply to the department for a waiver to implement an alternative dropout prevention program. If the department grants the waiver, the district may use its payment under division (H) of this section to implement the alternative program.

(5) Each urban school district that has a poverty index greater than or equal to 1.0 shall use its payment under division (I) of this section for one or a combination of the following purposes:

(a) To hire or contract for community liaison officers, attendance or truant officers, or safety and security personnel;

(b) To implement programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning;

(c) To implement academic intervention services described in division (J)(6) of this section.

(6) Each school district with a poverty index greater than or equal to 1.0 shall use the amount of its payment under division (C) of this section, and may use any amount of its payment under

~~division (H) or (I) of this section, for one or both of the~~ 30479
~~following:~~ 30480

~~(a) Programs designed to ensure that schools are free of~~ 30481
~~drugs and violence and have a disciplined environment conducive to~~ 30482
~~learning;~~ 30483

~~(b) Remediation academic intervention services for students~~ 30484
~~who have failed or are in danger of failing any of the tests~~ 30485
~~administered pursuant to section 3301.0710 of the Revised Code.~~ 30486

~~Beginning with the school year that starts on July 1, 2002,~~ 30487
~~each school district shall use at least twenty per cent of the~~ 30488
~~funds set aside for the purposes of divisions (F)(2)(a) and (b) of~~ 30489
~~this section to provide, including intervention services required~~ 30490
~~by section 3313.608 of the Revised Code. No district shall spend~~ 30491
~~any portion of its payment under division (C) of this section for~~ 30492
~~any other purpose. Notwithstanding any provision to the contrary~~ 30493
~~in Chapter 4117. of the Revised Code, no collective bargaining~~ 30494
~~agreement entered into after the effective date of this amendment~~ 30495
~~shall require use of the payment for any other purpose.~~ 30496

~~(3)(7) Except as otherwise required by division (G)(K) or~~ 30497
~~permitted under division (K)(O) of this section, all ~~other~~~~ 30498
~~remaining funds distributed under this section to districts~~ 30499
~~subject to this division with a poverty index greater than or~~ 30500
~~equal to 1.0 shall be utilized for the purpose of the third grade~~ 30501
~~guarantee. The third grade guarantee consists of increasing the~~ 30502
~~amount of instructional attention received per pupil in~~ 30503
~~kindergarten through third grade, either by reducing the ratio of~~ 30504
~~students to instructional personnel or by increasing the amount of~~ 30505
~~instruction and curriculum-related activities by extending the~~ 30506
~~length of the school day or the school year.~~ 30507

School districts may implement a reduction of the ratio of 30508
students to instructional personnel through any or all of the 30509

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| following methods: | 30510 |
| (a) Reducing the number of students in a classroom taught by a single teacher; | 30511 30512 |
| (b) Employing full-time educational aides or educational paraprofessionals issued a permit or license under section 3319.088 of the Revised Code; | 30513 30514 30515 |
| (c) Instituting a team-teaching method that will result in a lower student-teacher ratio in a classroom. | 30516 30517 |
| Districts may extend the school day either by increasing the amount of time allocated for each class, increasing the number of classes provided per day, offering optional academic-related after-school programs, providing curriculum-related extra curricular activities, or establishing tutoring or remedial services for students who have demonstrated an educational need. In accordance with section 3319.089 of the Revised Code, a district extending the school day pursuant to this division may utilize a participant of the work experience program who has a child enrolled in a public school in that district and who is fulfilling the work requirements of that program by volunteering or working in that public school. If the work experience program participant is compensated, the school district may use the funds distributed under this section for all or part of the compensation. | 30518 30519 30520 30521 30522 30523 30524 30525 30526 30527 30528 30529 30530 30531 30532 |
| Districts may extend the school year either through adding regular days of instruction to the school calendar or by providing summer programs. | 30533 30534 30535 |
| (G)(K) Each district subject to division (F) of this section shall not expend any funds received under division (E) of this section in any school buildings that are not buildings with the highest concentration of need, unless there is a ratio of instructional personnel to students of no more than fifteen to one | 30536 30537 30538 30539 30540 |

in each kindergarten and first grade class in all buildings with 30541
the highest concentration of need. This division does not require 30542
that the funds used in buildings with the highest concentration of 30543
need be spent solely to reduce the ratio of instructional 30544
personnel to students in kindergarten and first grade. A school 30545
district may spend the funds in those buildings in any manner 30546
permitted by division ~~(F)(3)~~(J)(7) of this section, but may not 30547
spend the money in other buildings unless the fifteen-to-one ratio 30548
required by this division is attained. 30549

~~(H)~~(L)(1) By the first day of August of each fiscal year, 30550
each school district wishing to receive any funds under division 30551
(D) of this section shall submit to the department of education an 30552
estimate of its all-day kindergarten percentage. Each district 30553
shall update its estimate throughout the fiscal year in the form 30554
and manner required by the department, and the department shall 30555
adjust payments under this section to reflect the updates. 30556

(2) Annually by the end of December, the department of 30557
education, utilizing data from the information system established 30558
under section 3301.0714 of the Revised Code and after consultation 30559
with the legislative office of education oversight, shall 30560
determine for each school district subject to division ~~(F)~~(J) of 30561
this section whether in the preceding fiscal year the district's 30562
ratio of instructional personnel to students and its number of 30563
kindergarten students receiving all-day kindergarten appear 30564
reasonable, given the amounts of money the district received for 30565
that fiscal year pursuant to divisions (D) and (E) of this 30566
section. If the department is unable to verify from the data 30567
available that students are receiving reasonable amounts of 30568
instructional attention and all-day kindergarten, given the funds 30569
the district has received under this section and that class-size 30570
reduction funds are being used in school buildings with the 30571
highest concentration of need as required by division ~~(G)~~(K) of 30572

this section, the department shall conduct a more intensive 30573
investigation to ensure that funds have been expended as required 30574
by this section. The department shall file an annual report of its 30575
findings under this division with the chairpersons of the 30576
committees in each house of the general assembly dealing with 30577
finance and education. 30578

~~(I) Any (M)(1) Each~~ school district with a ~~DPIA~~ poverty index 30579
less than ~~one~~ 1.0 and a three-year average formula ADM exceeding 30580
seventeen thousand five hundred shall first utilize funds received 30581
under this section so that, when combined with other funds of the 30582
district, sufficient funds exist to provide all-day kindergarten 30583
to at least the number of children in the district's all-day 30584
kindergarten percentage. ~~Such a district~~ 30585

(2) Each school district with a poverty index less than 1.0 30586
that receives a payment under division (C) of this section shall 30587
use its payment under that division in accordance with all 30588
requirements of division (J)(6) of this section. 30589

(3) Each school district with a poverty index less than 1.0 30590
that receives a payment under division (I) of this section shall 30591
use its payment under that division for one or a combination of 30592
the following purposes: 30593

(a) To hire or contract for community liaison officers, 30594
attendance or truant officers, or safety and security personnel; 30595

(b) To implement programs designed to ensure that schools are 30596
free of drugs and violence and have a disciplined environment 30597
conducive to learning; 30598

(c) To implement academic intervention services described in 30599
division (J)(6) of this section. 30600

(4) Each school district to which division (M)(1), (2), or 30601
(3) of this section applies shall expend at least seventy per cent 30602
of the remaining funds received under this section, and any other 30603

district with a ~~DPIA~~ poverty index less than ~~one~~ 1.0 shall expend 30604
~~at least seventy per cent of~~ all funds received under this 30605
section, for any of the following purposes: 30606

~~(1)~~(a) The purchase of technology for instructional purposes 30607
for remediation; 30608

~~(2)~~(b) All-day kindergarten; 30609

~~(3)~~(c) Reduction of class sizes in grades kindergarten 30610
through three, as described in division (J)(7) of this section; 30611

~~(4)~~(d) Summer school remediation; 30612

~~(5)~~(e) Dropout prevention programs approved by the department 30613
of education under division (J)(4) of this section; 30614

~~(6)~~(f) Guaranteeing that all third graders are ready to 30615
progress to more advanced work; 30616

~~(7)~~(g) Summer education and work programs; 30617

~~(8)~~(h) Adolescent pregnancy programs; 30618

~~(9)~~(i) Head start ~~or~~, preschool, early childhood education, 30619
or early learning programs; 30620

~~(10)~~(j) Reading improvement and remediation programs 30621
described by the department of education; 30622

~~(11)~~(k) Programs designed to ensure that schools are free of 30623
drugs and violence and have a disciplined environment conducive to 30624
learning; 30625

~~(12)~~(l) Furnishing, free of charge, materials used in courses 30626
of instruction, except for the necessary textbooks or electronic 30627
textbooks required to be furnished without charge pursuant to 30628
section 3329.06 of the Revised Code, to pupils living in families 30629
participating in Ohio works first in accordance with section 30630
3313.642 of the Revised Code; 30631

~~(13)~~(m) School breakfasts provided pursuant to section 30632

3313.813 of the Revised Code. 30633

~~Each district shall submit to the department, in such format and at such time as the department shall specify, a report on the programs for which it expended funds under this division.~~ 30634
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~~(J)~~(N) If at any time the superintendent of public instruction determines that a school district receiving funds under division (D) of this section has enrolled less than the all-day kindergarten percentage reported for that fiscal year, the superintendent shall withhold from the funds otherwise due the district under this section a proportional amount as determined by the difference in the certified all-day kindergarten percentage and the percentage actually enrolled in all-day kindergarten. 30637
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The superintendent shall also withhold an appropriate amount of funds otherwise due a district for any other misuse of funds not in accordance with this section. 30645
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~~(K)~~(O)(1) A district may use a portion of the funds calculated for it under division (D) of this section to modify or purchase classroom space to provide all-day kindergarten, if both of the following conditions are met: 30648
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(a) The district certifies to the department, in a manner acceptable to the department, that it has a shortage of space for providing all-day kindergarten. 30652
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(b) The district provides all-day kindergarten to the number of children in the all-day kindergarten percentage it certified under this section. 30655
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(2) A district may use a portion of the funds described in division ~~(F)~~~~(3)~~(J)(7) of this section to modify or purchase classroom space to enable it to further reduce class size in grades kindergarten through two with a goal of attaining class sizes of fifteen students per licensed teacher. To do so, the district must certify its need for additional space to the 30658
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department, in a manner satisfactory to the department. 30664

Sec. 3317.0216. (A) As used in this section: 30665

(1) "Total taxes charged and payable for current expenses" 30666
means the sum of the taxes charged and payable as certified under 30667
division (A)(3)(a) of section 3317.021 of the Revised Code less 30668
any amounts reported under division (A)(3)(b) of that section, and 30669
the tax distribution for the preceding year under any school 30670
district income tax levied by the district pursuant to Chapter 30671
5748. of the Revised Code to the extent the revenue from the 30672
income tax is allocated or apportioned to current expenses. 30673

(2) "Charge-off amount" means ~~the product obtained by~~ 30674
~~multiplying~~ two and three-tenths per cent multiplied by (the sum of 30675
recognized valuation and property exemption value). 30676

(3) Until fiscal year 2003, the "actual local share of 30677
special education, transportation, and vocational education 30678
funding" for any school district means the sum of the district's 30679
attributed local shares described in divisions (F)(1) to (3) of 30680
section 3317.022 of the Revised Code. Beginning in fiscal year 30681
2003, the "actual local share of special education, 30682
transportation, and vocational education funding" means that sum 30683
minus the amount of any excess cost supplement payment calculated 30684
for the district under division (F) of section 3317.022 of the 30685
Revised Code. 30686

(4) "Current expense revenues from the tangible property tax 30687
replacement fund" means payments received from the school district 30688
tangible property tax replacement fund or the general revenue fund 30689
under section 5751.21 of the Revised Code for fixed-rate levies 30690
for current expenses and for fixed-sum levies for current 30691
expenses, including school district emergency levies under 30692
sections 5705.194 to 5705.197 of the Revised Code. 30693

(B) Upon receiving the certifications under section 3317.021 30694
of the Revised Code, the department of education shall determine 30695
for each city, local, and exempted village school district whether 30696
the district's charge-off amount is greater than the sum of the 30697
district's total taxes charged and payable for current expenses 30698
and current expense revenues from the tangible property tax 30699
replacement fund, and if ~~it~~ the charge-off amount is greater, 30700
shall pay the district the amount of the difference. A payment 30701
shall not be made to any school district for which the computation 30702
under division (A) of section 3317.022 of the Revised Code equals 30703
zero. 30704

(C)(1) If a district's charge-off amount is equal to or 30705
greater than the sum of its total taxes charged and payable for 30706
current expenses and current expense revenues from the tangible 30707
property tax replacement fund, the department shall, in addition 30708
to the payment required under division (B) of this section, pay 30709
the district the amount of its actual local share of special 30710
education, transportation, and vocational education funding. 30711

(2) If a district's charge-off amount is less than the sum of 30712
its total taxes charged and payable for current expenses and 30713
current expense revenues from the tangible property tax 30714
replacement fund, the department shall pay the district any amount 30715
by which its actual local share of special education, 30716
transportation, and vocational education funding exceeds the sum 30717
of its total taxes charged and payable for current expenses and 30718
current expense revenues from the tangible property tax 30719
replacement fund minus its charge-off amount. 30720

(D) If a school district that received a payment under 30721
division (B) or (C) of this section in the prior fiscal year is 30722
ineligible for payment under those divisions in the current fiscal 30723
year, the department shall determine if the ineligibility is the 30724
result of a property tax or income tax levy approved by the 30725

district's voters to take effect in tax year 2005 or thereafter. 30726

If the department determines that is the case, and calculates that 30727

the levy causing the ineligibility exceeded by at least one mill 30728

the equivalent millage of the prior year's payment under divisions 30729

(B) and (C) of this section, the department shall make a payment 30730

to the district for the first three years that the district loses 30731

eligibility for payment under divisions (B) and (C) of this 30732

section, as follows: 30733

(1) In the first year of ineligibility, the department shall 30734

pay the district seventy-five per cent of the amount it last paid 30735

the district under divisions (B) and (C) of this section. 30736

(2) In the second year of ineligibility, the department shall 30737

pay the district fifty per cent of the amount it last paid the 30738

district under those divisions. 30739

(3) In the third year of ineligibility, the department shall 30740

pay the district twenty-five per cent of the amount it last paid 30741

the district under those divisions. 30742

(E) A district that receives payment under division (D) of 30743

this section and subsequently qualifies for payment under division 30744

(B) or (C) of this section is ineligible for future payments under 30745

division (D) of this section. 30746

Sec. 3317.0217. The department of education shall annually 30747

compute and pay state parity aid to school districts, as follows: 30748

(A) Calculate the local wealth per pupil of each school 30749

district, which equals the following sum: 30750

(1) Two-thirds times the quotient of (a) the district's 30751

recognized valuation divided by (b) its formula ADM; plus 30752

(2) One-third times the quotient of (a) the average of the 30753

total federal adjusted gross income of the school district's 30754

residents for the three years most recently reported under section 30755

3317.021 of the Revised Code divided by (b) its formula ADM. 30756

(B) Rank all school districts in order of local wealth per 30757
pupil, from the district with the lowest local wealth per pupil to 30758
the district with the highest local wealth per pupil. 30759

(C) Compute the per pupil state parity aid funding for each 30760
school district in accordance with the following formula: 30761

~~Payment percentage~~ X (threshold local wealth 30762
per pupil - the district's local 30763
wealth per pupil) X ~~0.0095~~ 0.0075 30764

Where: 30765

(1) ~~"Payment percentage," for purposes of division (C) of 30766
this section, equals 20% in fiscal year 2002, 40% in fiscal year 30767
2003, 58% in fiscal year 2004, 76% in fiscal year 2005, and 100% 30768
after fiscal year 2005.~~ 30769

~~(2) Nine and one half mills (0.0095) is the general 30770
assembly's determination of the average number of effective 30771
operating mills that districts in the seventieth to ninetieth 30772
percentiles of valuations per pupil collected in fiscal year 2001 30773
above the revenues required to finance their attributed local 30774
shares of the calculated cost of an adequate education. This was 30775
determined by (a) adding the district revenues from operating 30776
property tax levies and income tax levies, (b) subtracting from 30777
that total the sum of (i) twenty three mills times adjusted 30778
recognized valuation plus (ii) the attributed local shares of 30779
special education, transportation, and vocational education 30780
funding as described in divisions (F)(1) to (3) of section 30781
3317.022 of the Revised Code, and (c) converting the result to an 30782
effective operating property tax rate Seven and one-half mills 30783
(0.0075) is an adjustment to the original parity aid standard of 30784
nine and one-half mills, to account for the general assembly's 30785
policy decision to phase-out use of the cost-of-doing-business 30786~~

factor in the base cost formula. 30787

~~(3)~~(2) The "threshold local wealth per pupil" is the local 30788
wealth per pupil of the school district with the 30789
four-hundred-ninetieth lowest local wealth per pupil. 30790

If the result of the calculation for a school district under 30791
division (C) of this section is less than zero, the district's per 30792
pupil parity aid shall be zero. 30793

(D) Compute the per pupil alternative parity aid for each 30794
school district that has a combination of an income factor of 1.0 30795
or less, a ~~DPIA~~ poverty index of 1.0 or greater, and a fiscal year 30796
2005 cost-of-doing-business factor of 1.0375 or greater, in 30797
accordance with the following formula: 30798

Payment percentage X \$60,000 X 30799
(1 - income factor) X 4/15 X 0.023 30800

Where: 30801

(1) "~~DPIA~~ Poverty index" has the same meaning as in section 30802
3317.029 of the Revised Code. 30803

(2) "Payment percentage," for purposes of division (D) of 30804
this section, equals 50% in fiscal year 2002 and 100% after fiscal 30805
year 2002. 30806

(E) Pay each district that has a combination of an income 30807
factor of 1.0 or less, a ~~DPIA~~ poverty index of 1.0 or greater, and 30808
a fiscal year 2005 cost-of-doing-business factor of 1.0375 or 30809
greater, the greater of the following: 30810

(1) The product of the district's per pupil parity aid 30811
calculated under division (C) of this section times its net 30812
formula ADM; 30813

(2) The product of its per pupil alternative parity aid 30814
calculated under division (D) of this section times its net 30815
formula ADM. 30816

(F) Pay every other district the product of its per pupil parity aid calculated under division (C) of this section times its net formula ADM.

(G) As used in divisions (E) and (F) of this section, "net formula ADM" means formula ADM minus the number of internet- and computer-based community school students and scholarship students reported under divisions (B)(3)(e) and (f) of section 3317.03 of the Revised Code.

Sec. 3317.03. Notwithstanding divisions (A)(1), (B)(1), and (C) of this section, any student enrolled in kindergarten more than half time shall be reported as one-half student under this section.

(A) The superintendent of each city and exempted village school district and of each educational service center shall, for the schools under the superintendent's supervision, certify to the state board of education on or before the fifteenth day of October in each year for the first full school week in October the formula ADM, which. Beginning in fiscal year 2006, each superintendent also shall certify to the state board, for the schools under the superintendent's supervision, the formula ADM for the third full week in February. If a school under the superintendent's supervision is closed for one or more days during that week due to hazardous weather conditions or other circumstances described in the first paragraph of division (B) of section 3317.01 of the Revised Code, the superintendent may apply to the superintendent of public instruction for a waiver, under which the superintendent of public instruction may exempt the district superintendent from certifying the formula ADM for that school for that week and specify an alternate week for certifying the formula ADM of that school.

The formula ADM shall consist of the average daily membership

during such week of the sum of the following: 30848

(1) On an FTE basis, the number of students in grades 30849
kindergarten through twelve receiving any educational services 30850
from the district, except that the following categories of 30851
students shall not be included in the determination: 30852

(a) Students enrolled in adult education classes; 30853

(b) Adjacent or other district students enrolled in the 30854
district under an open enrollment policy pursuant to section 30855
3313.98 of the Revised Code; 30856

(c) Students receiving services in the district pursuant to a 30857
compact, cooperative education agreement, or a contract, but who 30858
are entitled to attend school in another district pursuant to 30859
section 3313.64 or 3313.65 of the Revised Code; 30860

(d) Students for whom tuition is payable pursuant to sections 30861
3317.081 and 3323.141 of the Revised Code. 30862

(2) On an FTE basis, the number of students entitled to 30863
attend school in the district pursuant to section 3313.64 or 30864
3313.65 of the Revised Code, but receiving educational services in 30865
grades kindergarten through twelve from one or more of the 30866
following entities: 30867

(a) A community school pursuant to Chapter 3314. of the 30868
Revised Code, including any participation in a college pursuant to 30869
Chapter 3365. of the Revised Code while enrolled in such community 30870
school; 30871

(b) An alternative school pursuant to sections 3313.974 to 30872
3313.979 of the Revised Code as described in division (I)(2)(a) or 30873
(b) of this section; 30874

(c) A college pursuant to Chapter 3365. of the Revised Code, 30875
except when the student is enrolled in the college while also 30876
enrolled in a community school pursuant to Chapter 3314. of the 30877

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| Revised Code; | 30878 |
| (d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code; | 30879 30880 30881 |
| (e) An educational service center or cooperative education district; | 30882 30883 |
| (f) Another school district under a cooperative education agreement, compact, or contract; | 30884 30885 |
| <u>(g) A chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code.</u> | 30886 30887 |
| (3) Twenty per cent of the number of students enrolled in a joint vocational school district or under a vocational education compact, excluding any students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in another school district through an open enrollment policy as reported under division (A)(2)(d) of this section and then enroll in a joint vocational school district or under a vocational education compact; | 30888 30889 30890 30891 30892 30893 30894 30895 |
| (4) The number of handicapped children, other than handicapped preschool children, entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are placed with a county MR/DD board, minus the number of such children placed with a county MR/DD board in fiscal year 1998. If this calculation produces a negative number, the number reported under division (A)(4) of this section shall be zero. | 30896 30897 30898 30899 30900 30901 30902 |
| <u>(5) In the case of the report submitted for the third full week in February, or the alternative week if specified by the superintendent of public instruction, the number of students reported under division (A)(1) or (2) of this section for the first full week of the preceding October but who since that week have received high school diplomas.</u> | 30903 30904 30905 30906 30907 30908 |

(B) To enable the department of education to obtain the data 30909
needed to complete the calculation of payments pursuant to this 30910
chapter, in addition to the formula ADM, each superintendent shall 30911
report separately the following student counts for the same week 30912
for which formula ADM is certified: 30913

(1) The total average daily membership in regular day classes 30914
included in the report under division (A)(1) or (2) of this 30915
section for kindergarten, and each of grades one through twelve in 30916
schools under the superintendent's supervision; 30917

(2) The number of all handicapped preschool children enrolled 30918
as of the first day of December in classes in the district that 30919
are eligible for approval under division (B) of section 3317.05 of 30920
the Revised Code and the number of those classes, which shall be 30921
reported not later than the fifteenth day of December, in 30922
accordance with rules adopted under that section; 30923

(3) The number of children entitled to attend school in the 30924
district pursuant to section 3313.64 or 3313.65 of the Revised 30925
Code who are participating: 30926

(a) Participating in a pilot project scholarship program 30927
established under sections 3313.974 to 3313.979 of the Revised 30928
Code as described in division (I)(2)(a) or (b) of this section, 30929
~~are enrolled;~~ 30930

(b) Enrolled in a college under Chapter 3365. of the Revised 30931
Code, except when the student is enrolled in the college while 30932
also enrolled in a community school pursuant to Chapter 3314. of 30933
the Revised Code, ~~are enrolled;~~ 30934

(c) Enrolled in an adjacent or other school district under 30935
section 3313.98 of the Revised Code, ~~are enrolled;~~ 30936

(d) Enrolled in a community school established under Chapter 30937
3314. of the Revised Code that is not an internet- or 30938
computer-based community school as defined in section 3314.02 of 30939

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| <u>the Revised Code</u> , including any participation in a college | 30940 |
| pursuant to Chapter 3365. of the Revised Code while enrolled in | 30941 |
| such community school, or are participating; | 30942 |
| <u>(e) Enrolled in an internet- or computer-based community</u> | 30943 |
| <u>school, as defined in section 3314.02 of the Revised Code,</u> | 30944 |
| <u>including any participation in a college pursuant to Chapter 3365.</u> | 30945 |
| <u>of the Revised Code while enrolled in the school;</u> | 30946 |
| <u>(f) Enrolled in a chartered nonpublic school with a</u> | 30947 |
| <u>scholarship paid under section 3310.08 of the Revised Code;</u> | 30948 |
| <u>(g) Participating</u> in a program operated by a county MR/DD | 30949 |
| board or a state institution; | 30950 |
| (4) The number of pupils enrolled in joint vocational | 30951 |
| schools; | 30952 |
| (5) The average daily membership of handicapped children | 30953 |
| reported under division (A)(1) or (2) of this section receiving | 30954 |
| special education services for the category one handicap described | 30955 |
| in division (A) of section 3317.013 of the Revised Code; | 30956 |
| (6) The average daily membership of handicapped children | 30957 |
| reported under division (A)(1) or (2) of this section receiving | 30958 |
| special education services for category two handicaps described in | 30959 |
| division (B) of section 3317.013 of the Revised Code; | 30960 |
| (7) The average daily membership of handicapped children | 30961 |
| reported under division (A)(1) or (2) of this section receiving | 30962 |
| special education services for category three handicaps described | 30963 |
| in division (C) of section 3317.013 of the Revised Code; | 30964 |
| (8) The average daily membership of handicapped children | 30965 |
| reported under division (A)(1) or (2) of this section receiving | 30966 |
| special education services for category four handicaps described | 30967 |
| in division (D) of section 3317.013 of the Revised Code; | 30968 |
| (9) The average daily membership of handicapped children | 30969 |

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| reported under division (A)(1) or (2) of this section receiving | 30970 |
| special education services for the category five handicap | 30971 |
| described in division (E) of section 3317.013 of the Revised Code; | 30972 |
| (10) The average daily membership of handicapped children | 30973 |
| reported under division (A)(1) or (2) of this section receiving | 30974 |
| special education services for category six handicaps described in | 30975 |
| division (F) of section 3317.013 of the Revised Code; | 30976 |
| (11) The average daily membership of pupils reported under | 30977 |
| division (A)(1) or (2) of this section enrolled in category one | 30978 |
| vocational education programs or classes, described in division | 30979 |
| (A) of section 3317.014 of the Revised Code, operated by the | 30980 |
| school district or by another district, other than a joint | 30981 |
| vocational school district, or by an educational service center, | 30982 |
| <u>excluding any student reported under division (B)(3)(e) of this</u> | 30983 |
| <u>section as enrolled in an internet- or computer-based community</u> | 30984 |
| <u>school, notwithstanding division (C) of section 3317.02 of the</u> | 30985 |
| <u>Revised Code and division (C)(3) of this section;</u> | 30986 |
| (12) The average daily membership of pupils reported under | 30987 |
| division (A)(1) or (2) of this section enrolled in category two | 30988 |
| vocational education programs or services, described in division | 30989 |
| (B) of section 3317.014 of the Revised Code, operated by the | 30990 |
| school district or another school district, other than a joint | 30991 |
| vocational school district, or by an educational service center, | 30992 |
| <u>excluding any student reported under division (B)(3)(e) of this</u> | 30993 |
| <u>section as enrolled in an internet- or computer-based community</u> | 30994 |
| <u>school, notwithstanding division (C) of section 3317.02 of the</u> | 30995 |
| <u>Revised Code and division (C)(3) of this section;</u> | 30996 |
| (13) The average number of children transported by the school | 30997 |
| district on board-owned or contractor-owned and -operated buses, | 30998 |
| reported in accordance with rules adopted by the department of | 30999 |
| education; | 31000 |

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| (14)(a) The number of children, other than handicapped preschool children, the district placed with a county MR/DD board in fiscal year 1998; | 31001 31002 31003 |
| (b) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code; | 31004 31005 31006 31007 31008 |
| (c) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category two handicaps described in division (B) of section 3317.013 of the Revised Code; | 31009 31010 31011 31012 31013 |
| (d) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code; | 31014 31015 31016 31017 31018 |
| (e) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code; | 31019 31020 31021 31022 31023 |
| (f) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code; | 31024 31025 31026 31027 31028 |
| (g) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services | 31029 31030 31031 |

for category six handicaps described in division (F) of section 31032
3317.013 of the Revised Code. 31033

(C)(1) Except as otherwise provided in this section for 31034
kindergarten students, the average daily membership in divisions 31035
(B)(1) to (12) of this section shall be based upon the number of 31036
full-time equivalent students. The state board of education shall 31037
adopt rules defining full-time equivalent students and for 31038
determining the average daily membership therefrom for the 31039
purposes of divisions (A), (B), and (D) of this section. 31040

(2) A student enrolled in a community school established 31041
under Chapter 3314. of the Revised Code shall be counted in the 31042
formula ADM and, if applicable, the category one, two, three, 31043
four, five, or six special education ADM of the school district in 31044
which the student is entitled to attend school under section 31045
3313.64 or 3313.65 of the Revised Code for the same proportion of 31046
the school year that the student is counted in the enrollment of 31047
the community school for purposes of section 3314.08 of the 31048
Revised Code. 31049

(3) No child shall be counted as more than a total of one 31050
child in the sum of the average daily memberships of a school 31051
district under division (A), divisions (B)(1) to (12), or division 31052
(D) of this section, except as follows: 31053

(a) A child with a handicap described in section 3317.013 of 31054
the Revised Code may be counted both in formula ADM and in 31055
category one, two, three, four, five, or six special education ADM 31056
and, if applicable, in category one or two vocational education 31057
ADM. As provided in division (C) of section 3317.02 of the Revised 31058
Code, such a child shall be counted in category one, two, three, 31059
four, five, or six special education ADM in the same proportion 31060
that the child is counted in formula ADM. 31061

(b) A child enrolled in vocational education programs or 31062

classes described in section 3317.014 of the Revised Code may be 31063
counted both in formula ADM and category one or two vocational 31064
education ADM and, if applicable, in category one, two, three, 31065
four, five, or six special education ADM. Such a child shall be 31066
counted in category one or two vocational education ADM in the 31067
same proportion as the percentage of time that the child spends in 31068
the vocational education programs or classes. 31069

(4) Based on the information reported under this section, the 31070
department of education shall determine the total student count, 31071
as defined in section 3301.011 of the Revised Code, for each 31072
school district. 31073

(D)(1) The superintendent of each joint vocational school 31074
district shall certify to the superintendent of public instruction 31075
on or before the fifteenth day of October in each year for the 31076
first full school week in October the formula ADM, ~~which~~. 31077
Beginning in fiscal year 2006, each superintendent also shall 31078
certify to the state superintendent the formula ADM for the third 31079
full week in February. If a school operated by the joint 31080
vocational school district is closed for one or more days during 31081
that week due to hazardous weather conditions or other 31082
circumstances described in the first paragraph of division (B) of 31083
section 3317.01 of the Revised Code, the superintendent may apply 31084
to the superintendent of public instruction for a waiver, under 31085
which the superintendent of public instruction may exempt the 31086
district superintendent from certifying the formula ADM for that 31087
school for that week and specify an alternate week for certifying 31088
the formula ADM of that school. 31089

The formula ADM, except as otherwise provided in this 31090
division, shall consist of the average daily membership during 31091
such week, on an FTE basis, of the number of students receiving 31092
any educational services from the district, including students 31093
enrolled in a community school established under Chapter 3314. of 31094

the Revised Code who are attending the joint vocational district 31095
under an agreement between the district board of education and the 31096
governing authority of the community school and are entitled to 31097
attend school in a city, local, or exempted village school 31098
district whose territory is part of the territory of the joint 31099
vocational district. In the case of the report submitted for the 31100
third week in February, or the alternative week if specified by 31101
the superintendent of public instruction, the superintendent of 31102
the joint vocational school district may include the number of 31103
students reported under division (D)(1) of this section for the 31104
first full week of the preceding October but who since that week 31105
have received high school diplomas. 31106

The following categories of students shall not be included in 31107
the determination made under division (D)(1) of this section: 31108

(a) Students enrolled in adult education classes; 31109

(b) Adjacent or other district joint vocational students 31110
enrolled in the district under an open enrollment policy pursuant 31111
to section 3313.98 of the Revised Code; 31112

(c) Students receiving services in the district pursuant to a 31113
compact, cooperative education agreement, or a contract, but who 31114
are entitled to attend school in a city, local, or exempted 31115
village school district whose territory is not part of the 31116
territory of the joint vocational district; 31117

(d) Students for whom tuition is payable pursuant to sections 31118
3317.081 and 3323.141 of the Revised Code. 31119

(2) To enable the department of education to obtain the data 31120
needed to complete the calculation of payments pursuant to this 31121
chapter, in addition to the formula ADM, each superintendent shall 31122
report separately the average daily membership included in the 31123
report under division (D)(1) of this section for each of the 31124
following categories of students for the same week for which 31125

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| <u>formula ADM is certified:</u> | 31126 |
| (a) Students enrolled in each grade included in the joint vocational district schools; | 31127 31128 |
| (b) Handicapped children receiving special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code; | 31129 31130 31131 |
| (c) Handicapped children receiving special education services for the category two handicaps described in division (B) of section 3317.013 of the Revised Code; | 31132 31133 31134 |
| (d) Handicapped children receiving special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code; | 31135 31136 31137 |
| (e) Handicapped children receiving special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code; | 31138 31139 31140 |
| (f) Handicapped children receiving special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code; | 31141 31142 31143 |
| (g) Handicapped children receiving special education services for category six handicaps described in division (F) of section 3317.013 of the Revised Code; | 31144 31145 31146 |
| (h) Students receiving category one vocational education services, described in division (A) of section 3317.014 of the Revised Code; | 31147 31148 31149 |
| (i) Students receiving category two vocational education services, described in division (B) of section 3317.014 of the Revised Code. | 31150 31151 31152 |
| The superintendent of each joint vocational school district shall also indicate the city, local, or exempted village school district in which each joint vocational district pupil is entitled | 31153 31154 31155 |

to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code. 31156
31157

(E) In each school of each city, local, exempted village, joint vocational, and cooperative education school district there shall be maintained a record of school membership, which record shall accurately show, for each day the school is in session, the actual membership enrolled in regular day classes. For the purpose of determining average daily membership, the membership figure of any school shall not include any pupils except those pupils described by division (A) of this section. The record of membership for each school shall be maintained in such manner that no pupil shall be counted as in membership prior to the actual date of entry in the school and also in such manner that where for any cause a pupil permanently withdraws from the school that pupil shall not be counted as in membership from and after the date of such withdrawal. There shall not be included in the membership of any school any of the following: 31158
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(1) Any pupil who has graduated from the twelfth grade of a public high school; 31173
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(2) Any pupil who is not a resident of the state; 31175

(3) Any pupil who was enrolled in the schools of the district during the previous school year when tests were administered under section 3301.0711 of the Revised Code but did not take one or more of the tests required by that section and was not excused pursuant to division (C)(1) or (3) of that section; 31176
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(4) Any pupil who has attained the age of twenty-two years, except for veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for reenrollment in the public school system of their residence not later than four years after 31181
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termination of war or their honorable discharge. 31187

If, however, any veteran described by division (E)(4) of this 31188
section elects to enroll in special courses organized for veterans 31189
for whom tuition is paid under the provisions of federal laws, or 31190
otherwise, that veteran shall not be included in average daily 31191
membership. 31192

Notwithstanding division (E)(3) of this section, the 31193
membership of any school may include a pupil who did not take a 31194
test required by section 3301.0711 of the Revised Code if the 31195
superintendent of public instruction grants a waiver from the 31196
requirement to take the test to the specific pupil. The 31197
superintendent may grant such a waiver only for good cause in 31198
accordance with rules adopted by the state board of education. 31199

Except as provided in divisions (B)(2) and (F) of this 31200
section, the average daily membership figure of any local, city, 31201
exempted village, or joint vocational school district shall be 31202
determined by dividing the figure representing the sum of the 31203
number of pupils enrolled during each day the school of attendance 31204
is actually open for instruction during the ~~first full school~~ week 31205
~~in October~~ for which the formula ADM is being certified by the 31206
total number of days the school was actually open for instruction 31207
during that week. For purposes of state funding, "enrolled" 31208
persons are only those pupils who are attending school, those who 31209
have attended school during the current school year and are absent 31210
for authorized reasons, and those handicapped children currently 31211
receiving home instruction. 31212

The average daily membership figure of any cooperative 31213
education school district shall be determined in accordance with 31214
rules adopted by the state board of education. 31215

(F)(1) If the formula ADM for the first full school week in 31216
February is at least three per cent greater than that certified 31217

for the first full school week in the preceding October, the 31218
superintendent of schools of any city, exempted village, or joint 31219
vocational school district or educational service center shall 31220
certify such increase to the superintendent of public instruction. 31221
Such certification shall be submitted no later than the fifteenth 31222
day of February. For the balance of the fiscal year, beginning 31223
with the February payments, the superintendent of public 31224
instruction shall use the increased formula ADM in calculating or 31225
recalculating the amounts to be allocated in accordance with 31226
section 3317.022 or 3317.16 of the Revised Code. In no event shall 31227
the superintendent use an increased membership certified to the 31228
superintendent after the fifteenth day of February. Division 31229
(F)(1) of this section does not apply after fiscal year 2005. 31230

(2) If on the first school day of April the total number of 31231
classes or units for handicapped preschool children that are 31232
eligible for approval under division (B) of section 3317.05 of the 31233
Revised Code exceeds the number of units that have been approved 31234
for the year under that division, the superintendent of schools of 31235
any city, exempted village, or cooperative education school 31236
district or educational service center shall make the 31237
certifications required by this section for that day. If the 31238
department determines additional units can be approved for the 31239
fiscal year within any limitations set forth in the acts 31240
appropriating moneys for the funding of such units, the department 31241
shall approve additional units for the fiscal year on the basis of 31242
such average daily membership. For each unit so approved, the 31243
department shall pay an amount computed in the manner prescribed 31244
in section 3317.052 or 3317.19 and section 3317.053 of the Revised 31245
Code. 31246

(3) If a student attending a community school under Chapter 31247
3314. of the Revised Code is not included in the formula ADM 31248
certified ~~for the first full school week of October~~ for the school 31249

district in which the student is entitled to attend school under 31250
section 3313.64 or 3313.65 of the Revised Code, the department of 31251
education shall adjust the formula ADM of that school district to 31252
include the community school student in accordance with division 31253
(C)(2) of this section, and shall recalculate the school 31254
district's payments under this chapter for the entire fiscal year 31255
on the basis of that adjusted formula ADM. This requirement 31256
applies regardless of whether the student was enrolled, as defined 31257
in division (E) of this section, in the community school during 31258
the first full school week in October. 31259

(G)(1)(a) The superintendent of an institution operating a 31260
special education program pursuant to section 3323.091 of the 31261
Revised Code shall, for the programs under such superintendent's 31262
supervision, certify to the state board of education ~~the, in the~~ 31263
manner prescribed by the superintendent of public instruction, 31264
both of the following: 31265

(i) The average daily membership of all handicapped children 31266
other than handicapped preschool children receiving services at 31267
the institution for each category of handicap described in 31268
divisions (A) to (F) of section 3317.013 of the Revised Code; 31269

(ii) The average daily membership of all handicapped 31270
preschool children in classes or programs approved annually by the 31271
department of education, in the manner prescribed by the 31272
superintendent of public instruction for unit funding under 31273
section 3317.05 of the Revised Code. 31274

(b) The superintendent of an institution with vocational 31275
education units approved under division (A) of section 3317.05 of 31276
the Revised Code shall, for the units under the superintendent's 31277
supervision, certify to the state board of education the average 31278
daily membership in those units, in the manner prescribed by the 31279
superintendent of public instruction. 31280

(2) The superintendent of each county MR/DD board that maintains special education classes under section 3317.20 of the Revised Code or units approved pursuant to section 3317.05 of the Revised Code shall do both of the following:

(a) Certify to the state board, in the manner prescribed by the board, the average daily membership in classes under section 3317.20 of the Revised Code for each school district that has placed children in the classes;

(b) Certify to the state board, in the manner prescribed by the board, the number of all handicapped preschool children enrolled as of the first day of December in classes eligible for approval under division (B) of section 3317.05 of the Revised Code, and the number of those classes.

(3)(a) If on the first school day of April the number of classes or units maintained for handicapped preschool children by the county MR/DD board that are eligible for approval under division (B) of section 3317.05 of the Revised Code is greater than the number of units approved for the year under that division, the superintendent shall make the certification required by this section for that day.

(b) If the department determines that additional classes or units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of the classes and units described in division (G)(3)(a) of this section, the department shall approve and fund additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department shall pay an amount computed in the manner prescribed in sections 3317.052 and 3317.053 of the Revised Code.

(H) Except as provided in division (I) of this section, when any city, local, or exempted village school district provides

instruction for a nonresident pupil whose attendance is 31312
unauthorized attendance as defined in section 3327.06 of the 31313
Revised Code, that pupil's membership shall not be included in 31314
that district's membership figure used in the calculation of that 31315
district's formula ADM or included in the determination of any 31316
unit approved for the district under section 3317.05 of the 31317
Revised Code. The reporting official shall report separately the 31318
average daily membership of all pupils whose attendance in the 31319
district is unauthorized attendance, and the membership of each 31320
such pupil shall be credited to the school district in which the 31321
pupil is entitled to attend school under division (B) of section 31322
3313.64 or section 3313.65 of the Revised Code as determined by 31323
the department of education. 31324

(I)(1) A city, local, exempted village, or joint vocational 31325
school district admitting a scholarship student of a pilot project 31326
district pursuant to division (C) of section 3313.976 of the 31327
Revised Code may count such student in its average daily 31328
membership. 31329

(2) In any year for which funds are appropriated for pilot 31330
project scholarship programs, a school district implementing a 31331
state-sponsored pilot project scholarship program that year 31332
pursuant to sections 3313.974 to 3313.979 of the Revised Code may 31333
count in average daily membership: 31334

(a) All children residing in the district and utilizing a 31335
scholarship to attend kindergarten in any alternative school, as 31336
defined in section 3313.974 of the Revised Code; 31337

(b) All children who were enrolled in the district in the 31338
preceding year who are utilizing a scholarship to attend any such 31339
alternative school. 31340

(J) The superintendent of each cooperative education school 31341
district shall certify to the superintendent of public 31342

instruction, in a manner prescribed by the state board of 31343
education, the applicable average daily memberships for all 31344
students in the cooperative education district, also indicating 31345
the city, local, or exempted village district where each pupil is 31346
entitled to attend school under section 3313.64 or 3313.65 of the 31347
Revised Code. 31348

Sec. 3317.031. A membership record shall be kept by grade 31349
level in each city, local, exempted village, joint vocational, and 31350
cooperative education school district and such a record shall be 31351
kept by grade level in each educational service center that 31352
provides academic instruction to pupils, classes for handicapped 31353
pupils, or any other direct instructional services to pupils. Such 31354
membership record shall show the following information for each 31355
pupil enrolled: Name, date of birth, name of parent, date entered 31356
school, date withdrawn from school, days present, days absent, and 31357
the number of days school was open for instruction while the pupil 31358
was enrolled. At the end of the school year this membership record 31359
shall show the total days present, the total days absent, and the 31360
total days due for all pupils in each grade. Such membership 31361
record shall show the pupils that are transported to and from 31362
school and it shall also show the pupils that are transported 31363
living within one mile of the school attended. This membership 31364
record shall also show any other information prescribed by the 31365
state board of education. 31366

This membership record shall be kept intact for at least five 31367
years and shall be made available to the state board of education 31368
or its representative in making an audit of the average daily 31369
membership or the transportation of the district or educational 31370
service center. The membership records of local school districts 31371
shall be filed at the close of each school year in the office of 31372
the educational service center superintendent. 31373

The state board of education may withhold any money due any school district or educational service center under sections 3317.022 to ~~3317.0212~~ 3317.0211, 3317.11, 3317.16, 3317.17, or 3317.19 of the Revised Code until it has satisfactory evidence that the board of education or educational service center governing board has fully complied with all of the provisions of this section.

Nothing in this section shall require any person to release, or to permit access to, public school records in violation of section 3319.321 of the Revised Code.

Sec. 3317.035. The auditor of state may conduct annual audits of the information certified under section 3317.03 of the Revised Code by a number of school districts determined by the auditor of state and selected at random.

Sec. 3317.05. (A) For the purpose of calculating payments under sections 3317.052 and 3317.053 of the Revised Code, the department of education shall determine for each institution, by the last day of January of each year and based on information certified under section 3317.03 of the Revised Code, the number of vocational education units or fractions of units approved by the department on the basis of standards and rules adopted by the state board of education. As used in this division, "institution" means an institution operated by a department specified in section 3323.091 of the Revised Code and that provides vocational education programs under the supervision of the division of vocational education of the department that meet the standards and rules for these programs, including licensure of professional staff involved in the programs, as established by the state board.

(B) For the purpose of calculating payments under sections 3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the

department shall determine, based on information certified under 31404
section 3317.03 of the Revised Code, the following by the last day 31405
of January of each year for each educational service center, for 31406
each school district, including each cooperative education school 31407
district, for each institution eligible for payment under section 31408
3323.091 of the Revised Code, and for each county MR/DD board: the 31409
number of classes operated by the school district, service center, 31410
institution, or county MR/DD board for handicapped preschool 31411
children, or fraction thereof, including in the case of a district 31412
or service center that is a funding agent, classes taught by a 31413
licensed teacher employed by that district or service center under 31414
section 3313.841 of the Revised Code, approved annually by the 31415
department on the basis of standards and rules adopted by the 31416
state board. 31417

(C) For the purpose of calculating payments under sections 31418
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 31419
department shall determine, based on information certified under 31420
section 3317.03 of the Revised Code, the following by the last day 31421
of January of each year for each school district, including each 31422
cooperative education school district, for each institution 31423
eligible for payment under section 3323.091 of the Revised Code, 31424
and for each county MR/DD board: the number of preschool 31425
handicapped ~~related services~~ units for ~~child study, occupational,~~ 31426
~~physical, or speech and hearing therapy, special education~~ 31427
~~supervisors, and special education coordinators~~ related services, 31428
as defined in section 3323.01 of the Revised Code, approved 31429
annually by the department on the basis of standards and rules 31430
adopted by the state board. 31431

~~(D) For the purpose of calculating payments under sections 31432
3317.052 and 3317.053 of the Revised Code, the department shall 31433
determine, based on information certified under section 3317.03 of 31434
the Revised Code, the following by the last day of January of each 31435~~

~~year for each institution eligible for payment under section 31436
3323.091 of the Revised Code: 31437~~

~~(1) The number of classes operated by an institution for 31438
handicapped children other than handicapped preschool children, or 31439
fraction thereof, approved annually by the department on the basis 31440
of standards and rules adopted by the state board; 31441~~

~~(2) The number of related services units for children other 31442
than handicapped preschool children for child study, occupational, 31443
physical, or speech and hearing therapy, special education 31444
supervisors, and special education coordinators approved annually 31445
by the department on the basis of standards and rules adopted by 31446
the state board. 31447~~

~~(E) All of the arithmetical calculations made under this 31448
section shall be carried to the second decimal place. The total 31449
number of units for school districts, service centers, and 31450
institutions approved annually under this section shall not exceed 31451
the number of units included in the estimate of cost for these 31452
units and appropriations made for them by the general assembly. 31453~~

~~In the case of units described in division (D)(1) of this 31454
section operated by institutions eligible for payment under 31455
section 3323.091 of the Revised Code, the department shall approve 31456
only units for persons who are under age twenty two on the first 31457
day of the academic year, but not less than six years of age on 31458
the thirtieth day of September of that year, except that such a 31459
unit may include one or more children who are under six years of 31460
age on the thirtieth day of September if such children have been 31461
admitted to the unit pursuant to rules of the state board. In the 31462
case of handicapped preschool units described in division (B) of 31463
this section, the department shall approve only preschool units 31464
for children who are under age six on the thirtieth day of 31465
September of the academic year, or on the first day of August of 31466
the academic year if the school district in which the child is 31467~~

enrolled has adopted a resolution under division (A)(3) of section 3321.01 of the Revised Code, but not less than age three on the first day of December of the academic year, except that such a unit may include one or more children who are under age three or are age six or over on the ~~first day of December~~ applicable date, as reported under division (B)(2) or (G)(2)(b) of section 3317.03 of the Revised Code, if such children have been admitted to the unit pursuant to rules of the state board. The number of units for county MR/DD boards and institutions eligible for payment under section 3323.091 of the Revised Code approved under this section shall not exceed the number that can be funded with appropriations made for such purposes by the general assembly.

No unit shall be approved under divisions (B) ~~to (D)~~ and (C) of this section unless a plan has been submitted and approved under Chapter 3323. of the Revised Code.

~~(F)~~(E) The department shall approve units or fractions thereof for gifted children on the basis of standards and rules adopted by the state board.

Sec. 3317.052. As used in this section, "institution" means an institution operated by a department specified in division (A) of section 3323.091 of the Revised Code.

(A)(1) The department of education shall pay each school district, educational service center, institution eligible for payment under section 3323.091 of the Revised Code, or county MR/DD board an amount for the total of all classroom units for handicapped preschool children approved under division (B) of section 3317.05 of the Revised Code. For each unit, the amount shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior

to ~~the effective date of this amendment~~ July 1, 2001, plus fifteen 31499
per cent of that minimum salary amount, and eight thousand 31500
twenty-three dollars. 31501

(2) The department shall pay each school district, 31502
educational service center, institution eligible for payment under 31503
section 3323.091 of the Revised Code, or county MR/DD board an 31504
amount for the total of all related services units for handicapped 31505
preschool children approved under division (C) of section 3317.05 31506
of the Revised Code. For each such unit, the amount shall be the 31507
sum of the minimum salary for the teacher of the unit calculated 31508
on the basis of the teacher's training level and years of 31509
experience pursuant to the salary schedule prescribed in the 31510
version of section 3317.13 of the Revised Code in effect prior to 31511
~~the effective date of this amendment~~ July 1, 2001, fifteen per 31512
cent of that minimum salary amount, and two thousand one hundred 31513
thirty-two dollars. 31514

(B) If a school district, educational service center, or 31515
county MR/DD board has had additional handicapped preschool units 31516
approved for the year under division (F)(2) or (G)(3) of section 31517
3317.03 of the Revised Code, the district, educational service 31518
center, or board shall receive an additional amount during the 31519
last half of the fiscal year. For each district, center, or board, 31520
the additional amount for each unit shall equal fifty per cent of 31521
the amounts computed for the unit in the manner prescribed by 31522
division (A) of this section and division (C) of section 3317.053 31523
of the Revised Code. 31524

~~(C)(1) The department shall pay each institution eligible for 31525
payment under section 3323.091 of the Revised Code or county MR/DD 31526
board an amount for the total of all special education units 31527
approved under division (D)(1) of section 3317.05 of the Revised 31528
Code. The amount for each unit shall be the sum of the minimum 31529
salary for the teacher of the unit, calculated on the basis of the 31530~~

~~teacher's training level and years of experience pursuant to the 31531
salary schedule prescribed in the version of section 3317.13 of 31532
the Revised Code in effect prior to the effective date of this 31533
amendment, plus fifteen per cent of that minimum salary amount, 31534
and eight thousand twenty three dollars. 31535~~

~~(2) The department shall pay each institution eligible for 31536
payment under section 3323.091 of the Revised Code an amount for 31537
the total of all related services units approved under division 31538
(D)(2) of section 3317.05 of the Revised Code. The amount for each 31539
unit shall be the sum of the minimum salary for the teacher of the 31540
unit, calculated on the basis of the teacher's training level and 31541
years of experience pursuant to the salary schedule prescribed in 31542
the version of section 3317.13 of the Revised Code in effect prior 31543
to the effective date of this amendment, plus fifteen per cent of 31544
that minimum salary amount, and two thousand one hundred 31545
thirty two dollars. 31546~~

~~(D) The department shall pay each institution approved for 31547
vocational education units under division (A) of section 3317.05 31548
of the Revised Code an amount for the total of all the units 31549
approved under that division. The amount for each unit shall be 31550
the sum of the minimum salary for the teacher of the unit, 31551
calculated on the basis of the teacher's training level and years 31552
of experience pursuant to the salary schedule prescribed in the 31553
version of section 3317.13 of the Revised Code in effect prior to 31554
the effective date of this amendment July 1, 2001, plus fifteen 31555
per cent of that minimum salary amount, and nine thousand five 31556
hundred ten dollars. Each institution that receives units funds 31557
under this division annually shall report to the department on the 31558
delivery of services and the performance of students and any other 31559
information required by the department to evaluate the 31560
institution's vocational education program. 31561~~

Sec. 3317.053. (A) As used in this section: 31562

(1) "State share percentage" has the same meaning as in 31563
section 3317.022 of the Revised Code. 31564

(2) "Dollar amount" means the amount shown in the following 31565
table for the corresponding type of unit: 31566

| TYPE OF UNIT | DOLLAR AMOUNT | |
|---|---------------|-------|
| Division (B) of section 3317.05 | | 31568 |
| of the Revised Code | \$8,334 | 31569 |
| Division (C) of that section | \$3,234 | 31570 |
| Division (F) (E) of that section | \$5,550 | 31571 |

(3) "Average unit amount" means the amount shown in the 31572
following table for the corresponding type of unit: 31573

| TYPE OF UNIT | AVERAGE UNIT AMOUNT | |
|---|---------------------|-------|
| Division (B) of section 3317.05 | | 31576 |
| of the Revised Code | \$7,799 | 31577 |
| Division (C) of that section | \$2,966 | 31578 |
| Division (F) (E) of that section | \$5,251 | 31579 |

(B) In the case of each unit described in division (B), (C), 31580
or ~~(F)~~(E) of section 3317.05 of the Revised Code and allocated to 31581
a city, local, or exempted village school district, the department 31582
of education, in addition to the amounts specified in division (P) 31583
of section 3317.024 and sections 3317.052 and 3317.19 of the 31584
Revised Code, shall pay a supplemental unit allowance equal to the 31585
sum of the following amounts: 31586

(1) An amount equal to 50% of the average unit amount for the 31587
unit; 31588

(2) An amount equal to the percentage of the dollar amount 31589
for the unit that equals the district's state share percentage. 31590

If, prior to the fifteenth day of May of a fiscal year, a 31591

school district's aid computed under section 3317.022 of the Revised Code is recomputed pursuant to section 3317.027 or 3317.028 of the Revised Code, the department shall also recompute the district's entitlement to payment under this section utilizing a new state share percentage. Such new state share percentage shall be determined using the district's recomputed basic aid amount pursuant to section 3317.027 or 3317.028 of the Revised Code. During the last six months of the fiscal year, the department shall pay the district a sum equal to one-half of the recomputed payment in lieu of one-half the payment otherwise calculated under this section.

(C)(1) In the case of each unit allocated to an institution pursuant to division (A) of section 3317.05 of the Revised Code, the department, in addition to the amount specified in section 3317.052 of the Revised Code, shall pay a supplemental unit allowance of \$7,227.

(2) In the case of each unit described in division (B) ~~or~~ ~~(D)(1)~~ of section 3317.05 of the Revised Code that is allocated to any entity other than a city, exempted village, or local school district, the department, in addition to the amount specified in section 3317.052 of the Revised Code, shall pay a supplemental unit allowance of \$7,799.

(3) In the case of each unit described in division (C) ~~or~~ ~~(D)(2)~~ of section 3317.05 of the Revised Code and allocated to any entity other than a city, exempted village, or local school district, the department, in addition to the amounts specified in section 3317.052 of the Revised Code, shall pay a supplemental unit allowance of \$2,966.

(4) In the case of each unit described in division ~~(F)~~(E) of section 3317.05 of the Revised Code and allocated to an educational service center, the department, in addition to the amounts specified in division (P) of section 3317.024 of the

Revised Code, shall pay a supplemental unit allowance of \$5,251. 31624

Sec. 3317.06. Moneys paid to school districts under division 31625
(L) of section 3317.024 of the Revised Code shall be used for the 31626
following independent and fully severable purposes: 31627

(A) To purchase such secular textbooks or electronic 31628
textbooks as have been approved by the superintendent of public 31629
instruction for use in public schools in the state and to loan 31630
such textbooks or electronic textbooks to pupils attending 31631
nonpublic schools within the district or to their parents and to 31632
hire clerical personnel to administer such lending program. Such 31633
loans shall be based upon individual requests submitted by such 31634
nonpublic school pupils or parents. Such requests shall be 31635
submitted to the school district in which the nonpublic school is 31636
located. Such individual requests for the loan of textbooks or 31637
electronic textbooks shall, for administrative convenience, be 31638
submitted by the nonpublic school pupil or the pupil's parent to 31639
the nonpublic school, which shall prepare and submit collective 31640
summaries of the individual requests to the school district. As 31641
used in this section: 31642

(1) "Textbook" means any book or book substitute that a pupil 31643
uses as a consumable or nonconsumable text, text substitute, or 31644
text supplement in a particular class or program in the school the 31645
pupil regularly attends. 31646

(2) "Electronic textbook" means computer software, 31647
interactive videodisc, magnetic media, CD-ROM, computer 31648
courseware, local and remote computer assisted instruction, 31649
on-line service, electronic medium, or other means of conveying 31650
information to the student or otherwise contributing to the 31651
learning process through electronic means. 31652

(B) To provide speech and hearing diagnostic services to 31653
pupils attending nonpublic schools within the district. Such 31654

service shall be provided in the nonpublic school attended by the 31655
pupil receiving the service. 31656

(C) To provide physician, nursing, dental, and optometric 31657
services to pupils attending nonpublic schools within the 31658
district. Such services shall be provided in the school attended 31659
by the nonpublic school pupil receiving the service. 31660

(D) To provide diagnostic psychological services to pupils 31661
attending nonpublic schools within the district. Such services 31662
shall be provided in the school attended by the pupil receiving 31663
the service. 31664

(E) To provide therapeutic psychological and speech and 31665
hearing services to pupils attending nonpublic schools within the 31666
district. Such services shall be provided in the public school, in 31667
nonpublic schools, in public centers, or in mobile units located 31668
on or off of the nonpublic premises. If such services are provided 31669
in the public school or in public centers, transportation to and 31670
from such facilities shall be provided by the school district in 31671
which the nonpublic school is located. 31672

(F) To provide guidance and counseling services to pupils 31673
attending nonpublic schools within the district. Such services 31674
shall be provided in the public school, in nonpublic schools, in 31675
public centers, or in mobile units located on or off of the 31676
nonpublic premises. If such services are provided in the public 31677
school or in public centers, transportation to and from such 31678
facilities shall be provided by the school district in which the 31679
nonpublic school is located. 31680

(G) To provide remedial services to pupils attending 31681
nonpublic schools within the district. Such services shall be 31682
provided in the public school, in nonpublic schools, in public 31683
centers, or in mobile units located on or off of the nonpublic 31684
premises. If such services are provided in the public school or in 31685

public centers, transportation to and from such facilities shall 31686
be provided by the school district in which the nonpublic school 31687
is located. 31688

(H) To supply for use by pupils attending nonpublic schools 31689
within the district such standardized tests and scoring services 31690
as are in use in the public schools of the state; 31691

(I) To provide programs for children who attend nonpublic 31692
schools within the district and are handicapped children as 31693
defined in division (A) of section 3323.01 of the Revised Code or 31694
gifted children. Such programs shall be provided in the public 31695
school, in nonpublic schools, in public centers, or in mobile 31696
units located on or off of the nonpublic premises. If such 31697
programs are provided in the public school or in public centers, 31698
transportation to and from such facilities shall be provided by 31699
the school district in which the nonpublic school is located. 31700

(J) To hire clerical personnel to assist in the 31701
administration of programs pursuant to divisions (B), (C), (D), 31702
(E), (F), (G), and (I) of this section and to hire supervisory 31703
personnel to supervise the providing of services and textbooks 31704
pursuant to this section. 31705

(K) To purchase or lease any secular, neutral, and 31706
nonideological computer software (including site-licensing), 31707
prerecorded video laserdiscs, digital video on demand (DVD), 31708
compact discs, and video cassette cartridges, wide area 31709
connectivity and related technology as it relates to internet 31710
access, mathematics or science equipment and materials, 31711
instructional materials, and school library materials that are in 31712
general use in the public schools of the state and loan such items 31713
to pupils attending nonpublic schools within the district or to 31714
their parents, and to hire clerical personnel to administer the 31715
lending program. Only such items that are incapable of diversion 31716
to religious use and that are susceptible of loan to individual 31717

pupils and are furnished for the use of individual pupils shall be 31718
purchased and loaned under this division. As used in this section, 31719
"instructional materials" means prepared learning materials that 31720
are secular, neutral, and nonideological in character and are of 31721
benefit to the instruction of school children, and may include 31722
educational resources and services developed by the eTech Ohio 31723
~~schoolnet~~ commission. 31724

(L) To purchase or lease instructional equipment, including 31725
computer hardware and related equipment in general use in the 31726
public schools of the state, for use by pupils attending nonpublic 31727
schools within the district and to loan such items to pupils 31728
attending nonpublic schools within the district or to their 31729
parents, and to hire clerical personnel to administer the lending 31730
program. 31731

(M) To purchase mobile units to be used for the provision of 31732
services pursuant to divisions (E), (F), (G), and (I) of this 31733
section and to pay for necessary repairs and operating costs 31734
associated with these units. 31735

Clerical and supervisory personnel hired pursuant to division 31736
(J) of this section shall perform their services in the public 31737
schools, in nonpublic schools, public centers, or mobile units 31738
where the services are provided to the nonpublic school pupil, 31739
except that such personnel may accompany pupils to and from the 31740
service sites when necessary to ensure the safety of the children 31741
receiving the services. 31742

All services provided pursuant to this section may be 31743
provided under contract with educational service centers, the 31744
department of health, city or general health districts, or private 31745
agencies whose personnel are properly licensed by an appropriate 31746
state board or agency. 31747

Transportation of pupils provided pursuant to divisions (E), 31748

(F), (G), and (I) of this section shall be provided by the school 31749
district from its general funds and not from moneys paid to it 31750
under division (L) of section 3317.024 of the Revised Code unless 31751
a special transportation request is submitted by the parent of the 31752
child receiving service pursuant to such divisions. If such an 31753
application is presented to the school district, it may pay for 31754
the transportation from moneys paid to it under division (L) of 31755
section 3317.024 of the Revised Code. 31756

No school district shall provide health or remedial services 31757
to nonpublic school pupils as authorized by this section unless 31758
such services are available to pupils attending the public schools 31759
within the district. 31760

Materials, equipment, computer hardware or software, 31761
textbooks, electronic textbooks, and health and remedial services 31762
provided for the benefit of nonpublic school pupils pursuant to 31763
this section and the admission of pupils to such nonpublic schools 31764
shall be provided without distinction as to race, creed, color, or 31765
national origin of such pupils or of their teachers. 31766

No school district shall provide services, materials, or 31767
equipment that contain religious content for use in religious 31768
courses, devotional exercises, religious training, or any other 31769
religious activity. 31770

As used in this section, "parent" includes a person standing 31771
in loco parentis to a child. 31772

Notwithstanding section 3317.01 of the Revised Code, payments 31773
shall be made under this section to any city, local, or exempted 31774
village school district within which is located one or more 31775
nonpublic elementary or high schools and any payments made to 31776
school districts under division (L) of section 3317.024 of the 31777
Revised Code for purposes of this section may be disbursed without 31778
submission to and approval of the controlling board. 31779

The allocation of payments for materials, equipment, 31780
textbooks, electronic textbooks, health services, and remedial 31781
services to city, local, and exempted village school districts 31782
shall be on the basis of the state board of education's estimated 31783
annual average daily membership in nonpublic elementary and high 31784
schools located in the district. 31785

Payments made to city, local, and exempted village school 31786
districts under this section shall be equal to specific 31787
appropriations made for the purpose. All interest earned by a 31788
school district on such payments shall be used by the district for 31789
the same purposes and in the same manner as the payments may be 31790
used. 31791

The department of education shall adopt guidelines and 31792
procedures under which such programs and services shall be 31793
provided, under which districts shall be reimbursed for 31794
administrative costs incurred in providing such programs and 31795
services, and under which any unexpended balance of the amounts 31796
appropriated by the general assembly to implement this section may 31797
be transferred to the auxiliary services personnel unemployment 31798
compensation fund established pursuant to section 4141.47 of the 31799
Revised Code. The department shall also adopt guidelines and 31800
procedures limiting the purchase and loan of the items described 31801
in division (K) of this section to items that are in general use 31802
in the public schools of the state, that are incapable of 31803
diversion to religious use, and that are susceptible to individual 31804
use rather than classroom use. Within thirty days after the end of 31805
each biennium, each board of education shall remit to the 31806
department all moneys paid to it under division (L) of section 31807
3317.024 of the Revised Code and any interest earned on those 31808
moneys that are not required to pay expenses incurred under this 31809
section during the biennium for which the money was appropriated 31810
and during which the interest was earned. If a board of education 31811

subsequently determines that the remittal of moneys leaves the 31812
board with insufficient money to pay all valid expenses incurred 31813
under this section during the biennium for which the remitted 31814
money was appropriated, the board may apply to the department of 31815
education for a refund of money, not to exceed the amount of the 31816
insufficiency. If the department determines the expenses were 31817
lawfully incurred and would have been lawful expenditures of the 31818
refunded money, it shall certify its determination and the amount 31819
of the refund to be made to the director of job and family 31820
services who shall make a refund as provided in section 4141.47 of 31821
the Revised Code. 31822

Sec. 3317.063. The superintendent of public instruction, in 31823
accordance with rules adopted by the department of education, 31824
shall annually reimburse each chartered nonpublic school for the 31825
actual mandated service administrative and clerical costs incurred 31826
by such school during the preceding school year in preparing, 31827
maintaining, and filing reports, forms, and records, and in 31828
providing such other administrative and clerical services that are 31829
not an integral part of the teaching process as may be required by 31830
state law or rule or by requirements duly promulgated by city, 31831
exempted village, or local school districts. The mandated service 31832
costs reimbursed pursuant to this section shall include, but are 31833
not limited to, the preparation, filing and maintenance of forms, 31834
reports, or records and other clerical and administrative services 31835
relating to state chartering or approval of the nonpublic school, 31836
pupil attendance, pupil health and health testing, transportation 31837
of pupils, federally funded education programs, pupil appraisal, 31838
pupil progress, educator licensure, unemployment and workers' 31839
compensation, transfer of pupils, and such other education related 31840
data which are now or hereafter shall be required of such 31841
nonpublic school by state law or rule, or by requirements of the 31842
state department of education, other state agencies, or city, 31843

exempted village, or local school districts. 31844

The reimbursement required by this section shall be for 31845
school years beginning on or after July 1, 1981. 31846

Each nonpublic school which seeks reimbursement pursuant to 31847
this section shall submit to the superintendent of public 31848
instruction an application together with such additional reports 31849
and documents as the department of education may require. Such 31850
application, reports, and documents shall contain such information 31851
as the department of education may prescribe in order to carry out 31852
the purposes of this section. No payment shall be made until the 31853
superintendent of public instruction has approved such 31854
application. 31855

Each nonpublic school which applies for reimbursement 31856
pursuant to this section shall maintain a separate account or 31857
system of accounts for the expenses incurred in rendering the 31858
required services for which reimbursement is sought. Such accounts 31859
shall contain such information as is required by the department of 31860
education and shall be maintained in accordance with rules adopted 31861
by the department of education. 31862

Reimbursement payments to a nonpublic school pursuant to this 31863
section shall not exceed an amount for each school year equal to 31864
two hundred ~~fifty~~ seventy-five dollars per pupil enrolled in that 31865
nonpublic school. 31866

The superintendent of public instruction may, from time to 31867
time, examine any and all accounts and records of a nonpublic 31868
school which have been maintained pursuant to this section in 31869
support of an application for reimbursement, for the purpose of 31870
determining the costs to such school of rendering the services for 31871
which reimbursement is sought. If after such audit it is 31872
determined that any school has received funds in excess of the 31873
actual cost of providing such services, said school shall 31874

immediately reimburse the state in such excess amount. 31875

Any payments made to chartered nonpublic schools under this 31876
section may be disbursed without submission to and approval of the 31877
controlling board. 31878

Sec. 3317.07. The state board of education shall establish 31879
rules for the purpose of distributing subsidies for the purchase 31880
of school buses under division (E) of section 3317.024 of the 31881
Revised Code. 31882

No school bus subsidy payments shall be paid to any district 31883
unless such district can demonstrate that pupils residing more 31884
than one mile from the school could not be transported without 31885
such additional aid. 31886

The amount paid to a county MR/DD board for buses purchased 31887
for transportation of children in special education programs 31888
operated by the board shall be ~~one hundred per cent of the board's~~ 31889
net cost based on a per pupil allocation for eligible students. 31890

The amount paid to a school district for buses purchased for 31891
transportation of handicapped and nonpublic school pupils shall be 31892
~~one hundred per cent of the school district's net cost~~ determined 31893
by a per pupil allocation based on the number of special education 31894
and nonpublic school pupils for whom transportation is provided. 31895

The state board of education shall adopt a formula to 31896
determine the amount of payments that shall be distributed to 31897
school districts to purchase school buses for pupils other than 31898
handicapped or nonpublic school pupils. 31899

If any district or MR/DD board obtains bus services for pupil 31900
transportation pursuant to a contract, such district or board may 31901
use payments received under this section to defray the costs of 31902
contracting for bus services in lieu of for purchasing buses. 31903

If the department of education determines that a county MR/DD 31904

board no longer needs a school bus because the board no longer 31905
transports children to a special education program operated by the 31906
board, or if the department determines that a school district no 31907
longer needs a school bus to transport pupils to a nonpublic 31908
school or special education program, the department may reassign a 31909
bus that was funded with payments provided pursuant to this 31910
section for the purpose of transporting such pupils. The 31911
department may reassign a bus to a county MR/DD board or school 31912
district that transports children to a special education program 31913
designated in the children's individualized education plans, or to 31914
a school district that transports pupils to a nonpublic school, 31915
and needs an additional school bus. 31916

Sec. 3317.081. (A) Tuition shall be computed in accordance 31917
with this section if: 31918

(1) The tuition is required by division (C)(3)(b) of section 31919
3313.64 of the Revised Code; or 31920

(2) Neither the child nor the child's parent resides in this 31921
state and tuition is required by section 3327.06 of the Revised 31922
Code. 31923

(B) Tuition computed in accordance with this section shall 31924
equal the attendance district's tuition rate computed under 31925
section 3317.08 of the Revised Code plus the amount that district 31926
would have received for the child pursuant to sections 3317.022, 31927
3317.023, and 3317.025 to ~~3317.0213~~ 3317.0211 of the Revised Code 31928
during the school year had the attendance district been authorized 31929
to count the child in its formula ADM for that school year under 31930
section 3317.03 of the Revised Code. 31931

Sec. 3317.09. All moneys distributed to a school district, 31932
including any cooperative education or joint vocational school 31933
district and all moneys distributed to any educational service 31934

center, by the state whether from a state or federal source, shall 31935
be accounted for by the division of school finance of the 31936
department of education. All moneys distributed shall be coded as 31937
to county, school district or educational service center, source, 31938
and other pertinent information, and at the end of each month, a 31939
report of such distribution shall be made by such division of 31940
school finance ~~to the clerk of the senate and the chief~~ 31941
~~administrative officer of the house of representatives, to the~~ 31942
~~Ohio legislative service commission to be available for~~ 31943
~~examination by any member of either house,~~ to each school district 31944
and educational service center, ~~and to the governor.~~ 31945

~~On or before the first day of September in each year, a copy~~ 31946
~~of the annual statistical report required in section 3319.33 of~~ 31947
~~the Revised Code shall be filed by the state board of education~~ 31948
~~with the clerk of the senate and the chief administrative officer~~ 31949
~~of the house of representatives, the Ohio legislative service~~ 31950
~~commission, the governor, and the auditor of state. The report~~ 31951
~~shall contain an analysis for the prior fiscal year on an accrual~~ 31952
~~basis of revenue receipts from all sources and expenditures for~~ 31953
~~all purposes for each school district, including each joint~~ 31954
~~vocational and cooperative education school district, in the~~ 31955
state. If any board of education fails to make the report required 31956
in section 3319.33 of the Revised Code, the superintendent of 31957
public instruction shall be without authority to distribute funds 31958
to that school district or educational service center pursuant to 31959
sections 3317.022 to ~~3317.0212~~ 3317.0211, 3317.11, 3317.16, 31960
3317.17, or 3317.19 of the Revised Code until such time as the 31961
required reports are filed with all specified officers, boards, or 31962
agencies. 31963

Sec. 3317.10. (A) On or before the first day of March of each 31964
year, the department of job and family services shall certify to 31965
the state board of education the unduplicated number of children 31966

ages five through seventeen residing in each school district and 31967
living in a family that, during the preceding October, ~~had family~~ 31968
~~income not exceeding the federal poverty guidelines as defined in~~ 31969
~~section 5101.46 of the Revised Code and participated in one of the~~ 31970
following: 31971

~~(1) Ohio works first;~~ 31972

~~(2) The food stamp program;~~ 31973

~~(3) The medical assistance program, including the healthy~~ 31974
~~start program, established under Chapter 5111. of the Revised~~ 31975
~~Code;~~ 31976

~~(4) The children's health insurance program part I~~ 31977
~~established under section 5101.50 of the Revised Code;~~ 31978

~~(5) The disability financial assistance program established~~ 31979
~~under Chapter 5115. of the Revised Code;~~ 31980

~~(6) The disability medical assistance program established~~ 31981
~~under Chapter 5115. of the Revised Code.~~ 31982

The department of job and family services shall certify this 31983
information according to the school district of residence for each 31984
child. Except as provided under division (B) of this section, the 31985
number of children so certified in any year shall be used by the 31986
department of education in calculating the distribution of moneys 31987
for the ensuing fiscal year as provided in section 3317.029 of the 31988
Revised Code. 31989

(B) Upon the transfer of part of the territory of one school 31990
district to the territory of one or more other school districts, 31991
the department of education may adjust the number of children 31992
certified under division (A) of this section for any district 31993
gaining or losing territory in such a transfer in order to take 31994
into account the effect of the transfer on the number of such 31995
children who reside in the district. Within sixty days of receipt 31996

of a request for information from the department of education, the 31997
department of job and family services shall provide any 31998
information the department of education determines is necessary to 31999
make such adjustments. The department of education may use the 32000
adjusted number for any district for the applicable fiscal year, 32001
in lieu of the number certified for the district for that fiscal 32002
year under division (A) of this section, in the calculation of the 32003
distribution of moneys provided in section 3317.029 of the Revised 32004
Code. 32005

Sec. 3317.16. (A) As used in this section: 32006

(1) "State share percentage" means the percentage calculated 32007
for a joint vocational school district as follows: 32008

(a) Calculate the state base cost funding amount for the 32009
district under division (B) of this section. If the district would 32010
not receive any base cost funding for that year under that 32011
division, the district's state share percentage is zero. 32012

(b) If the district would receive base cost funding under 32013
that division, divide that base cost amount by an amount equal to 32014
the following: 32015

cost-of-doing-business factor X 32016

the formula amount X 32017

formula ADM 32018

The resultant number is the district's state share 32019
percentage. 32020

(2) The "total special education weight" for a joint 32021
vocational school district shall be calculated in the same manner 32022
as prescribed in division (B)(1) of section 3317.022 of the 32023
Revised Code. 32024

(3) The "total vocational education weight" for a joint 32025
vocational school district shall be calculated in the same manner 32026

as prescribed in division (B)(4) of section 3317.022 of the Revised Code. 32027
32028

(4) The "total recognized valuation" of a joint vocational school district shall be determined by adding the recognized valuations of all its constituent school districts for the applicable fiscal year. 32029
32030
32031
32032

(5) "Resident district" means the city, local, or exempted village school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. 32033
32034
32035

(6) "Community school" means a community school established under Chapter 3314. of the Revised Code. 32036
32037

(B) The department of education shall compute and distribute state base cost funding to each joint vocational school district for the fiscal year in accordance with division (B) of this section. 32038
32039
32040
32041

(1) Compute the following formula for each eligible district: 32042
(cost-of-doing-business factor X 32043
formula amount X 32044
formula ADM) - 32045
(.0005 X total recognized valuation) 32046

If the difference obtained under this division is a negative number, the district's computation shall be zero. 32047
32048

(2) Compute both of the following for each district: 32049

(a) The difference of (i) the district's fiscal year 2005 base cost payment under the version of division (B) of this section in effect in fiscal year 2005, minus (ii) the amount computed for the district for the current fiscal year under current division (B)(1) of this section; 32050
32051
32052
32053
32054

(b) The following amount: 32055

[(fiscal year 2005 base cost payment/fiscal year 2005 formula 32056

ADM) X current year formula ADM] minus the amount computed for 32057
the district under current division (B)(1) of this section 32058

If one of the amounts computed under division (B)(2)(a) or 32059
(b) of this section is a positive amount, the department shall pay 32060
the district that amount in addition to the amount calculated 32061
under division (B)(1) of this section. If both amounts are 32062
positive amounts, the department shall pay the district the lesser 32063
of the two amounts in addition to the amount calculated under 32064
division (B)(1) of this section. 32065

(C)(1) The department shall compute and distribute state 32066
vocational education additional weighted costs funds to each joint 32067
vocational school district in accordance with the following 32068
formula: 32069

state share percentage X formula amount X 32070
total vocational education weight 32071

In each fiscal year, a joint vocational school district 32072
receiving funds under division (C)(1) of this section shall spend 32073
those funds only for the purposes the department designates as 32074
approved for vocational education expenses. Vocational educational 32075
expenses approved by the department shall include only expenses 32076
connected to the delivery of career-technical programming to 32077
career-technical students. The department shall require the joint 32078
vocational school district to report data annually so that the 32079
department may monitor the district's compliance with the 32080
requirements regarding the manner in which funding received under 32081
division (C)(1) of this section may be spent. 32082

(2) The department shall compute for each joint vocational 32083
school district state funds for vocational education associated 32084
services costs in accordance with the following formula: 32085

state share percentage X .05 X 32086
the formula amount X the sum of 32087
categories one and two vocational 32088

education ADM 32089

In any fiscal year, a joint vocational school district 32090
receiving funds under division (C)(2) of this section, or through 32091
a transfer of funds pursuant to division (L) of section 3317.023 32092
of the Revised Code, shall spend those funds only for the purposes 32093
that the department designates as approved for vocational 32094
education associated services expenses, which may include such 32095
purposes as apprenticeship coordinators, coordinators for other 32096
vocational education services, vocational evaluation, and other 32097
purposes designated by the department. The department may deny 32098
payment under division (C)(2) of this section to any district that 32099
the department determines is not operating those services or is 32100
using funds paid under division (C)(2) of this section, or through 32101
a transfer of funds pursuant to division (L) of section 3317.023 32102
of the Revised Code, for other purposes. 32103

(D)(1) The department shall compute and distribute state 32104
special education and related services additional weighted costs 32105
funds to each joint vocational school district in accordance with 32106
the following formula: 32107

state share percentage X formula amount X 32108

total special education weight 32109

(2)(a) As used in this division, the "personnel allowance" 32110
means thirty thousand dollars in fiscal years 2002, 2003, 2004, 32111
~~and~~ 2005, 2006, and 2007. 32112

(b) For the provision of speech language pathology services 32113
to students, including students who do not have individualized 32114
education programs prepared for them under Chapter 3323. of the 32115
Revised Code, and for no other purpose, the department shall pay 32116
each joint vocational school district an amount calculated under 32117
the following formula: 32118

(formula ADM divided by 2000) X the personnel 32119

allowance X state share percentage 32120

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

(cost-of-doing-business factor X formula amount
X the sum of categories one through
six special education ADM) +
(total special education weight X
formula amount)

The purposes approved by the department for special education expenses shall include, but shall not be limited to, compliance with state rules governing the education of handicapped children, providing services identified in a student's individualized education program as defined in section 3323.01 of the Revised Code, provision of speech language pathology services, and the portion of the district's overall administrative and overhead costs that are attributable to the district's special education student population.

The department shall require joint vocational school districts to report data annually to allow for monitoring compliance with division (D)(3) of this section. The department shall annually report to the governor and the general assembly the amount of money spent by each joint vocational school district for special education and related services.

(4) In any fiscal year, a joint vocational school district shall spend for the provision of speech language pathology services not less than the sum of the amount calculated under division (D)(1) of this section for the students in the district's category one special education ADM and the amount calculated under division (D)(2) of this section.

(E)(1) If a joint vocational school district's costs for a fiscal year for a student in its categories two through six

special education ADM exceed the threshold catastrophic cost for 32153
serving the student, as specified in division (C)(3)(b) of section 32154
3317.022 of the Revised Code, the district may submit to the 32155
superintendent of public instruction documentation, as prescribed 32156
by the superintendent, of all of its costs for that student. Upon 32157
submission of documentation for a student of the type and in the 32158
manner prescribed, the department shall pay to the district an 32159
amount equal to the sum of the following: 32160

(a) One-half of the district's costs for the student in 32161
excess of the threshold catastrophic cost; 32162

(b) The product of one-half of the district's costs for the 32163
student in excess of the threshold catastrophic cost multiplied by 32164
the district's state share percentage. 32165

(2) The district shall only report under division (E)(1) of 32166
this section, and the department shall only pay for, the costs of 32167
educational expenses and the related services provided to the 32168
student in accordance with the student's individualized education 32169
program. Any legal fees, court costs, or other costs associated 32170
with any cause of action relating to the student may not be 32171
included in the amount. 32172

(F) Each fiscal year, the department shall pay each joint 32173
vocational school district an amount for adult technical and 32174
vocational education and specialized consultants. 32175

(G)(1) A joint vocational school district's local share of 32176
special education and related services additional weighted costs 32177
equals: 32178

(1 - state share percentage) X 32179
Total special education weight X 32180
the formula amount 32181

(2) For each handicapped student receiving special education 32182
and related services under an individualized education program, as 32183

defined in section 3323.01 of the Revised Code, at a joint 32184
vocational district, the resident district or, if the student is 32185
enrolled in a community school, the community school shall be 32186
responsible for the amount of any costs of providing those special 32187
education and related services to that student that exceed the sum 32188
of the amount calculated for those services attributable to that 32189
student under divisions (B), (D), (E), and (G)(1) of this section. 32190

Those excess costs shall be calculated by subtracting the sum 32191
of the following from the actual cost to provide special education 32192
and related services to the student: 32193

(a) The product of the formula amount times the 32194
cost-of-doing-business factor; 32195

(b) The product of the formula amount times the applicable 32196
multiple specified in section 3317.013 of the Revised Code; 32197

(c) Any funds paid under division (E) of this section for the 32198
student; 32199

(d) Any other funds received by the joint vocational school 32200
district under this chapter to provide special education and 32201
related services to the student, not including the amount 32202
calculated under division (G)(2) of this section. 32203

(3) The board of education of the joint vocational school 32204
district ~~shall~~ may report the excess costs calculated under 32205
division (G)(2) of this section to the department of education. 32206

(4) ~~The~~ If the board of education of the joint vocational 32207
school district reports excess costs under division (G)(3) of this 32208
section, the department shall pay the amount of excess cost 32209
calculated under division (G)(2) of this section to the joint 32210
vocational school district and shall deduct that amount as 32211
provided in division (G)(4)(a) or (b) of this section, as 32212
applicable: 32213

(a) If the student is not enrolled in a community school, the department shall deduct the amount from the account of the student's resident district pursuant to division (M) of section 3317.023 of the Revised Code.

(b) If the student is enrolled in a community school, the department shall deduct the amount from the account of the community school pursuant to section 3314.083 of the Revised Code.

~~(H) In any fiscal year, if the total of all payments made to a joint vocational school district under divisions (B) to (D) of this section and division (R) of section 3317.024 of the Revised Code is less than the amount that district received in fiscal year 1999 under the version of this section in effect that year, plus the amount that district received under the version of section 3317.162 of the Revised Code in effect that year and minus the amounts received that year for driver education and adult education, the department shall pay the district an additional amount equal to the difference between those two amounts.~~

Sec. 3317.20. This section does not apply to handicapped preschool children.

(A) As used in this section:

(1) "Applicable weight" means the multiple specified in section 3317.013 of the Revised Code for a handicap described in that section.

(2) "Child's school district" means the school district in which a child is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(3) "State share percentage" means the state share percentage of the child's school district as defined in section 3317.022 of the Revised Code.

(B) Except as provided in division (C) of this section, the

department shall annually pay each county MR/DD board ~~an amount~~ 32244
~~ealeculated under the following formula~~ for each handicapped child, 32245
other than a handicapped preschool child, for whom the county 32246
MR/DD board provides special education and related services the 32247
greater of the amount calculated under division (B)(1) or (2) of 32248
this section: 32249

~~(formula amount X the cost of doing business factor~~ 32250
~~for the child's school district) +~~ 32251
~~(state share percentage X formula amount X~~ 32252
~~the applicable weight)~~ 32253

(1) (The formula amount for fiscal year 2005 X the 32254
cost-of-doing-business factor for the child's school district for 32255
fiscal year 2005) + (state share percentage for fiscal year 2005 X 32256
formula amount for fiscal year 2005 X the applicable weight); 32257

(2) (The current formula amount times the current 32258
cost-of-doing-business factor for the child's school district) + 32259
(state share percentage X current formula amount X the applicable 32260
weight). 32261

(C) If any school district places with a county MR/DD board 32262
more handicapped children than it had placed with a county MR/DD 32263
board in fiscal year 1998, the department shall not make a payment 32264
under division (B) of this section for the number of children 32265
exceeding the number placed in fiscal year 1998. The department 32266
instead shall deduct from the district's payments under this 32267
chapter, and pay to the county MR/DD board, an amount calculated 32268
in accordance with the formula prescribed in division (B) of this 32269
section for each child over the number of children placed in 32270
fiscal year 1998. 32271

(D) The department shall calculate for each county MR/DD 32272
board receiving payments under divisions (B) and (C) of this 32273
section the following amounts: 32274

(1) The amount received by the county MR/DD board for approved special education and related services units, other than preschool handicapped units, in fiscal year 1998, divided by the total number of children served in the units that year;

(2) The product of the quotient calculated under division (D)(1) of this section times the number of children for whom payments are made under divisions (B) and (C) of this section.

If the amount calculated under division (D)(2) of this section is greater than the total amount calculated under divisions (B) and (C) of this section, the department shall pay the county MR/DD board one hundred per cent of the difference in addition to the payments under divisions (B) and (C) of this section.

Sec. 3317.201. This section does not apply to handicapped preschool children.

(A) As used in this section, the "total special education weight" for an institution means the sum of the following amounts:

(1) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (A) of section 3317.013 of the Revised Code multiplied by the multiple specified in that division;

(2) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (B) of section 3317.013 of the Revised Code multiplied by the multiple specified in that division;

(3) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (C) of

| | |
|---|-------|
| <u>section 3317.013 of the Revised Code multiplied by the multiple</u> | 32305 |
| <u>specified in that division;</u> | 32306 |
| <u>(4) The number of children reported by the institution under</u> | 32307 |
| <u>division (G)(1)(a)(i) of section 3317.03 of the Revised Code as</u> | 32308 |
| <u>receiving services for a handicap described in division (D) of</u> | 32309 |
| <u>section 3317.013 of the Revised Code multiplied by the multiple</u> | 32310 |
| <u>specified in that division;</u> | 32311 |
| <u>(5) The number of children reported by the institution under</u> | 32312 |
| <u>division (G)(1)(a)(i) of section 3317.03 of the Revised Code as</u> | 32313 |
| <u>receiving services for a handicap described in division (E) of</u> | 32314 |
| <u>section 3317.013 of the Revised Code multiplied by the multiple</u> | 32315 |
| <u>specified in that division;</u> | 32316 |
| <u>(6) The number of children reported by the institution under</u> | 32317 |
| <u>division (G)(1)(a)(i) of section 3317.03 of the Revised Code as</u> | 32318 |
| <u>receiving services for a handicap described in division (F) of</u> | 32319 |
| <u>section 3317.013 of the Revised Code multiplied by the multiple</u> | 32320 |
| <u>specified in that division.</u> | 32321 |
| <u>(B) The department of education annually shall pay each state</u> | 32322 |
| <u>institution required to provide special education services under</u> | 32323 |
| <u>division (A) of section 3323.091 of the Revised Code an amount</u> | 32324 |
| <u>equal to the greater of:</u> | 32325 |
| <u>(1) The formula amount times the institution's total special</u> | 32326 |
| <u>education weight;</u> | 32327 |
| <u>(2) The aggregate amount of special education and related</u> | 32328 |
| <u>services unit funding the institution received for all handicapped</u> | 32329 |
| <u>children other than handicapped preschool children in fiscal year</u> | 32330 |
| <u>2005 under sections 3317.052 and 3317.053 of the Revised Code, as</u> | 32331 |
| <u>those sections existed prior to the effective date of this</u> | 32332 |
| <u>section.</u> | 32333 |
| Sec. 3317.50. The <u>eTech</u> Ohio <u>schoolnet</u> telecommunity | 32334 |

education fund is hereby created in the state treasury. The fund 32335
shall consist of certain excess local exchange telephone company 32336
contributions transferred from the reserve fund of the Ohio 32337
telecommunications advisory board pursuant to an agreement between 32338
the public utilities commission of Ohio and the Ohio department of 32339
education. The fund shall be used to finance technology grants to 32340
state-chartered elementary and secondary schools. Investment 32341
earnings of the fund shall be credited to the fund. 32342

Sec. 3317.51. (A) The distance learning fund is hereby 32343
created in the state treasury. The fund shall consist of moneys 32344
paid to the eTech Ohio ~~SchoolNet~~ commission by any telephone 32345
company as a part of a settlement agreement between such company 32346
and the public utilities commission in fiscal year 1995 in part to 32347
establish distance learning throughout the state. The ~~authority~~ 32348
commission shall administer the fund and expend moneys from it to 32349
finance technology grants to eligible schools chartered by the 32350
state board of education to establish distance learning in those 32351
schools. Chartered schools are eligible for funds if they are 32352
within the service area of the telephone company. Investment 32353
earnings of the fund shall be credited to the fund. 32354

(B) For purposes of this section, "distance learning" means 32355
the creation of a learning environment involving a school setting 32356
and at least one other location outside of the school which allows 32357
for information available at one site to be accessed at the other 32358
through the use of such educational applications as one-way or 32359
two-way transmission of data, voice, and video, singularly or in 32360
appropriate combinations. 32361

Sec. 3318.091. (A) Promptly after the written agreement 32362
between the school district board and the Ohio school facilities 32363
commission has been entered into, the school district board shall 32364
proceed with the issuance of its bonds or notes in anticipation 32365

thereof pursuant to the provision of such agreement required by 32366
division (A) of section 3318.08 of the Revised Code and the 32367
deposit of the proceeds thereof in the school district's project 32368
construction fund pursuant to the provision of such agreement 32369
required by division (B) of section 3318.08 of the Revised Code, 32370
and the school district board, with the approval of the commission 32371
shall employ a qualified professional person or firm to prepare 32372
preliminary plans, working drawings, specifications, estimates of 32373
cost, and such data as the school district board and the 32374
commission consider necessary for the project. When the 32375
preliminary plans and preliminary estimates of cost have been 32376
prepared, and approved by the school district board, they shall be 32377
submitted to the commission for approval, modification, or 32378
rejection. The commission shall ensure that the plans and 32379
materials proposed for use in the project comply with 32380
specifications for plans and materials that shall be established 32381
by the commission. When such preliminary plans and preliminary 32382
estimates of cost and any modifications thereof have been approved 32383
by the commission and the school district board, the school 32384
district board shall cause such qualified professional person or 32385
firm to prepare the working drawings, specifications, and 32386
estimates of cost. 32387

(B) Whenever project plans submitted to the commission for 32388
approval under division (A) of this section propose to locate a 32389
facility on a state route or United States highway or within one 32390
mile of a state route or United States highway, the commission 32391
shall send a copy of the plans to the director of transportation. 32392
The director of transportation shall review the plans to determine 32393
the feasibility of the proposed ingress and egress to the 32394
facility, the traffic circulation pattern on roadways around the 32395
facility, and any improvements that would be necessary to conform 32396
the roadways to provisions of the manual adopted by the department 32397
of transportation pursuant to section 4511.09 of the Revised Code 32398

or state or federal law. The director of transportation shall 32399
provide a written summary of the director's findings to the 32400
commission in a timely manner. The commission shall consider the 32401
findings in deciding whether to approve the plans. 32402

Sec. 3318.18. (A) As used in this section: 32403

(1) "Valuation" of a school district means the sum of the 32404
amounts described in divisions (A)(1) and (2) of section 3317.021 32405
of the Revised Code as most recently certified for the district 32406
before the annual computation is made under division (B) of this 32407
section. 32408

(2) "Valuation per pupil" of a school district means the 32409
district's valuation divided by the district's formula ADM as most 32410
recently reported for October under section 3317.03 of the Revised 32411
Code before the annual computation is made under division (B) of 32412
this section. 32413

(3) "Statewide average valuation per pupil" means the total 32414
of the valuations of all school districts divided by the total of 32415
the formula ADMs of all school districts as most recently reported 32416
for October under section 3317.03 of the Revised Code before the 32417
annual computation is made under division (C) of this section. 32418

(4) "Maintenance levy requirement" means the tax required to 32419
be levied pursuant to division (C)(2)(a) of section 3318.08 and 32420
division (B) of section 3318.05 of the Revised Code or the 32421
application of proceeds of another levy to paying the costs of 32422
maintaining classroom facilities pursuant to division (A)(2) of 32423
section 3318.052, division (C)(1) or (C)(2)(b) of section 3318.08, 32424
or division (D)(2) of section 3318.36 of the Revised Code, or a 32425
combination thereof. 32426

(5) "Project agreement" means an agreement between a school 32427
district and the Ohio school facilities commission under section 32428

3318.08 or division (B)(1) of section 3318.36 of the Revised Code. 32429

(B) On or before July 1, 2006, the department of education 32430
shall compute the statewide average valuation per pupil and the 32431
valuation per pupil of each school district, and provide them to 32432
the Ohio school facilities commission. On or before the first day 32433
of July each year beginning in 2007, the department of education 32434
shall compute the statewide average valuation per pupil and the 32435
valuation per pupil of each school district that has not already 32436
entered into a project agreement, and provide the results of those 32437
computations to the commission. 32438

(C)(1) At the time the Ohio school facilities commission 32439
enters into a project agreement with a school district, the 32440
commission shall compute the difference between the district's 32441
valuation per pupil and the statewide average valuation per pupil 32442
as most recently provided to the commission under division (B) of 32443
this section. If the school district's valuation per pupil is less 32444
than the average statewide valuation per pupil, the commission 32445
shall multiply the difference between those amounts by one-half 32446
mill times the formula ADM of the district as most recently 32447
reported to the department of education for October under division 32448
(A) of section 3317.03 of the Revised Code. The commission shall 32449
certify the resulting product to the department of education, 32450
along with the date on which the maintenance levy requirement 32451
terminates as provided in the project agreement between the school 32452
district board and the commission. 32453

(2) In the case of a school district that entered into a 32454
project agreement after July 1, 1997, but before July 1, 2006, the 32455
commission shall make the computation described in division (C)(1) 32456
of this section on the basis of the district's valuation per pupil 32457
and the statewide average valuation per pupil computed as of 32458
September 1, 2006, and the district's formula ADM reported for 32459
October 2005. 32460

(3) The amount computed for a school district under division (C)(1) or (2) of this section shall not change for the period during which payments are made to the district under division (D) of this section. 32461
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(4) A computation need not be made under division (C)(1) or (2) of this section for a school district that certified a resolution to the commission under division (D)(3) of section 3318.36 of the Revised Code until the district becomes eligible for state assistance as provided in that division. 32465
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(D) In the fourth quarter of each fiscal year, for each school district for which a computation has been made under division (C) of this section, the department of education shall pay the amount computed to each such school district. Payments shall be made to a school district each year until and including the tax year in which the district's maintenance levy requirement terminates. Payments shall be paid from the half-mill equalization fund, subject to appropriation by the general assembly. 32470
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(E) Payments made to a school district under this section shall be credited to the district's classroom facilities maintenance fund and shall be used only for the purpose of maintaining facilities constructed or renovated under the project agreement. 32478
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(F) There is hereby created in the state treasury the half-mill equalization fund. The fund shall receive transfers pursuant to section 5727.85 of the Revised Code. The fund shall be used first to make annual payments under division (D) of this section. If a balance remains in the fund after such payments are made in full for a year, the Ohio school facilities commission may request the controlling board to transfer a reasonable amount from such remaining balance to the public school building fund created under section 3318.15 of the Revised Code for the purposes of this chapter. 32483
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All investment earnings arising from investment of money in 32493
the half-mill equalization fund shall be credited to the fund. 32494

Sec. 3318.33. (A) There is hereby created in the state 32495
treasury the Ohio school facilities commission fund, which shall 32496
consist of transfers of moneys authorized by the general assembly 32497
and revenues received by the Ohio school facilities commission 32498
under section 3318.31 of the Revised Code. Investment earnings on 32499
moneys in the fund shall be credited to the fund. Moneys in the 32500
fund may be used by the commission to pay personnel and other 32501
administrative expenses, to pay the cost of conducting evaluations 32502
of classroom facilities, to pay the cost of preparing building 32503
design specifications, to pay the cost of providing project 32504
management services, and for other purposes determined by the 32505
commission to be necessary to fulfill its duties under ~~Chapter~~ 32506
~~3318. of the Revised Code~~ this chapter. 32507

(B) The director of budget and management may transfer to the 32508
Ohio school facilities commission fund the investment earnings on 32509
the public school building fund⁷ created in section 3318.15 of the 32510
Revised Code, the investment earnings on the education facilities 32511
trust fund created in section 183.26 of the Revised Code, or both. 32512
The director of budget and management may transfer to the Ohio 32513
school facilities commission fund the investment earnings on the 32514
school building program assistance fund, created under section 32515
3318.25 of the Revised Code, in excess of the amounts needed to 32516
meet estimated federal arbitrage rebate requirements. 32517

Sec. ~~3317.21~~ 3318.47. There is hereby created in the state 32518
treasury the ~~vocational~~ career-technical school building 32519
assistance fund. Money in the fund shall be used solely to provide 32520
interest-free loans to school districts, including joint 32521
vocational school districts, under sections ~~3317.22~~ 3318.48 and 32522
~~3317.23~~ 3318.49 of the Revised Code to assist in financing the 32523

construction of new vocational classroom facilities, the 32524
renovation of existing vocational classroom facilities, or the 32525
purchase of vocational education equipment or facilities. Moneys 32526
in the fund shall consist of transfers made to the fund, any 32527
interest earned by the fund, and repayments of loans made under 32528
sections ~~3317.22~~ 3318.48 and ~~3317.23~~ 3318.49 of the Revised Code. 32529
Investment earnings of the fund shall be credited to the fund. 32530

Sec. ~~3317.22~~ 3318.48. The ~~state board of education~~ Ohio 32531
school facilities commission shall adopt rules in accordance with 32532
Chapter 119. of the Revised Code under which, in any fiscal year 32533
that funds are appropriated from the ~~vocational career-technical~~ 32534
school building assistance fund for such purpose, the ~~state board~~ 32535
commission may make interest-free loans to school districts. The 32536
rules shall include all of the following: 32537

(A) Application procedures, including the date by which 32538
applications shall be made; 32539

(B) Eligibility criteria, which shall include at least the 32540
following provisions: 32541

(1) A requirement that an applicant district demonstrate 32542
financial need for the loan. Indicators of need may include, but 32543
need not be limited to, levels of assessed valuation, enrollment 32544
levels and enrollment changes, ability of the district to maintain 32545
minimum educational standards, and demonstrated good faith efforts 32546
by the district to secure funds from sources other than the state. 32547

(2) A requirement that an applicant district demonstrate the 32548
ability to repay the loan within the maximum period permitted by 32549
division (D) of this section; 32550

(3) A requirement that an applicant district is not eligible 32551
for a loan, other than a loan for the purchase of any vocational 32552
education equipment that is not an approved project cost under 32553

this chapter, if the district, on the date of application for the 32554
loan, has at any time received any state assistance under sections 32555
3318.01 to 3318.20, section 3318.37 or 3318.38, or sections 32556
3318.40 to 3318.45 of the Revised Code or is reasonably expected 32557
to receive state assistance under any of those sections within 32558
three fiscal years; 32559

(4) A requirement that an applicant district agree to comply 32560
with all applicable design specifications and policies of the 32561
commission established pursuant to this chapter in the 32562
construction, renovation, or purchase of facilities or equipment 32563
paid for with the loan, unless such specifications or policies are 32564
waived by the commission. 32565

(C) Loan approval procedures and criteria, including criteria 32566
for prioritizing eligible applications. Criteria for such 32567
prioritization shall include: 32568

(1) Preference for applicant districts that demonstrate 32569
commitment and innovative approaches to the implementation of the 32570
department of education's vocational education modernization plan 32571
pursuant to section 3313.901 of the Revised Code; 32572

(2) Preference for applicant districts that have entered into 32573
or are in the process of entering into cooperative agreements with 32574
technical colleges or other institutions of higher education 32575
either to coordinate secondary vocational education and 32576
post-secondary technical education programs, or to share 32577
facilities and equipment. 32578

(D) Provisions governing the repayment of loans, including a 32579
provision that loans for construction, acquisition, or renovation 32580
of facilities shall be repaid within a maximum of fifteen years 32581
and loans for vocational education equipment shall be repaid 32582
within a maximum of five years; 32583

(E) A requirement that no loan shall be applied to the local 32584

resources a district expends as a condition of participation in a 32585
program established under section 3318.36 or 3318.46 of the 32586
Revised Code. 32587

Sec. ~~3317.23~~ 3318.49. The state board of education Ohio 32588
school facilities commission shall enter into a loan agreement 32589
with each school district it approves for a loan under section 32590
~~3317.22~~ 3318.48 of the Revised Code. The agreement shall specify 32591
the amount of the loan, the purposes for which it is to be used, 32592
the duration of the loan, and the repayment schedule. Every such 32593
agreement shall contain a provision ~~authorizing~~ directing the 32594
state board of education, upon the request of the executive 32595
director of the commission, to deduct from payments due to the 32596
district under Chapter 3317. of the Revised Code or from any other 32597
funds appropriated to the district by the general assembly, the 32598
amount of any scheduled loan payment due but not paid by the 32599
district and, within ten days, to transfer that amount to the 32600
commission. 32601

A copy of each loan agreement shall be furnished to the 32602
controlling board. No money shall be released from the ~~vocational~~ 32603
career-technical school building assistance fund without the 32604
approval of the controlling board. 32605

Sec. 3319.06. (A) The board of education of each city, 32606
exempted village, or local school district may create the position 32607
of internal auditor. Any person employed by the board as an 32608
internal auditor shall hold a valid permit issued under section 32609
4701.10 of the Revised Code to practice as a certified public 32610
accountant or a public accountant. 32611

(B) The board shall execute a written contract of employment 32612
with each internal auditor it employs. The contract shall specify 32613
the internal auditor's duties, the salary and other compensation 32614

to be paid for performance of those duties, the number of days to 32615
be worked, the number of days of vacation leave, if any, and any 32616
paid holidays in the contractual year. The salary and other 32617
compensation prescribed by the contract may be increased by the 32618
board during the term of the contract but shall not be reduced 32619
during that term unless such reduction is part of a uniform plan 32620
affecting employees of the entire district. The term of the 32621
initial contract shall not exceed three years. Any renewal of the 32622
contract shall be for a term of not less than two years and not 32623
more than five years. 32624

The internal auditor shall be directly responsible to the 32625
board for the performance of all duties outlined in the contract. 32626
If the board does not intend to renew the contract upon its 32627
expiration, the board shall provide written notice to the internal 32628
auditor of its intention not to renew the contract not later than 32629
the last day of March of the year in which the contract expires. 32630
If the board does not provide such notice by that date, the 32631
internal auditor shall be deemed reemployed for a term of one year 32632
at the same salary plus any increments that may be authorized by 32633
the board. Termination of an internal auditor's contract shall be 32634
pursuant to section 3319.16 of the Revised Code. 32635

(C) Each board that employs an internal auditor shall adopt 32636
procedures for the evaluation of the internal auditor and shall 32637
evaluate the internal auditor in accordance with those procedures. 32638
The evaluation based upon the procedures shall be considered by 32639
the board in deciding whether to renew the internal auditor's 32640
contract of employment. The establishment of an evaluation 32641
procedure shall not create an expectancy of continued employment. 32642
Nothing in this section shall prevent the board from making the 32643
final determination regarding the renewal or nonrenewal of the 32644
contract of an internal auditor. 32645

Sec. 3319.081. Except as otherwise provided in division (G) 32646
of this section, in all school districts wherein the provisions of 32647
Chapter 124. of the Revised Code do not apply, the following 32648
employment contract system shall control for employees whose 32649
contracts of employment are not otherwise provided by law: 32650

(A) Newly hired regular nonteaching school employees, 32651
including regular hourly rate and per diem employees, shall enter 32652
into written contracts for their employment which shall be for a 32653
period of not more than one year. If such employees are rehired, 32654
their subsequent contract shall be for a period of two years. 32655

(B) After the termination of the two-year contract provided 32656
in division (A) of this section, if the contract of a nonteaching 32657
employee is renewed, the employee shall be continued in 32658
employment, and the salary provided in the contract may be 32659
increased but not reduced unless such reduction is a part of a 32660
uniform plan affecting the nonteaching employees of the entire 32661
district. 32662

(C) The contracts as provided for in this section may be 32663
terminated by a majority vote of the board of education. ~~Such~~ 32664
Except as provided in sections 3319.0810 and 3319.172 of the 32665
Revised Code, the contracts may be terminated only for violation 32666
of written rules and regulations as set forth by the board of 32667
education or for incompetency, inefficiency, dishonesty, 32668
drunkenness, immoral conduct, insubordination, discourteous 32669
treatment of the public, neglect of duty, or any other acts of 32670
misfeasance, malfeasance, or nonfeasance. In addition to the right 32671
of the board of education to terminate the contract of an 32672
employee, the board may suspend an employee for a definite period 32673
of time or demote the employee for the reasons set forth in this 32674
division. The action of the board of education terminating the 32675
contract of an employee or suspending or demoting ~~him~~ the employee 32676

shall be served upon the employee by certified mail. Within ten 32677
days following the receipt of such notice by the employee, the 32678
employee may file an appeal, in writing, with the court of common 32679
pleas of the county in which such school board is situated. After 32680
hearing the appeal the common pleas court may affirm, disaffirm, 32681
or modify the action of the school board. 32682

A violation of division (A)(7) of section 2907.03 of the 32683
Revised Code is grounds for termination of employment of a 32684
nonteaching employee under this division. 32685

(D) All employees who have been employed by a school district 32686
where the provisions of Chapter 124. of the Revised Code do not 32687
apply, for a period of at least three years on November 24, 1967, 32688
shall hold continuing contracts of employment pursuant to this 32689
section. 32690

(E) Any nonteaching school employee may terminate ~~his~~ the 32691
nonteaching school employee's contract of employment thirty days 32692
subsequent to the filing of a written notice of such termination 32693
with the treasurer of the board. 32694

(F) A person hired exclusively for the purpose of replacing a 32695
nonteaching school employee while such employee is on leave of 32696
absence granted under section 3319.13 of the Revised Code is not a 32697
regular nonteaching school employee under this section. 32698

(G) All nonteaching employees employed pursuant to this 32699
section and Chapter 124. of the Revised Code shall be paid for all 32700
time lost when the schools in which they are employed are closed 32701
owing to an epidemic or other public calamity. Nothing in this 32702
division shall be construed as requiring payment in excess of an 32703
employee's regular wage rate or salary for any time worked while 32704
the school in which ~~he~~ the employee is employed is officially 32705
closed for the reasons set forth in this division. 32706

Sec. 3319.0810. (A) The board of education of any school 32707
district wherein the provisions of Chapter 124. of the Revised 32708
Code do not apply may terminate any of its transportation staff 32709
positions for reasons of economy and efficiency if the board 32710
instead of employing its own staff to transport some or all of the 32711
students enrolled in the district schools enters into a contract 32712
with an independent agent for the provision of transportation 32713
services for such students. Such a contract may be entered into 32714
only if all of the following conditions are satisfied: 32715

(1) Any collective bargaining agreement between the employee 32716
organization representing the employees whose positions are 32717
terminated under this section and the board has expired or will 32718
expire within sixty days and has not been renewed in conformance 32719
with provisions of that agreement and with Chapter 4117. of the 32720
Revised Code, or the agreement contains provisions permitting the 32721
termination of positions for reasons of economy and efficiency 32722
while the agreement is in force and the board is in conformance 32723
with those provisions. 32724

(2) The board permits any employee whose position is 32725
terminated under this section to fill any vacancy within the 32726
district's organization for which the employee is qualified. The 32727
board shall select from among similarly qualified employees to 32728
fill such vacancies pursuant to procedures established under any 32729
collective bargaining agreement between the employee organization 32730
representing the terminated employees and the board that is in 32731
force at the time of the termination, or in absence of such 32732
provisions on the basis of seniority of employment by the board 32733
with the employee with the greatest seniority having highest 32734
priority. 32735

(3) Unless a collective bargaining agreement between the 32736
employee organization representing the terminated employees and 32737

the board that is in force at the time of the termination provides 32738
otherwise, the board permits any employee whose position is 32739
terminated under this section to fill the employee's former 32740
position in the event that the board reinstates that position 32741
within one year after the date the position is terminated under 32742
this section. 32743

(4) The board permits any employee whose position is 32744
terminated under this section to appeal in accordance with section 32745
119.12 of the Revised Code the board's decision to terminate the 32746
employee's position, not to hire that employee for another 32747
position pursuant to division (A)(2) of this section, or not to 32748
rehire that employee for the position if it is reinstated within 32749
one year after the position is terminated pursuant to division 32750
(A)(3) of this section. 32751

(5) The contract entered into by the board and an independent 32752
agent for the provision of transportation services contains a 32753
stipulation requiring the agent to consider hiring any employees 32754
of the school district whose positions are terminated under this 32755
section for similar positions within the agent's organization. 32756

(6) The contract entered into by the board and an independent 32757
agent for the provision of transportation services contains a 32758
stipulation requiring the agent to recognize for purposes of 32759
employee representation in collective bargaining any employee 32760
organization that represented the employees whose positions are 32761
terminated under this section in collective bargaining with the 32762
board at the time of the termination provided: 32763

(a) A majority of all employees in the bargaining unit agree 32764
to such representation; 32765

(b) Such representation is not prohibited by federal law, 32766
including any ruling of the national labor relations board; 32767

(c) The employee organization is not prohibited from 32768

representing nonpublic employees by other provisions of law or its 32769
own governing instruments. 32770

However, any employee whose position is terminated under this 32771
section shall not be compelled to be included in such bargaining 32772
unit if there is another bargaining unit within the agent's 32773
organization that is applicable to the employee. 32774

(B) If after terminating any positions of employment under 32775
this section the board fails to comply with any condition 32776
prescribed in division (A) of this section or fails to enforce on 32777
the agent its contractual obligations prescribed in divisions 32778
(A)(5) and (6) of this section, the terminations shall be void and 32779
the board shall reinstate the positions and fill them with the 32780
employees who filled those positions just prior to the 32781
terminations. Such employees shall be compensated at a rate equal 32782
to their rate of compensation in those positions just prior to the 32783
terminations plus any increases paid since the terminations to 32784
other nonteaching employees. The employees shall also be entitled 32785
to back pay at such rate for the period from the date of the 32786
terminations to the date of the reinstatements minus any pay 32787
received by the employees during any time the board was in 32788
compliance with such conditions or during any time the board 32789
enforced those obligations. 32790

Any employee aggrieved by the failure of the board to comply 32791
with any condition prescribed in division (A) of this section or 32792
to enforce on the agent its contractual obligations prescribed in 32793
divisions (A)(5) and (6) of this section shall have the right to 32794
sue the board for reinstatement of the employee's former position 32795
as provided for in this division in the court of common pleas for 32796
the county in which the school district is located or, if the 32797
school district is located in more than one county, in the court 32798
of common pleas for the county in which the majority of the 32799
territory of the school district is located. 32800

Sec. 3319.17. (A) As used in this section, "interdistrict 32801
contract" means any contract or agreement entered into by an 32802
educational service center governing board and another board or 32803
other public entity pursuant to section 3313.17, 3313.841, 32804
3313.842, 3313.843, 3313.91, or 3323.08 of the Revised Code, 32805
including any such contract or agreement for the provision of 32806
services funded under division (L) of section 3317.024 of the 32807
Revised Code or provided in any unit approved under section 32808
3317.05 of the Revised Code. 32809

(B) When, for any of the following reasons that apply to any 32810
city, exempted village, local, or joint vocational school district 32811
or any educational service center, the board decides that it will 32812
be necessary to reduce the number of teachers it employs, it may 32813
make a reasonable reduction: 32814

(1) In the case of any district or service center, return to 32815
duty of regular teachers after leaves of absence including leaves 32816
provided pursuant to division (B) of section 3314.10 of the 32817
Revised Code, suspension of schools, ~~or~~ territorial changes 32818
affecting the district or center, or financial reasons; 32819

(2) In the case of any city, exempted village, local, or 32820
joint vocational school district, decreased enrollment of pupils 32821
in the district; 32822

(3) In the case of any governing board of a service center 32823
providing any particular service directly to pupils pursuant to 32824
one or more interdistrict contracts requiring such service, 32825
reduction in the total number of pupils the governing board is 32826
required to provide with the service under all interdistrict 32827
contracts as a result of the termination or nonrenewal of one or 32828
more of these interdistrict contracts; 32829

(4) In the case of any governing board providing any 32830
particular service that it does not provide directly to pupils 32831

pursuant to one or more interdistrict contracts requiring such 32832
service, reduction in the total level of the service the governing 32833
board is required to provide under all interdistrict contracts as 32834
a result of the termination or nonrenewal of one or more of these 32835
interdistrict contracts. 32836

(C) In making any such reduction, any city, exempted village, 32837
local, or joint vocational school board shall proceed to suspend 32838
contracts in accordance with the recommendation of the 32839
superintendent of schools who shall, within each teaching field 32840
affected, give preference first to teachers on continuing 32841
contracts and then to teachers who have greater seniority. In 32842
making any such reduction, any governing board of a service center 32843
shall proceed to suspend contracts in accordance with the 32844
recommendation of the superintendent who shall, within each 32845
teaching field or service area affected, give preference first to 32846
teachers on continuing contracts and then to teachers who have 32847
greater seniority. 32848

On a case-by-case basis, in lieu of suspending a contract in 32849
whole, a board may suspend a contract in part, so that an 32850
individual is required to work a percentage of the time the 32851
employee otherwise is required to work under the contract and 32852
receives a commensurate percentage of the full compensation the 32853
employee otherwise would receive under the contract. 32854

The teachers whose continuing contracts are suspended by any 32855
board pursuant to this section shall have the right of restoration 32856
to continuing service status by that board in the order of 32857
seniority of service in the district or service center if and when 32858
teaching positions become vacant or are created for which any of 32859
such teachers are or become qualified. No teacher whose continuing 32860
contract has been suspended pursuant to this section shall lose 32861
that right of restoration to continuing service status by reason 32862
of having declined recall to a position that is less than 32863

full-time or, if the teacher was not employed full-time just prior 32864
to suspension of the teacher's continuing contract, to a position 32865
requiring a lesser percentage of full-time employment than the 32866
position the teacher last held while employed in the district or 32867
service center. 32868

(D) Notwithstanding any provision to the contrary in Chapter 32869
4117. of the Revised Code, the requirements of this section 32870
prevail over any conflicting provisions of agreements between 32871
employee organizations and public employers entered into after the 32872
effective date of this amendment. 32873

Sec. 3319.172. The board of education of each school district 32874
wherein the provisions of Chapter 124. of the Revised Code do not 32875
apply and the governing board of each educational service center 32876
may adopt a resolution ordering reasonable reductions in the 32877
number of nonteaching employees for any of the reasons for which 32878
the board of education or governing board may make reductions in 32879
teaching employees, as set forth in division (B) of section 32880
3319.17 of the Revised Code. 32881

In making any reduction under this section, the board of 32882
education or governing board shall proceed to suspend contracts in 32883
accordance with the recommendation of the superintendent of the 32884
district or service center who shall, within each pay 32885
classification affected, give preference first to employees under 32886
continuing contracts and then to employees on the basis of 32887
seniority. On a case-by-case basis, in lieu of suspending a 32888
contract in whole, a board may suspend a contract in part, so that 32889
an individual is required to work a percentage of the time the 32890
employee otherwise is required to work under the contract and 32891
receives a commensurate percentage of the full compensation the 32892
employee otherwise would receive under the contract. 32893

Any nonteaching employee whose continuing contract is 32894

suspended under this section shall have the right of restoration 32895
to continuing service status by the board of education or 32896
governing board that suspended that contract in order of seniority 32897
of service in the district or service center, if and when a 32898
nonteaching position for which the employee is qualified becomes 32899
vacant or is created. No nonteaching employee whose continuing 32900
contract has been suspended under this section shall lose that 32901
right of restoration to continuing service status by reason of 32902
having declined recall to a position requiring fewer regularly 32903
scheduled hours of work than required by the position the employee 32904
last held while employed in the district or service center. 32905

Notwithstanding any provision to the contrary in Chapter 32906
4117. of the Revised Code, the requirements of this section 32907
prevail over any conflicting provisions of agreements between 32908
employee organizations and public employers entered into after the 32909
effective date of this section. 32910

Sec. 3319.22. (A)(1) The state board of education shall adopt 32911
rules establishing the standards and requirements for obtaining 32912
temporary, associate, provisional, and professional educator 32913
licenses of any categories, types, and levels the board elects to 32914
provide. However, no educator license shall be required for 32915
teaching children two years old or younger. 32916

(2) If the state board requires any examinations for educator 32917
licensure, the department of education shall provide the results 32918
of such examinations received by the department to the Ohio board 32919
of regents, in the manner and to the extent permitted by state and 32920
federal law. 32921

(B) Any rules the state board of education adopts, amends, or 32922
rescinds for educator licenses under this section, division (D) of 32923
section 3301.07 of the Revised Code, or any other law shall be 32924
adopted, amended, or rescinded under Chapter 119. of the Revised 32925

Code except as follows: 32926

(1) Notwithstanding division (D) of section 119.03 and 32927
division (A)(1) of section 119.04 of the Revised Code, in the case 32928
of the adoption of any rule or the amendment or rescission of any 32929
rule that necessitates institutions' offering teacher preparation 32930
programs that are approved by the state board of education under 32931
section 3319.23 of the Revised Code to revise the curriculum of 32932
those programs, the effective date shall not be as prescribed in 32933
division (D) of section 119.03 and division (A)(1) of section 32934
119.04 of the Revised Code. Instead, the effective date of such 32935
rules, or the amendment or rescission of such rules, shall be the 32936
date prescribed by section 3319.23 of the Revised Code. 32937

(2) Notwithstanding the authority to adopt, amend, or rescind 32938
emergency rules in division (F) of section 119.03 of the Revised 32939
Code, this authority shall not apply to the state board of 32940
education with regard to rules for educator licenses. 32941

(C)(1) The rules adopted under this section establishing 32942
standards requiring additional coursework for the renewal of any 32943
educator license shall require a school district and a chartered 32944
nonpublic school to establish local professional development 32945
committees. In a nonpublic school, the chief administrative 32946
officer shall establish the committees in any manner acceptable to 32947
such officer. The committees established under this division shall 32948
determine whether coursework that a district or chartered 32949
nonpublic school teacher proposes to complete meets the 32950
requirement of the rules. The department of education shall 32951
provide technical assistance and support to committees as the 32952
committees incorporate the professional development standards 32953
adopted by the state board of education pursuant to section 32954
3319.61 of the Revised Code into their review of coursework that 32955
is appropriate for license renewal. The rules shall establish a 32956
procedure by which a teacher may appeal the decision of a local 32957

professional development committee. 32958

(2) In any school district in which there is no exclusive 32959
representative established under Chapter 4117. of the Revised 32960
Code, the professional development committees shall be established 32961
as described in division (C)(2) of this section. 32962

Not later than the effective date of the rules adopted under 32963
this section, the board of education of each school district shall 32964
establish the structure for one or more local professional 32965
development committees to be operated by such school district. The 32966
committee structure so established by a district board shall 32967
remain in effect unless within thirty days prior to an anniversary 32968
of the date upon which the current committee structure was 32969
established, the board provides notice to all affected district 32970
employees that the committee structure is to be modified. 32971
Professional development committees may have a district-level or 32972
building-level scope of operations, and may be established with 32973
regard to particular grade or age levels for which an educator 32974
license is designated. 32975

Each professional development committee shall consist of at 32976
least three classroom teachers employed by the district, one 32977
principal employed by the district, and one other employee of the 32978
district appointed by the district superintendent. For committees 32979
with a building-level scope, the teacher and principal members 32980
shall be assigned to that building, and the teacher members shall 32981
be elected by majority vote of the classroom teachers assigned to 32982
that building. For committees with a district-level scope, the 32983
teacher members shall be elected by majority vote of the classroom 32984
teachers of the district, and the principal member shall be 32985
elected by a majority vote of the principals of the district, 32986
unless there are two or fewer principals employed by the district, 32987
in which case the one or two principals employed shall serve on 32988
the committee. If a committee has a particular grade or age level 32989

scope, the teacher members shall be licensed to teach such grade 32990
or age levels, and shall be elected by majority vote of the 32991
classroom teachers holding such a license and the principal shall 32992
be elected by all principals serving in buildings where any such 32993
teachers serve. The district superintendent shall appoint a 32994
replacement to fill any vacancy that occurs on a professional 32995
development committee, except in the case of vacancies among the 32996
elected classroom teacher members, which shall be filled by vote 32997
of the remaining members of the committee so selected. 32998

Terms of office on professional development committees shall 32999
be prescribed by the district board establishing the committees. 33000
The conduct of elections for members of professional development 33001
committees shall be prescribed by the district board establishing 33002
the committees. A professional development committee may include 33003
additional members, except that the majority of members on each 33004
such committee shall be classroom teachers employed by the 33005
district. Any member appointed to fill a vacancy occurring prior 33006
to the expiration date of the term for which a predecessor was 33007
appointed shall hold office as a member for the remainder of that 33008
term. 33009

The initial meeting of any professional development 33010
committee, upon election and appointment of all committee members, 33011
shall be called by a member designated by the district 33012
superintendent. At this initial meeting, the committee shall 33013
select a chairperson and such other officers the committee deems 33014
necessary, and shall adopt rules for the conduct of its meetings. 33015
Thereafter, the committee shall meet at the call of the 33016
chairperson or upon the filing of a petition with the district 33017
superintendent signed by a majority of the committee members 33018
calling for the committee to meet. 33019

(3) In the case of a school district in which an exclusive 33020
representative has been established pursuant to Chapter 4117. of 33021

the Revised Code, professional development committees shall be 33022
established in accordance with any collective bargaining agreement 33023
in effect in the district that includes provisions for such 33024
committees. 33025

If the collective bargaining agreement does not specify a 33026
different method for the selection of teacher members of the 33027
committees, the exclusive representative of the district's 33028
teachers shall select the teacher members. 33029

If the collective bargaining agreement does not specify a 33030
different structure for the committees, the board of education of 33031
the school district shall establish the structure, including the 33032
number of committees and the number of teacher and administrative 33033
members on each committee; the specific administrative members to 33034
be part of each committee; whether the scope of the committees 33035
will be district levels, building levels, or by type of grade or 33036
age levels for which educator licenses are designated; the lengths 33037
of terms for members; the manner of filling vacancies on the 33038
committees; and the frequency and time and place of meetings. 33039
However, in all cases, except as provided in division (C)(4) of 33040
this section, there shall be a majority of teacher members of any 33041
professional development committee, there shall be at least five 33042
total members of any professional development committee, and the 33043
exclusive representative shall designate replacement members in 33044
the case of vacancies among teacher members, unless the collective 33045
bargaining agreement specifies a different method of selecting 33046
such replacements. 33047

(4) Whenever an administrator's coursework plan is being 33048
discussed or voted upon, the local professional development 33049
committee shall, at the request of one of its administrative 33050
members, cause a majority of the committee to consist of 33051
administrative members by reducing the number of teacher members 33052
voting on the plan. 33053

(D)(1) The department of education, educational service 33054
centers, county boards of mental retardation and developmental 33055
disabilities, regional professional development centers, special 33056
education regional resource centers, college and university 33057
departments of education, head start programs, the eTech Ohio 33058
~~SchoolNet~~ commission, and the Ohio education computer network may 33059
establish local professional development committees to determine 33060
whether the coursework proposed by their employees who are 33061
licensed or certificated under this section or section 3319.222 of 33062
the Revised Code meet the requirements of the rules adopted under 33063
this section. They may establish local professional development 33064
committees on their own or in collaboration with a school district 33065
or other agency having authority to establish them. 33066

Local professional development committees established by 33067
county boards of mental retardation and developmental disabilities 33068
shall be structured in a manner comparable to the structures 33069
prescribed for school districts in divisions (C)(2) and (3) of 33070
this section, as shall the committees established by any other 33071
entity specified in division (D)(1) of this section that provides 33072
educational services by employing or contracting for services of 33073
classroom teachers licensed or certificated under this section or 33074
section 3319.222 of the Revised Code. All other entities specified 33075
in division (D)(1) of this section shall structure their 33076
committees in accordance with guidelines which shall be issued by 33077
the state board. 33078

(2) Any public agency that is not specified in division 33079
(D)(1) of this section but provides educational services and 33080
employs or contracts for services of classroom teachers licensed 33081
or certificated under this section or section 3319.222 of the 33082
Revised Code may establish a local professional development 33083
committee, subject to the approval of the department of education. 33084
The committee shall be structured in accordance with guidelines 33085

issued by the state board. 33086

Sec. 3319.235. (A) The standards for the preparation of 33087
teachers adopted under section 3319.23 of the Revised Code shall 33088
require any institution that provides a course of study for the 33089
training of teachers to ensure that graduates of such course of 33090
study are skilled at integrating educational technology in the 33091
instruction of children, as evidenced by the graduate having 33092
either demonstrated proficiency in such skills in a manner 33093
prescribed by the department of education or completed a course 33094
that includes training in such skills. 33095

(B) The eTech Ohio ~~SchoolNet~~ commission, ~~established pursuant~~ 33096
~~to section 3301.80 of the Revised Code,~~ shall establish model 33097
professional development programs to assist teachers who completed 33098
their teacher preparation prior to the effective date of division 33099
(A) of this section to become skilled at integrating educational 33100
technology in the instruction of children. The commission shall 33101
provide technical assistance to school districts wishing to 33102
establish such programs. 33103

Sec. 3319.55. (A) A grant program is hereby established to 33104
recognize and reward teachers in public and chartered nonpublic 33105
schools who hold valid teaching certificates or licenses issued by 33106
the national board for professional teaching standards. The 33107
superintendent of public instruction shall administer this program 33108
in accordance with this section and rules which the state board of 33109
education shall adopt in accordance with Chapter 119. of the 33110
Revised Code. 33111

In each fiscal year that the general assembly appropriates 33112
funds for purposes of this section, the superintendent of public 33113
instruction shall award a grant to each person who, by the first 33114
day of April of that year and in accordance with the rules adopted 33115

under this section, submits to the superintendent evidence 33116
indicating all of the following: 33117

(1) The person holds a valid certificate or license issued by 33118
the national board for professional teaching standards; 33119

(2) The person has been employed full-time as a teacher by 33120
the board of education of a school district or by a chartered 33121
nonpublic school in this state during the current school year; 33122

(3) The date the person was accepted into the national board 33123
certification or licensure program. 33124

An individual may receive a grant under this section in each 33125
fiscal year the person is eligible for a grant and submits 33126
evidence of that eligibility in accordance with this section. No 33127
person may receive a grant after the expiration of the person's 33128
initial certification or license issued by the national board. 33129

(B) The amount of the grant awarded to each eligible person 33130
under division (A) of this section in any fiscal year shall equal 33131
the following: 33132

(1) Two thousand five hundred dollars for any teacher 33133
accepted as a candidate for certification or licensure by the 33134
national board on or before May 31, 2003, and issued a certificate 33135
or license by the national board on or before December 31, 2004; 33136

(2) One thousand dollars for any other teacher issued a 33137
certificate or license by the national board. 33138

However, if the funds appropriated for purposes of this 33139
section in any fiscal year are not sufficient to award the full 33140
grant amount to each person who is eligible in that fiscal year, 33141
the superintendent shall prorate the amount of the grant awarded 33142
in that fiscal year to each eligible person. 33143

Sec. 3323.021. As used in this section, "participating county 33144
MR/DD board" means a county board of mental retardation and 33145

developmental disabilities electing to participate in the 33146
provision of or contracting for educational services for children 33147
under division (D) of section 5126.05 of the Revised Code. 33148

(A) When a school district, educational service center, or 33149
participating county MR/DD board enters into an agreement or 33150
contract with another school district, educational service center, 33151
or participating county MR/DD board to provide educational 33152
services to a disabled child during a school year, both of the 33153
following shall apply: 33154

(1) Beginning with fiscal year 1999, if the provider of the 33155
services intends to increase the amount it charges for some or all 33156
of those services during the next school year or if the provider 33157
intends to cease offering all or part of those services during the 33158
next school year, the provider shall notify the entity for which 33159
the services are provided of these intended changes no later than 33160
the first day of March of the current fiscal year. 33161

(2) Beginning with fiscal year 1999, if the entity for which 33162
services are provided intends to cease obtaining those services 33163
from the provider for the next school year or intends to change 33164
the type or amount of services it obtains from the provider for 33165
the next school year, the entity shall notify the service provider 33166
of these intended changes no later than the first day of March of 33167
the current fiscal year. 33168

(B) School districts, educational service centers, 33169
participating county MR/DD boards, and other applicable 33170
governmental entities shall collaborate where possible to maximize 33171
federal sources of revenue, ~~including the community alternative~~ 33172
~~funding system of the medical assistance program established under~~ 33173
~~Chapter 5111. of the Revised Code,~~ to provide additional funds for 33174
special education related services for disabled children. 33175
Annually, each school district shall report to the department of 33176
education any amounts of money the district received through such 33177

medical assistance program. 33178

(C) The state board of education, the department of mental 33179
retardation and developmental disabilities, and the department of 33180
job and family services shall develop working agreements for 33181
pursuing additional funds for services for disabled children. 33182

Sec. 3323.091. (A) The department of mental health, the 33183
department of mental retardation and developmental disabilities, 33184
the department of youth services, and the department of 33185
rehabilitation and correction shall establish and maintain special 33186
education programs for handicapped children in institutions under 33187
their jurisdiction according to standards adopted by the state 33188
board of education. ~~The~~ 33189

(B) The superintendent of each state institution required to 33190
provide services under division (A) of this section, and each 33191
county MR/DD board, providing special education for handicapped 33192
preschool children under this chapter may apply to the state 33193
department of education for unit funding, which shall be paid in 33194
accordance with sections 3317.052 and 3317.053 of the Revised 33195
Code. 33196

~~(B) On~~ The superintendent of each state institution required 33197
to provide services under division (A) of this section may apply 33198
to the department of education for special education and related 33199
services weighted funding for handicapped children other than 33200
handicapped preschool children, calculated in accordance with 33201
section 3317.201 of the Revised Code. 33202

Each county MR/DD board providing special education for 33203
handicapped children other than handicapped preschool children may 33204
apply to the department of education for base cost and special 33205
education and related services weighted funding calculated in 33206
accordance with section 3317.20 of the Revised Code. 33207

(C) In addition to the authorization to apply for state funding described in division (B) of this section, each state institution required to provide services under division (A) of this section is entitled to tuition payments calculated in the manner described in division (C) of this section.

On or before the thirtieth day of June of each year, the superintendent of each institution that during the school year provided special education pursuant to this section shall prepare a statement for each handicapped child under twenty-two years of age who has received special education. The statement shall contain the child's name and the name of the child's school district of residence. Within sixty days after receipt of such statement, the department of education shall perform one of the following:

(1) For any child except a handicapped preschool child described in division ~~(B)~~(C)(2) of this section, pay to the institution submitting the statement an amount equal to the tuition calculated under division (A) of section 3317.08 of the Revised Code for the period covered by the statement, and deduct the same from the amount of state funds, if any, payable under sections 3317.022 and 3317.023 of the Revised Code, to the child's school district of residence or, if the amount of such state funds is insufficient, require the child's school district of residence to pay the institution submitting the statement an amount equal to the amount determined under this division.

(2) For any handicapped preschool child not included in a unit approved under division (B) of section 3317.05 of the Revised Code, perform the following:

(a) Pay to the institution submitting the statement an amount equal to the tuition calculated under division (B) of section 3317.08 of the Revised Code for the period covered by the statement, except that in calculating the tuition under that

section the operating expenses of the institution submitting the 33240
statement under this section shall be used instead of the 33241
operating expenses of the school district of residence; 33242

(b) Deduct from the amount of state funds, if any, payable 33243
under sections 3317.022 and 3317.023 of the Revised Code to the 33244
child's school district of residence an amount equal to the amount 33245
paid under division ~~(B)~~(C)(2)(a) of this section. 33246

Sec. 3323.14. This section does not apply to any handicapped 33247
preschool child except if included in a unit approved under 33248
division (B) of section 3317.05 of the Revised Code. 33249

(A) Where a child who is a school resident of one school 33250
district receives special education from another district and the 33251
per capita cost to the educating district for that child exceeds 33252
the sum of the amount received by the educating district for that 33253
child under division (A) of section 3317.08 of the Revised Code 33254
and the amount received by the district from the state board of 33255
education for that child, then the board of education of the 33256
district of residence shall pay ~~directly~~ to the board of the 33257
school district that is providing the special education such 33258
excess cost as is determined by using a formula approved by the 33259
department of education and agreed upon in contracts entered into 33260
by the boards of the district concerned at the time the district 33261
providing such special education accepts the child for enrollment. 33262
The department of education shall certify the amount of the 33263
payments under Chapter 3317. of the Revised Code for such 33264
handicapped pupils for each school year ending on the thirtieth 33265
day of July. 33266

(B) In the case of a child described in division (A) of this 33267
section who has been placed in a home, as defined in section 33268
3313.64 of the Revised Code, pursuant to the order of a court and 33269
who is not subject to section 3323.141 of the Revised Code, the 33270

district providing the child with special education and related 33271
services may charge to the child's district of residence the 33272
excess cost determined by formula approved by the department, 33273
regardless of whether the district of residence has entered into a 33274
contract with the district providing the services. If the district 33275
providing the services chooses to charge excess costs, the 33276
district may report the amount calculated under this division to 33277
the department. 33278

(C) If a district providing special education for a child 33279
reports an amount for the excess cost of those services, as 33280
authorized and calculated under division (A) or (B) of this 33281
section, the department shall pay that amount of excess cost to 33282
the district providing the services and shall deduct that amount 33283
from the child's district of residence in accordance with division 33284
(N) of section 3317.023 of the Revised Code. 33285

Sec. 3323.16. No unit for deaf children shall be disapproved 33286
for funding under division (B) ~~or (D)(1)~~ of section 3317.05 of the 33287
Revised Code on the basis of the methods of instruction used in 33288
educational programs in the school district or institution to 33289
teach deaf children to communicate, and no preference in approving 33290
units for funding shall be given for teaching deaf children by the 33291
oral, manual, total communication, or other method of instruction. 33292

Sec. ~~41.36~~ 3323.19. (A) ~~In the 2004-2005 and 2005-2006 school~~ 33293
~~years, within~~ Within three months after a student identified with 33294
disabilities begins receiving services for the first time under an 33295
individualized education program, ~~as defined in section 3323.01 of~~ 33296
~~the Revised Code,~~ the school district in which that student is 33297
enrolled shall require the student to undergo a comprehensive eye 33298
examination performed either by an optometrist licensed under 33299
Chapter 4725. of the Revised Code or by a physician authorized 33300
under Chapter 4731. of the Revised Code to practice medicine and 33301

surgery or osteopathic medicine and surgery who is comprehensively 33302
trained and educated in the treatment of the human eye, eye 33303
disease, or comprehensive vision services, unless the student 33304
underwent such an examination within the nine-month period 33305
immediately prior to being identified with disabilities. 33306

However, no student who has not undergone the eye examination 33307
required under this section shall be prohibited from initiating, 33308
receiving, or continuing to receive services prescribed in the 33309
student's individualized education program. 33310

(B) The superintendent of each school district or the 33311
superintendent's designee may determine fulfillment of the 33312
requirement prescribed in division (A) of this section based on 33313
any special circumstances of the student, the student's parent, 33314
guardian, or family that may prevent the student from undergoing 33315
the eye examination prior to beginning special education services. 33316

(C) Except for a student who may be entitled to a 33317
comprehensive eye examination in the identification of the 33318
student's disabilities, in the development of the student's 33319
individualized education program, or as a related service under 33320
the student's individualized education program, neither the state 33321
nor any school district shall be responsible for paying for the 33322
eye examination required by this section. 33323

Sec. 3323.20. On July 1, 2006, and on each first day of July 33324
thereafter, the department of education shall electronically 33325
report to the general assembly the number of handicapped preschool 33326
children who received services for which the department made a 33327
payment to any provider during the previous fiscal year, 33328
disaggregated according to each category of handicap described in 33329
divisions (A) to (F) of section 3317.013 of the Revised Code, 33330
regardless of whether payment for services was based on the 33331

multiples prescribed in those divisions. 33332

Sec. 3323.30. The Ohio center for autism and low incidence is 33333
hereby established within the department of education's office for 33334
exceptional children, or any successor of that office. The center 33335
shall administer programs and coordinate services for infants, 33336
preschool and school-age children, and adults with autism and low 33337
incidence disabilities. The center's principal focus shall be 33338
programs and services for persons with autism. The center shall be 33339
under the direction of an executive director, appointed by the 33340
superintendent of public instruction in consultation with the 33341
advisory board established under section 3323.31 of the Revised 33342
Code. The department shall use state and federal funds 33343
appropriated to the department for operation of the center. 33344

As used in this section and in sections 3323.31 to 3323.33 of 33345
the Revised Code, "autism and low incidence disabilities" includes 33346
any of the following: 33347

- (A) Autism; 33348
- (B) Deafness or hearing handicap; 33349
- (C) Multihandicap; 33350
- (D) Orthopedic handicap; 33351
- (E) Other health handicap; 33352
- (F) Traumatic brain injury; 33353
- (G) Visual disability. 33354

Sec. 3323.31. The superintendent of public instruction shall 33355
establish an advisory board to assist and advise the department of 33356
education in the operation of the Ohio center for autism and low 33357
incidence. As determined by the superintendent, the advisory board 33358
shall consist of individuals who are stakeholders in the service 33359
to persons with autism and low incidence disabilities, including, 33360

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|---|---|
| <u>but not limited to, the following:</u> | 33361 |
| <u>(A) Persons with autism and low incidence disabilities;</u> | 33362 |
| <u>(B) Parents and family members;</u> | 33363 |
| <u>(C) Educators and other professionals;</u> | 33364 |
| <u>(D) Higher education instructors;</u> | 33365 |
| <u>(E) Representatives of state agencies.</u> | 33366 |
| <u>The advisory board shall be organized as determined by the</u> <u>superintendent.</u> | 33367 33368 |
| <u>Members of the advisory board shall receive no compensation</u> <u>for their services.</u> | 33369 33370 |
| <u>Sec. 3323.32. The Ohio center for autism and low incidence</u> <u>shall do all of the following:</u> | 33371 33372 |
| <u>(A) Collaborate and consult with state agencies that serve</u> <u>persons with autism and low incidence disabilities;</u> | 33373 33374 |
| <u>(B) Collaborate and consult with institutions of higher</u> <u>education in development and implementation of courses for</u> <u>educators and other professionals serving persons with autism and</u> <u>low incidence disabilities;</u> | 33375 33376 33377 33378 |
| <u>(C) Collaborate with parent and professional organizations;</u> | 33379 |
| <u>(D) Create and implement programs for professional</u> <u>development, technical assistance, intervention services, and</u> <u>research in the treatment of persons with autism and low incidence</u> <u>disabilities;</u> | 33380 33381 33382 33383 |
| <u>(E) Create a regional network for communication and</u> <u>dissemination of information among educators and professionals</u> <u>serving persons with autism and low incidence disabilities. The</u> <u>regional network shall address educational services, evaluation,</u> <u>diagnosis, assistive technology, family support, leisure and</u> | 33384 33385 33386 33387 33388 |

recreational activities, transition, employment and adult 33389
services, and medical care for persons with autism and low 33390
incidence disabilities. 33391

(F) Develop a statewide clearinghouse for information about 33392
autism spectrum disorders and low incidence disabilities, as 33393
described in section 3323.33 of the Revised Code. 33394

Sec. 3323.33. In developing a clearinghouse for information 33395
about autism spectrum disorders and low incidence disabilities, as 33396
required under section 3323.32 of the Revised Code, the Ohio 33397
center for autism and low incidence shall do all of the following: 33398

(A) Maintain a collection of resources for public 33399
distribution; 33400

(B) Monitor information on resources, trends, policies, 33401
services, and current educational interventions; 33402

(C) Respond to requests for information from parents and 33403
educators of children with autism and low incidence disabilities. 33404

Sec. 3324.10. (A) Prior to June 30, 2006, the state board of 33405
education shall adopt a model student acceleration policy 33406
addressing recommendations in the department of education's 2005 33407
study conducted under the gifted research and demonstration grant 33408
program. The policy shall address, but not be limited to, whole 33409
grade acceleration, subject area acceleration, and early high 33410
school graduation. 33411

(B) The board of education of each city, local, and exempted 33412
village school district shall implement a student acceleration 33413
policy to take effect beginning in the 2006-2007 school year. The 33414
policy shall either be the model adopted by the state board under 33415
division (A) of this section or a policy covering similar issues 33416
that is adopted by the district board. 33417

Sec. 3325.10. The state school for the blind may receive and administer any federal funds relating to the education of blind or visually impaired students. The school for the blind also may accept and administer any gifts, donations, or bequests made to it for programs or services relating to the education of blind or visually impaired students. 33418
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Sec. 3325.11. There is hereby created in the state treasury the state school for the blind student activity and work-study fund. Moneys received from donations, bequests, the school vocational program, and any other moneys designated for deposit in the fund by the superintendent of the state school for the blind shall be credited to the fund. Notwithstanding section 3325.01 of the Revised Code, the approval of the state board of education is not required to designate money for deposit into the fund. The school for the blind shall use money in the fund for school operating expenses, including, but not limited to, personal services, maintenance, and equipment related to student support, activities, and vocational programs, and for providing scholarships to students for further training upon graduation. 33424
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Sec. 3325.12. There is hereby created the state school for the blind student account fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. The fund shall consist of all moneys received from the parents or guardians of students attending the state school for the blind that are designated for use by the respective students in activities of their choice. The treasurer of state may invest any portion of the fund not needed for immediate use in the same manner as, and subject to laws regarding the investment of, state funds. The treasurer of state shall disburse money from the fund on order of the superintendent of the state school for the blind 33437
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or the superintendent's designee. All investment earnings of the 33448
fund shall be credited to the fund and allocated among the student 33449
accounts in proportion to the amount invested from each student's 33450
account. 33451

Sec. 3325.15. The state school for the deaf may receive and 33452
administer any federal funds relating to the education of deaf or 33453
hearing-impaired students. The school for the deaf also may accept 33454
and administer any gifts, donations, or bequests given to it for 33455
programs or services relating to the education of deaf or 33456
hearing-impaired students. 33457

Sec. 3325.16. There is hereby created in the state treasury 33458
the state school for the deaf educational program expenses fund. 33459
Moneys received by the school from donations, bequests, student 33460
fundraising activities, fees charged for camps and workshops, gate 33461
receipts from athletic contests, and the student work experience 33462
program operated by the school, and any other moneys designated 33463
for deposit in the fund by the superintendent of the school, shall 33464
be credited to the fund. Notwithstanding section 3325.01 of the 33465
Revised Code, the approval of the state board of education is not 33466
required to designate money for deposit into the fund. The state 33467
school for the deaf shall use moneys in the fund for educational 33468
programs, after-school activities, and expenses associated with 33469
student activities and clubs. 33470

Sec. 3325.17. There is hereby created the state school for 33471
the deaf student account fund, which shall be in the custody of 33472
the treasurer of state but shall not be part of the state 33473
treasury. The fund shall consist of all moneys received from the 33474
parents or guardians of students attending the state school for 33475
the deaf that are designated for use by the respective students in 33476
activities of their choice. The treasurer of state may invest any 33477

portion of the fund not needed for immediate use in the same 33478
manner as, and subject to laws regarding the investment of, state 33479
funds. The treasurer of state shall disburse money from the fund 33480
on order of the superintendent of the state school for the deaf or 33481
the superintendent's designee. All investment earnings of the fund 33482
shall be credited to the fund and allocated among the student 33483
accounts in proportion to the amount invested from each student's 33484
account. 33485

Sec. 3327.01. Notwithstanding division (D) of section 3311.19 33486
and division (D) of section 3311.52 of the Revised Code, this 33487
section and sections 3327.011, 3327.012, and 3327.02 of the 33488
Revised Code do not apply to any joint vocational or cooperative 33489
education school district. 33490

In all city, local, and exempted village school districts 33491
where resident school pupils in grades kindergarten through eight 33492
live more than two miles from the school for which the state board 33493
of education prescribes minimum standards pursuant to division (D) 33494
of section 3301.07 of the Revised Code and to which they are 33495
assigned by the board of education of the district of residence or 33496
to and from the nonpublic or community school which they attend 33497
the board of education shall provide transportation for such 33498
pupils to and from such school except as provided in section 33499
3327.02 of the Revised Code. 33500

In all city, local, and exempted village school districts 33501
where pupil transportation is required under a career-technical 33502
plan approved by the state board of education under section 33503
3313.90 of the Revised Code, for any student attending a 33504
career-technical program operated by another school district, 33505
including a joint vocational school district, as prescribed under 33506
that section, the board of education of the student's district of 33507
residence shall provide transportation from the public high school 33508

operated by that district to which the student is assigned to the 33509
career-technical program. 33510

In all city, local, and exempted village school districts the 33511
board may provide transportation for resident school pupils in 33512
grades nine through twelve to and from the high school to which 33513
they are assigned by the board of education of the district of 33514
residence or to and from the nonpublic or community high school 33515
which they attend for which the state board of education 33516
prescribes minimum standards pursuant to division (D) of section 33517
3301.07 of the Revised Code. 33518

A board of education shall not be required to transport 33519
elementary or high school pupils to and from a nonpublic or 33520
community school where such transportation would require more than 33521
thirty minutes of direct travel time as measured by school bus 33522
from the public school building to which the pupils would be 33523
assigned if attending the public school designated by the district 33524
of residence. 33525

Where it is impractical to transport a pupil by school 33526
conveyance, a board of education may offer payment, in lieu of 33527
providing such transportation in accordance with section 3327.02 33528
of the Revised Code. 33529

In all city, local, and exempted village school districts the 33530
board shall provide transportation for all children who are so 33531
crippled that they are unable to walk to and from the school for 33532
which the state board of education prescribes minimum standards 33533
pursuant to division (D) of section 3301.07 of the Revised Code 33534
and which they attend. In case of dispute whether the child is 33535
able to walk to and from the school, the health commissioner shall 33536
be the judge of such ability. In all city, exempted village, and 33537
local school districts the board shall provide transportation to 33538
and from school or special education classes for educable mentally 33539
retarded children in accordance with standards adopted by the 33540

state board of education. 33541

When transportation of pupils is provided the conveyance 33542
shall be run on a time schedule that shall be adopted and put in 33543
force by the board not later than ten days after the beginning of 33544
the school term. 33545

The cost of any transportation service authorized by this 33546
section shall be paid first out of federal funds, if any, 33547
available for the purpose of pupil transportation, and secondly 33548
out of state appropriations, in accordance with regulations 33549
adopted by the state board of education. 33550

No transportation of any pupils shall be provided by any 33551
board of education to or from any school which in the selection of 33552
pupils, faculty members, or employees, practices discrimination 33553
against any person on the grounds of race, color, religion, or 33554
national origin. 33555

Sec. 3332.092. Any school subject to this chapter receiving 33556
money under section 3333.12 or 3333.122 of the Revised Code on 33557
behalf of a student who is determined by the state board of career 33558
colleges and schools to be ineligible under such section because 33559
the program in which the student is enrolled does not lead to an 33560
associate or baccalaureate degree, shall be liable to the state 33561
for the amount specified in section 3333.12 or 3333.122 of the 33562
Revised Code. The state board of career colleges and schools shall 33563
suspend the certificate of registration of a school receiving 33564
money under section 3333.12 or 3333.122 of the Revised Code for 33565
such ineligible student until such time as the money is repaid to 33566
the Ohio board of regents. 33567

Sec. 3333.04. The Ohio board of regents shall: 33568

(A) Make studies of state policy in the field of higher 33569
education and formulate a master plan for higher education for the 33570

state, considering the needs of the people, the needs of the state, and the role of individual public and private institutions within the state in fulfilling these needs; 33571
33572
33573

(B)(1) Report annually to the governor and the general assembly on the findings from its studies and the master plan for higher education for the state; 33574
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33576

(2) Report at least semiannually to the general assembly and the governor the enrollment numbers at each state-assisted institution of higher education. 33577
33578
33579

(C) Approve or disapprove the establishment of new branches or academic centers of state colleges and universities; 33580
33581

(D) Approve or disapprove the establishment of state technical colleges or any other state institution of higher education; 33582
33583
33584

(E) Recommend the nature of the programs, undergraduate, graduate, professional, state-financed research, and public services which should be offered by the state colleges, universities, and other state-assisted institutions of higher education in order to utilize to the best advantage their facilities and personnel; 33585
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(F) Recommend to the state colleges, universities, and other state-assisted institutions of higher education graduate or professional programs, including, but not limited to, doctor of philosophy, doctor of education, and juris doctor programs, that could be eliminated because they constitute unnecessary duplication, as shall be determined using the process developed pursuant to this section, or for other good and sufficient cause. For purposes of determining the amounts of any state instructional subsidies paid to these colleges, universities, and institutions, the board may exclude students enrolled in any program that the board has recommended for elimination pursuant to this division 33591
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except that the board shall not exclude any such student who 33602
enrolled in the program prior to the date on which the board 33603
initially commences to exclude students under this division. The 33604
board of regents and these colleges, universities, and 33605
institutions shall jointly develop a process for determining which 33606
existing graduate or professional programs constitute unnecessary 33607
duplication. 33608

(G) Recommend to the state colleges, universities, and other 33609
state-assisted institutions of higher education programs which 33610
should be added to their present programs; 33611

(H) Conduct studies for the state colleges, universities, and 33612
other state-assisted institutions of higher education to assist 33613
them in making the best and most efficient use of their existing 33614
facilities and personnel; 33615

(I) Make recommendations to the governor and general assembly 33616
concerning the development of state-financed capital plans for 33617
higher education; the establishment of new state colleges, 33618
universities, and other state-assisted institutions of higher 33619
education; and the establishment of new programs at the existing 33620
state colleges, universities, and other institutions of higher 33621
education; 33622

(J) Review the appropriation requests of the public community 33623
colleges and the state colleges and universities and submit to the 33624
office of budget and management and to the chairpersons of the 33625
finance committees of the house of representatives and of the 33626
senate its recommendations in regard to the biennial higher 33627
education appropriation for the state, including appropriations 33628
for the individual state colleges and universities and public 33629
community colleges. For the purpose of determining the amounts of 33630
instructional subsidies to be paid to state-assisted colleges and 33631
universities, the board shall define "full-time equivalent 33632
student" by program per academic year. The definition may take 33633

into account the establishment of minimum enrollment levels in 33634
technical education programs below which support allowances will 33635
not be paid. Except as otherwise provided in this section, the 33636
board shall make no change in the definition of "full-time 33637
equivalent student" in effect on November 15, 1981, which would 33638
increase or decrease the number of subsidy-eligible full-time 33639
equivalent students, without first submitting a fiscal impact 33640
statement to the president of the senate, the speaker of the house 33641
of representatives, ~~the legislative budget office of the~~ 33642
legislative service commission, and the director of budget and 33643
management. The board shall work in close cooperation with the 33644
director of budget and management in this respect and in all other 33645
matters concerning the expenditures of appropriated funds by state 33646
colleges, universities, and other institutions of higher 33647
education. 33648

(K) Seek the cooperation and advice of the officers and 33649
trustees of both public and private colleges, universities, and 33650
other institutions of higher education in the state in performing 33651
its duties and making its plans, studies, and recommendations; 33652

(L) Appoint advisory committees consisting of persons 33653
associated with public or private secondary schools, members of 33654
the state board of education, or personnel of the state department 33655
of education; 33656

(M) Appoint advisory committees consisting of college and 33657
university personnel, or other persons knowledgeable in the field 33658
of higher education, or both, in order to obtain their advice and 33659
assistance in defining and suggesting solutions for the problems 33660
and needs of higher education in this state; 33661

(N) Approve or disapprove all new degrees and new degree 33662
programs at all state colleges, universities, and other 33663
state-assisted institutions of higher education; 33664

| | |
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| (O) Adopt such rules as are necessary to carry out its duties | 33665 |
| and responsibilities; | 33666 |
| (P) Establish and submit to the governor and the general | 33667 |
| assembly a clear and measurable set of goals and timetables for | 33668 |
| their achievement for each program under the supervision of the | 33669 |
| board that is designed to accomplish any of the following: | 33670 |
| (1) Increased access to higher education; | 33671 |
| (2) Job training; | 33672 |
| (3) Adult literacy; | 33673 |
| (4) Research; | 33674 |
| (5) Excellence in higher education; | 33675 |
| (6) Reduction in the number of graduate programs within the | 33676 |
| same subject area. | 33677 |
| In July of each odd-numbered year, the board of regents shall | 33678 |
| submit to the governor and the general assembly a report on | 33679 |
| progress made toward these goals. | 33680 |
| (Q) Make recommendations to the governor and the general | 33681 |
| assembly regarding the design and funding of the student financial | 33682 |
| aid programs specified in sections 3333.12, <u>3333.122</u> , 3333.21 to | 33683 |
| 3333.27, and 5910.02 of the Revised Code; | 33684 |
| (R) Participate in education-related state or federal | 33685 |
| programs on behalf of the state and assume responsibility for the | 33686 |
| administration of such programs in accordance with applicable | 33687 |
| state or federal law; | 33688 |
| (S) Adopt rules for student financial aid programs as | 33689 |
| required by sections 3333.12, <u>3333.122</u> , 3333.21 to 3333.27, | 33690 |
| 3333.28, 3333.29, and 5910.02 of the Revised Code, and perform any | 33691 |
| other administrative functions assigned to the board by those | 33692 |
| sections; | 33693 |

(T) Administer contracts under sections 3702.74 and 3702.75 33694
of the Revised Code in accordance with rules adopted by the 33695
director of health under section 3702.79 of the Revised Code; 33696

(U) Conduct enrollment audits of state-supported institutions 33697
of higher education; 33698

(V) Appoint consortiums of college and university personnel 33699
to participate in the development and operation of statewide 33700
collaborative efforts, including the Ohio supercomputer center, 33701
the Ohio academic resources network, OhioLink, and the Ohio 33702
learning network. For each consortium, the board shall designate a 33703
college or university to serve as that consortium's fiscal agent, 33704
financial officer, and employer. Any funds appropriated to the 33705
board for consortiums shall be distributed to the fiscal agents 33706
for the operation of the consortiums. A consortium shall follow 33707
the rules of the college or university that serves as its fiscal 33708
agent. 33709

Sec. 3333.044. (A) The Ohio board of regents may contract 33710
with any consultants that are necessary for the discharge of the 33711
board's duties under this chapter. 33712

(B) The Ohio board of regents may purchase, upon the terms 33713
that the board determines to be advisable, one or more policies of 33714
insurance from insurers authorized to do business in this state 33715
that insure consultants who have contracted with the board under 33716
division (A) of this section or members of an advisory committee 33717
appointed under section 3333.04 of the Revised Code, with respect 33718
to the activities of the consultants or advisory committee members 33719
in the course of the performance of their responsibilities as 33720
consultants or advisory committee members. 33721

(C) Subject to the approval of the controlling board, the 33722
Ohio board of regents may contract with any entities for the 33723
discharge of the board's duties and responsibilities under any of 33724

the programs established pursuant to sections 3333.12, 3333.122, 33725
3333.21 to 3333.28, 3702.71 to 3702.81, and 5120.55, and Chapter 33726
5910. of the Revised Code. The board shall not enter into a 33727
contract under this division unless the proposed contractor 33728
demonstrates that its primary purpose is to promote access to 33729
higher education by providing student financial assistance through 33730
loans, grants, or scholarships, and by providing high quality 33731
support services and information to students and their families 33732
with regard to such financial assistance. 33733

Chapter 125. of the Revised Code does not apply to contracts 33734
entered into pursuant to this section. In awarding contracts under 33735
this division, the board shall consider factors such as the cost 33736
of the administration of the contract, the experience of the 33737
contractor, and the contractor's ability to properly execute the 33738
contract. 33739

Sec. 3333.047. With regard to any state student financial aid 33740
program established in this chapter, Chapter 5910., or section 33741
5919.34 of the Revised Code, the Ohio board of regents shall 33742
conduct audits to: 33743

(A) Determine the validity of information provided by 33744
students and parents regarding eligibility for state student 33745
financial aid. If the board determines that eligibility data has 33746
been reported incorrectly or inaccurately, and where the board 33747
determines an adjustment to be appropriate, the institution of 33748
higher education shall adjust the financial aid awarded to the 33749
student. 33750

(B) Ensure that institutions of higher education are in 33751
compliance with the board's rules governing state student 33752
financial aid programs. An institution that fails to comply with 33753
the board's rules in the administration of any state student 33754
financial aid program shall be fully liable to reimburse the board 33755

| | |
|--|-------|
| <u>for the unauthorized use of student financial aid funds.</u> | 33756 |
| Sec. 3333.12. (A) As used in this section: | 33757 |
| (1) "Eligible student" means an undergraduate student who is: | 33758 |
| (a) An Ohio resident <u>enrolled in an undergraduate program</u> | 33759 |
| <u>before the 2006-2007 academic year;</u> | 33760 |
| (b) Enrolled in either of the following: | 33761 |
| (i) An accredited institution of higher education in this | 33762 |
| state that meets the requirements of Title VI of the Civil Rights | 33763 |
| Act of 1964 and is state-assisted, is nonprofit and has a | 33764 |
| certificate of authorization from the Ohio board of regents | 33765 |
| pursuant to Chapter 1713. of the Revised Code, has a certificate | 33766 |
| of registration from the state board of career colleges and | 33767 |
| schools and program authorization to award an associate or | 33768 |
| bachelor's degree, or is a private institution exempt from | 33769 |
| regulation under Chapter 3332. of the Revised Code as prescribed | 33770 |
| in section 3333.046 of the Revised Code. Students who attend an | 33771 |
| institution that holds a certificate of registration shall be | 33772 |
| enrolled in a program leading to an associate or bachelor's degree | 33773 |
| for which associate or bachelor's degree program the institution | 33774 |
| has program authorization issued under section 3332.05 of the | 33775 |
| Revised Code. | 33776 |
| (ii) A technical education program of at least two years | 33777 |
| duration sponsored by a private institution of higher education in | 33778 |
| this state that meets the requirements of Title VI of the Civil | 33779 |
| Rights Act of 1964. | 33780 |
| (c) Enrolled as a full-time student or enrolled as a less | 33781 |
| than full-time student for the term expected to be the student's | 33782 |
| final term of enrollment and is enrolled for the number of credit | 33783 |
| hours necessary to complete the requirements of the program in | 33784 |
| which the student is enrolled. | 33785 |

(2) "Gross income" includes all taxable and nontaxable income 33786
of the parents, the student, and the student's spouse, except 33787
income derived from an Ohio academic scholarship, income earned by 33788
the student between the last day of the spring term and the first 33789
day of the fall term, and other income exclusions designated by 33790
the board. Gross income may be verified to the board by the 33791
institution in which the student is enrolled using the federal 33792
financial aid eligibility verification process or by other means 33793
satisfactory to the board. 33794

(3) "Resident," "full-time student," "dependent," 33795
"financially independent," and "accredited" shall be defined by 33796
rules adopted by the board. 33797

(B) The Ohio board of regents shall establish and administer 33798
an instructional grant program and may adopt rules to carry out 33799
this section. The general assembly shall support the instructional 33800
grant program by such sums and in such manner as it may provide, 33801
but the board may also receive funds from other sources to support 33802
the program. If the amounts available for support of the program 33803
are inadequate to provide grants to all eligible students, 33804
preference in the payment of grants shall be given in terms of 33805
income, beginning with the lowest income category of gross income 33806
and proceeding upward by category to the highest gross income 33807
category. 33808

An instructional grant shall be paid to an eligible student 33809
through the institution in which the student is enrolled, except 33810
that no instructional grant shall be paid to any person serving a 33811
term of imprisonment. Applications for such grants shall be made 33812
as prescribed by the board, and such applications may be made in 33813
conjunction with and upon the basis of information provided in 33814
conjunction with student assistance programs funded by agencies of 33815
the United States government or from financial resources of the 33816
institution of higher education. The institution shall certify 33817

that the student applicant meets the requirements set forth in 33818
divisions (A)(1)(b) and (c) of this section. Instructional grants 33819
shall be provided to an eligible student only as long as the 33820
student is making appropriate progress toward a nursing diploma or 33821
an associate or bachelor's degree. No student shall be eligible to 33822
receive a grant for more than ten semesters, fifteen quarters, or 33823
the equivalent of five academic years. A grant made to an eligible 33824
student on the basis of less than full-time enrollment shall be 33825
based on the number of credit hours for which the student is 33826
enrolled and shall be computed in accordance with a formula 33827
adopted by the board. No student shall receive more than one grant 33828
on the basis of less than full-time enrollment. 33829

An instructional grant shall not exceed the total 33830
instructional and general charges of the institution. 33831

(C) The tables in this division prescribe the maximum grant 33832
amounts covering two semesters, three quarters, or a comparable 33833
portion of one academic year. Grant amounts for additional terms 33834
in the same academic year shall be determined under division (D) 33835
of this section. 33836

For a full-time student who is a dependent and enrolled in a 33837
nonprofit educational institution that is not a state-assisted 33838
institution and that has a certificate of authorization issued 33839
pursuant to Chapter 1713. of the Revised Code, the amount of the 33840
instructional grant for two semesters, three quarters, or a 33841
comparable portion of the academic year shall be determined in 33842
accordance with the following table: 33843

| | | | | | | |
|--------------|---------------------|---|---|---|-----------------------|-------|
| | Private Institution | | | | | 33844 |
| | Table of Grants | | | | | 33845 |
| | | | | | Maximum Grant \$5,466 | 33846 |
| Gross Income | | | | | Number of Dependents | 33847 |
| | 1 | 2 | 3 | 4 | 5 or | 33848 |
| | | | | | more | |

| | | | | | | |
|---------------------|---------|---------|---------|---------|---------|-------|
| \$0 - \$15,000 | \$5,466 | \$5,466 | \$5,466 | \$5,466 | \$5,466 | 33849 |
| \$15,001 - \$16,000 | 4,920 | 5,466 | 5,466 | 5,466 | 5,466 | 33850 |
| \$16,001 - \$17,000 | 4,362 | 4,920 | 5,466 | 5,466 | 5,466 | 33851 |
| \$17,001 - \$18,000 | 3,828 | 4,362 | 4,920 | 5,466 | 5,466 | 33852 |
| \$18,001 - \$19,000 | 3,288 | 3,828 | 4,362 | 4,920 | 5,466 | 33853 |
| \$19,001 - \$22,000 | 2,736 | 3,288 | 3,828 | 4,362 | 4,920 | 33854 |
| \$22,001 - \$25,000 | 2,178 | 2,736 | 3,288 | 3,828 | 4,362 | 33855 |
| \$25,001 - \$28,000 | 1,626 | 2,178 | 2,736 | 3,288 | 3,828 | 33856 |
| \$28,001 - \$31,000 | 1,344 | 1,626 | 2,178 | 2,736 | 3,288 | 33857 |
| \$31,001 - \$32,000 | 1,080 | 1,344 | 1,626 | 2,178 | 2,736 | 33858 |
| \$32,001 - \$33,000 | 984 | 1,080 | 1,344 | 1,626 | 2,178 | 33859 |
| \$33,001 - \$34,000 | 888 | 984 | 1,080 | 1,344 | 1,626 | 33860 |
| \$34,001 - \$35,000 | 444 | 888 | 984 | 1,080 | 1,344 | 33861 |
| \$35,001 - \$36,000 | -- | 444 | 888 | 984 | 1,080 | 33862 |
| \$36,001 - \$37,000 | -- | -- | 444 | 888 | 984 | 33863 |
| \$37,001 - \$38,000 | -- | -- | -- | 444 | 888 | 33864 |
| \$38,001 - \$39,000 | -- | -- | -- | -- | 444 | 33865 |

For a full-time student who is financially independent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

| Private Institution | | | | | | | 33873 |
|-----------------------|----------------------|---------|---------|---------|---------|-----------|-------|
| Table of Grants | | | | | | | 33874 |
| Maximum Grant \$5,466 | | | | | | | 33875 |
| Gross Income | Number of Dependents | | | | | | 33876 |
| | 0 | 1 | 2 | 3 | 4 | 5 or more | 33877 |
| \$0 - \$4,800 | \$5,466 | \$5,466 | \$5,466 | \$5,466 | \$5,466 | \$5,466 | 33878 |
| \$4,801 - \$5,300 | 4,920 | 5,466 | 5,466 | 5,466 | 5,466 | 5,466 | 33879 |
| \$5,301 - \$5,800 | 4,362 | 5,196 | 5,466 | 5,466 | 5,466 | 5,466 | 33880 |

| | | | | | | | |
|---------------------|-------|-------|-------|-------|-------|-------|-------|
| \$5,801 - \$6,300 | 3,828 | 4,914 | 5,196 | 5,466 | 5,466 | 5,466 | 33881 |
| \$6,301 - \$6,800 | 3,288 | 4,650 | 4,914 | 5,196 | 5,466 | 5,466 | 33882 |
| \$6,801 - \$7,300 | 2,736 | 4,380 | 4,650 | 4,914 | 5,196 | 5,466 | 33883 |
| \$7,301 - \$8,300 | 2,178 | 4,104 | 4,380 | 4,650 | 4,914 | 5,196 | 33884 |
| \$8,301 - \$9,300 | 1,626 | 3,822 | 4,104 | 4,380 | 4,650 | 4,914 | 33885 |
| \$9,301 - \$10,300 | 1,344 | 3,546 | 3,822 | 4,104 | 4,380 | 4,650 | 33886 |
| \$10,301 - \$11,800 | 1,080 | 3,408 | 3,546 | 3,822 | 4,104 | 4,380 | 33887 |
| \$11,801 - \$13,300 | 984 | 3,276 | 3,408 | 3,546 | 3,822 | 4,104 | 33888 |
| \$13,301 - \$14,800 | 888 | 3,228 | 3,276 | 3,408 | 3,546 | 3,822 | 33889 |
| \$14,801 - \$16,300 | 444 | 2,904 | 3,228 | 3,276 | 3,408 | 3,546 | 33890 |
| \$16,301 - \$19,300 | -- | 2,136 | 2,628 | 2,952 | 3,276 | 3,408 | 33891 |
| \$19,301 - \$22,300 | -- | 1,368 | 1,866 | 2,358 | 2,676 | 3,000 | 33892 |
| \$22,301 - \$25,300 | -- | 1,092 | 1,368 | 1,866 | 2,358 | 2,676 | 33893 |
| \$25,301 - \$30,300 | -- | 816 | 1,092 | 1,368 | 1,866 | 2,358 | 33894 |
| \$30,301 - \$35,300 | -- | 492 | 540 | 672 | 816 | 1,314 | 33895 |

For a full-time student who is a dependent and enrolled in an educational institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

| Career Institution | | Table of Grants | | | | | |
|---------------------|----------------------|-----------------------|---------|---------|-----------|-------|--|
| | | Maximum Grant \$4,632 | | | | | |
| Gross Income | Number of Dependents | | | | | | |
| | 1 | 2 | 3 | 4 | 5 or more | | |
| \$0 - \$15,000 | \$4,632 | \$4,632 | \$4,632 | \$4,632 | \$4,632 | 33909 | |
| \$15,001 - \$16,000 | 4,182 | 4,632 | 4,632 | 4,632 | 4,632 | 33910 | |
| \$16,001 - \$17,000 | 3,684 | 4,182 | 4,632 | 4,632 | 4,632 | 33911 | |
| \$17,001 - \$18,000 | 3,222 | 3,684 | 4,182 | 4,632 | 4,632 | 33912 | |

| | | | | | | |
|---------------------|-------|-------|-------|-------|-------|-------|
| \$18,001 - \$19,000 | 2,790 | 3,222 | 3,684 | 4,182 | 4,632 | 33913 |
| \$19,001 - \$22,000 | 2,292 | 2,790 | 3,222 | 3,684 | 4,182 | 33914 |
| \$22,001 - \$25,000 | 1,854 | 2,292 | 2,790 | 3,222 | 3,684 | 33915 |
| \$25,001 - \$28,000 | 1,416 | 1,854 | 2,292 | 2,790 | 3,222 | 33916 |
| \$28,001 - \$31,000 | 1,134 | 1,416 | 1,854 | 2,292 | 2,790 | 33917 |
| \$31,001 - \$32,000 | 906 | 1,134 | 1,416 | 1,854 | 2,292 | 33918 |
| \$32,001 - \$33,000 | 852 | 906 | 1,134 | 1,416 | 1,854 | 33919 |
| \$33,001 - \$34,000 | 750 | 852 | 906 | 1,134 | 1,416 | 33920 |
| \$34,001 - \$35,000 | 372 | 750 | 852 | 906 | 1,134 | 33921 |
| \$35,001 - \$36,000 | -- | 372 | 750 | 852 | 906 | 33922 |
| \$36,001 - \$37,000 | -- | -- | 372 | 750 | 852 | 33923 |
| \$37,001 - \$38,000 | -- | -- | -- | 372 | 750 | 33924 |
| \$38,001 - \$39,000 | -- | -- | -- | -- | 372 | 33925 |

For a full-time student who is financially independent and 33926
enrolled in an educational institution that holds a certificate of 33927
registration from the state board of career colleges and schools 33928
or a private institution exempt from regulation under Chapter 33929
3332. of the Revised Code as prescribed in section 3333.046 of the 33930
Revised Code, the amount of the instructional grant for two 33931
semesters, three quarters, or a comparable portion of the academic 33932
year shall be determined in accordance with the following table: 33933

Career Institution 33934

Table of Grants 33935

Maximum Grant \$4,632 33936

Gross Income Number of Dependents 33937

| | Number of Dependents | | | | | | 33938 |
|-------------------|----------------------|---------|---------|---------|---------|-----------|-------|
| | 0 | 1 | 2 | 3 | 4 | 5 or more | |
| \$0 - \$4,800 | \$4,632 | \$4,632 | \$4,632 | \$4,632 | \$4,632 | \$4,632 | 33939 |
| \$4,801 - \$5,300 | 4,182 | 4,632 | 4,632 | 4,632 | 4,632 | 4,632 | 33940 |
| \$5,301 - \$5,800 | 3,684 | 4,410 | 4,632 | 4,632 | 4,632 | 4,632 | 33941 |
| \$5,801 - \$6,300 | 3,222 | 4,158 | 4,410 | 4,632 | 4,632 | 4,632 | 33942 |
| \$6,301 - \$6,800 | 2,790 | 3,930 | 4,158 | 4,410 | 4,632 | 4,632 | 33943 |
| \$6,801 - \$7,300 | 2,292 | 3,714 | 3,930 | 4,158 | 4,410 | 4,632 | 33944 |

| | | | | | | | |
|---------------------|-------|-------|-------|-------|-------|-------|-------|
| \$7,301 - \$8,300 | 1,854 | 3,462 | 3,714 | 3,930 | 4,158 | 4,410 | 33945 |
| \$8,301 - \$9,300 | 1,416 | 3,246 | 3,462 | 3,714 | 3,930 | 4,158 | 33946 |
| \$9,301 - \$10,300 | 1,134 | 3,024 | 3,246 | 3,462 | 3,714 | 3,930 | 33947 |
| \$10,301 - \$11,800 | 906 | 2,886 | 3,024 | 3,246 | 3,462 | 3,714 | 33948 |
| \$11,801 - \$13,300 | 852 | 2,772 | 2,886 | 3,024 | 3,246 | 3,462 | 33949 |
| \$13,301 - \$14,800 | 750 | 2,742 | 2,772 | 2,886 | 3,024 | 3,246 | 33950 |
| \$14,801 - \$16,300 | 372 | 2,466 | 2,742 | 2,772 | 2,886 | 3,024 | 33951 |
| \$16,301 - \$19,300 | -- | 1,800 | 2,220 | 2,520 | 2,772 | 2,886 | 33952 |
| \$19,301 - \$22,300 | -- | 1,146 | 1,584 | 1,986 | 2,268 | 2,544 | 33953 |
| \$22,301 - \$25,300 | -- | 930 | 1,146 | 1,584 | 1,986 | 2,268 | 33954 |
| \$25,301 - \$30,300 | -- | 708 | 930 | 1,146 | 1,584 | 1,986 | 33955 |
| \$30,301 - \$35,300 | -- | 426 | 456 | 570 | 708 | 1,116 | 33956 |

For a full-time student who is a dependent and enrolled in a state-assisted educational institution, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

| Public Institution | | | | | | | 33962 |
|-----------------------|----------------------|---------|---------|---------|-----------|--|-------|
| Table of Grants | | | | | | | 33963 |
| Maximum Grant \$2,190 | | | | | | | 33964 |
| Gross Income | Number of Dependents | | | | | | 33965 |
| | 1 | 2 | 3 | 4 | 5 or more | | 33966 |
| \$0 - \$15,000 | \$2,190 | \$2,190 | \$2,190 | \$2,190 | \$2,190 | | 33967 |
| \$15,001 - \$16,000 | 1,974 | 2,190 | 2,190 | 2,190 | 2,190 | | 33968 |
| \$16,001 - \$17,000 | 1,740 | 1,974 | 2,190 | 2,190 | 2,190 | | 33969 |
| \$17,001 - \$18,000 | 1,542 | 1,740 | 1,974 | 2,190 | 2,190 | | 33970 |
| \$18,001 - \$19,000 | 1,320 | 1,542 | 1,740 | 1,974 | 2,190 | | 33971 |
| \$19,001 - \$22,000 | 1,080 | 1,320 | 1,542 | 1,740 | 1,974 | | 33972 |
| \$22,001 - \$25,000 | 864 | 1,080 | 1,320 | 1,542 | 1,740 | | 33973 |
| \$25,001 - \$28,000 | 648 | 864 | 1,080 | 1,320 | 1,542 | | 33974 |
| \$28,001 - \$31,000 | 522 | 648 | 864 | 1,080 | 1,320 | | 33975 |
| \$31,001 - \$32,000 | 420 | 522 | 648 | 864 | 1,080 | | 33976 |

| | | | | | | |
|---------------------|-----|-----|-----|-----|-----|-------|
| \$32,001 - \$33,000 | 384 | 420 | 522 | 648 | 864 | 33977 |
| \$33,001 - \$34,000 | 354 | 384 | 420 | 522 | 648 | 33978 |
| \$34,001 - \$35,000 | 174 | 354 | 384 | 420 | 522 | 33979 |
| \$35,001 - \$36,000 | -- | 174 | 354 | 384 | 420 | 33980 |
| \$36,001 - \$37,000 | -- | -- | 174 | 354 | 384 | 33981 |
| \$37,001 - \$38,000 | -- | -- | -- | 174 | 354 | 33982 |
| \$38,001 - \$39,000 | -- | -- | -- | -- | 174 | 33983 |

For a full-time student who is financially independent and 33984
enrolled in a state-assisted educational institution, the amount 33985
of the instructional grant for two semesters, three quarters, or a 33986
comparable portion of the academic year shall be determined in 33987
accordance with the following table: 33988

Public Institution 33989

Table of Grants 33990

Maximum Grant \$2,190 33991

Gross Income Number of Dependents 33992

| | Number of Dependents | | | | | | 33993 |
|---------------------|----------------------|---------|---------|---------|---------|-----------|-------|
| | 0 | 1 | 2 | 3 | 4 | 5 or more | |
| \$0 - \$4,800 | \$2,190 | \$2,190 | \$2,190 | \$2,190 | \$2,190 | \$2,190 | 33994 |
| \$4,801 - \$5,300 | 1,974 | 2,190 | 2,190 | 2,190 | 2,190 | 2,190 | 33995 |
| \$5,301 - \$5,800 | 1,740 | 2,082 | 2,190 | 2,190 | 2,190 | 2,190 | 33996 |
| \$5,801 - \$6,300 | 1,542 | 1,968 | 2,082 | 2,190 | 2,190 | 2,190 | 33997 |
| \$6,301 - \$6,800 | 1,320 | 1,866 | 1,968 | 2,082 | 2,190 | 2,190 | 33998 |
| \$6,801 - \$7,300 | 1,080 | 1,758 | 1,866 | 1,968 | 2,082 | 2,190 | 33999 |
| \$7,301 - \$8,300 | 864 | 1,638 | 1,758 | 1,866 | 1,968 | 2,082 | 34000 |
| \$8,301 - \$9,300 | 648 | 1,530 | 1,638 | 1,758 | 1,866 | 1,968 | 34001 |
| \$9,301 - \$10,300 | 522 | 1,422 | 1,530 | 1,638 | 1,758 | 1,866 | 34002 |
| \$10,301 - \$11,800 | 420 | 1,356 | 1,422 | 1,530 | 1,638 | 1,758 | 34003 |
| \$11,801 - \$13,300 | 384 | 1,308 | 1,356 | 1,422 | 1,530 | 1,638 | 34004 |
| \$13,301 - \$14,800 | 354 | 1,290 | 1,308 | 1,356 | 1,422 | 1,530 | 34005 |
| \$14,801 - \$16,300 | 174 | 1,164 | 1,290 | 1,308 | 1,356 | 1,422 | 34006 |
| \$16,301 - \$19,300 | -- | 858 | 1,050 | 1,182 | 1,308 | 1,356 | 34007 |
| \$19,301 - \$22,300 | -- | 540 | 750 | 948 | 1,062 | 1,200 | 34008 |

| | | | | | | | |
|---------------------|----|-----|-----|-----|-----|-------|-------|
| \$22,301 - \$25,300 | -- | 432 | 540 | 750 | 948 | 1,062 | 34009 |
| \$25,301 - \$30,300 | -- | 324 | 432 | 540 | 750 | 948 | 34010 |
| \$30,301 - \$35,300 | -- | 192 | 210 | 264 | 324 | 522 | 34011 |

(D) For a full-time student enrolled in an eligible institution for a semester or quarter in addition to the portion of the academic year covered by a grant determined under division (C) of this section, the maximum grant amount shall be a percentage of the maximum prescribed in the applicable table of that division. The maximum grant for a fourth quarter shall be one-third of the maximum amount prescribed under that division. The maximum grant for a third semester shall be one-half of the maximum amount prescribed under that division.

(E) No grant shall be made to any student in a course of study in theology, religion, or other field of preparation for a religious profession unless such course of study leads to an accredited bachelor of arts, bachelor of science, associate of arts, or associate of science degree.

(F)(1) Except as provided in division (F)(2) of this section, no grant shall be made to any student for enrollment during a fiscal year in an institution with a cohort default rate determined by the United States secretary of education pursuant to the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 20 U.S.C.A. 1085, as amended, as of the fifteenth day of June preceding the fiscal year, equal to or greater than thirty per cent for each of the preceding two fiscal years.

(2) Division (F)(1) of this section does not apply to the following:

(a) Any student enrolled in an institution that under the federal law appeals its loss of eligibility for federal financial aid and the United States secretary of education determines its cohort default rate after recalculation is lower than the rate specified in division (F)(1) of this section or the secretary

determines due to mitigating circumstances the institution may 34041
continue to participate in federal financial aid programs. The 34042
board shall adopt rules requiring institutions to provide 34043
information regarding an appeal to the board. 34044

(b) Any student who has previously received a grant under 34045
this section who meets all other requirements of this section. 34046

(3) The board shall adopt rules for the notification of all 34047
institutions whose students will be ineligible to participate in 34048
the grant program pursuant to division (F)(1) of this section. 34049

(4) A student's attendance at an institution whose students 34050
lose eligibility for grants under division (F)(1) of this section 34051
shall not affect that student's eligibility to receive a grant 34052
when enrolled in another institution. 34053

(G) Institutions of higher education that enroll students 34054
receiving instructional grants under this section shall report to 34055
the board all students who have received instructional grants but 34056
are no longer eligible for all or part of such grants and shall 34057
refund any moneys due the state within thirty days after the 34058
beginning of the quarter or term immediately following the quarter 34059
or term in which the student was no longer eligible to receive all 34060
or part of the student's grant. There shall be an interest charge 34061
of one per cent per month on all moneys due and payable after such 34062
thirty-day period. The board shall immediately notify the office 34063
of budget and management and the legislative service commission of 34064
all refunds so received. 34065

Sec. 3333.121. There is hereby established in the state 34066
treasury the ~~instructional grant~~ state need-based financial aid 34067
reconciliation fund, which shall consist of refunds of 34068
instructional grant payments made pursuant to section 3333.12 of 34069
the Revised Code and refunds of state need-based financial aid 34070
payments made pursuant to section 3333.122 of the Revised Code. 34071

Revenues credited to the fund shall be used by the Ohio board of 34072
regents to pay to higher education institutions any outstanding 34073
obligations from the prior year owed for the Ohio instructional 34074
grant program and the Ohio college opportunity grant program that 34075
are identified through the annual reconciliation and financial 34076
audit. Any amount in the fund that is in excess of the amount 34077
certified to the director of budget and management by the board of 34078
regents as necessary to reconcile prior year payments under the 34079
program shall be transferred to the general revenue fund. 34080

Sec. 3333.122. (A) As used in this section: 34081

(1) "Eligible student" means a student who is: 34082

(a) An Ohio resident who first enrolls in an undergraduate 34083
program in the 2006-2007 academic year or thereafter; 34084

(b) Enrolled in either of the following: 34085

(i) An accredited institution of higher education in this 34086
state that meets the requirements of Title VI of the Civil Rights 34087
Act of 1964 and is state-assisted, is nonprofit and has a 34088
certificate of authorization from the Ohio board of regents 34089
pursuant to Chapter 1713. of the Revised Code, has a certificate 34090
of registration from the state board of career colleges and 34091
schools and program authorization to award an associate or 34092
bachelor's degree, or is a private institution exempt from 34093
regulation under Chapter 3332. of the Revised Code as prescribed 34094
in section 3333.046 of the Revised Code. Students who attend an 34095
institution that holds a certificate of registration shall be 34096
enrolled in a program leading to an associate or bachelor's degree 34097
for which associate or bachelor's degree program the institution 34098
has program authorization issued under section 3332.05 of the 34099
Revised Code. 34100

(ii) A technical education program of at least two years 34101

duration sponsored by a private institution of higher education in 34102
this state that meets the requirements of Title VI of the Civil 34103
Rights Act of 1964. 34104

(2) A student who participated in either the early college 34105
high school program administered by the department of education or 34106
in the post-secondary enrollment options program pursuant to 34107
Chapter 3365. of the Revised Code before the 2006-2007 academic 34108
year shall not be excluded from eligibility for a need based grant 34109
under this section. 34110

(3) "Resident," "expected family contribution" or "EFC," 34111
"full-time student," "three-quarters-time student," "half-time 34112
student," "one-quarter-time student," and "accredited" shall be 34113
defined by rules adopted by the board. 34114

(B) The Ohio board of regents shall establish and administer 34115
a needs-based financial aid program based on the United States 34116
department of education's method of determining financial need and 34117
may adopt rules to carry out this section. The program shall be 34118
known as the Ohio college opportunity grant program. The general 34119
assembly shall support the needs-based financial aid program by 34120
such sums and in such manner as it may provide, but the board may 34121
also receive funds from other sources to support the program. If 34122
the amounts available for support of the program are inadequate to 34123
provide grants to all eligible students, preference in the payment 34124
of grants shall be given in terms of expected family contribution, 34125
beginning with the lowest expected family contribution category 34126
and proceeding upward by category to the highest expected family 34127
contribution category. 34128

A needs-based financial aid grant shall be paid to an 34129
eligible student through the institution in which the student is 34130
enrolled, except that no needs-based financial aid grant shall be 34131
paid to any person serving a term of imprisonment. Applications 34132
for such grants shall be made as prescribed by the board, and such 34133

applications may be made in conjunction with and upon the basis of 34134
information provided in conjunction with student assistance 34135
programs funded by agencies of the United States government or 34136
from financial resources of the institution of higher education. 34137
The institution shall certify that the student applicant meets the 34138
requirements set forth in divisions (A)(1)(a) and (b) of this 34139
section. Needs-based financial aid grants shall be provided to an 34140
eligible student only as long as the student is making appropriate 34141
progress toward a nursing diploma or an associate or bachelor's 34142
degree. No student shall be eligible to receive a grant for more 34143
than ten semesters, fifteen quarters, or the equivalent of five 34144
academic years. A grant made to an eligible student on the basis 34145
of less than full-time enrollment shall be based on the number of 34146
credit hours for which the student is enrolled and shall be 34147
computed in accordance with a formula adopted by the board. No 34148
student shall receive more than one grant on the basis of less 34149
than full-time enrollment. 34150

A needs-based financial aid grant shall not exceed the total 34151
instructional and general charges of the institution. 34152

(C) The tables in this division prescribe the maximum grant 34153
amounts covering two semesters, three quarters, or a comparable 34154
portion of one academic year. Grant amounts for additional terms 34155
in the same academic year shall be determined under division (D) 34156
of this section. 34157

As used in the tables in division (C) of this section: 34158

(1) "Private institution" means an institution that is 34159
nonprofit and has a certificate of authorization from the Ohio 34160
board of regents pursuant to Chapter 1713. of the Revised Code. 34161

(2) "Career college" means either an institution that holds a 34162
certificate of registration from the state board of career 34163
colleges and schools or a private institution exempt from 34164

regulation under Chapter 3332. of the Revised Code as prescribed 34165
in section 3333.046 of the Revised Code. 34166

Full-time students shall be eligible to receive awards 34167
according to the following table: 34168

Full-Time Enrollment 34169

| <u>If the EFC</u> | <u>And if the</u> | <u>If the</u> | <u>If the</u> | <u>If the</u> | |
|-------------------|-------------------|---------------------|---------------------|-------------------|-------|
| <u>is equal</u> | <u>EFC is no</u> | <u>student</u> | <u>student</u> | <u>student</u> | |
| <u>to or</u> | <u>more than:</u> | <u>attends a</u> | <u>attends a</u> | <u>attends a</u> | |
| <u>greater</u> | | <u>public</u> | <u>private</u> | <u>career</u> | |
| <u>than:</u> | | <u>institution,</u> | <u>institution,</u> | <u>college,</u> | |
| | | <u>the annual</u> | <u>the annual</u> | <u>the annual</u> | |
| | | <u>award</u> | <u>award</u> | <u>award</u> | |
| | | <u>shall be:</u> | <u>shall be:</u> | <u>shall be:</u> | |
| <u>\$2,101</u> | <u>\$2,190</u> | <u>\$300</u> | <u>\$600</u> | <u>\$480</u> | 34171 |
| <u>2,001</u> | <u>2,100</u> | <u>402</u> | <u>798</u> | <u>642</u> | 34172 |
| <u>1,901</u> | <u>2,000</u> | <u>498</u> | <u>1,002</u> | <u>798</u> | 34173 |
| <u>1,801</u> | <u>1,900</u> | <u>600</u> | <u>1,200</u> | <u>960</u> | 34174 |
| <u>1,701</u> | <u>1,800</u> | <u>702</u> | <u>1,398</u> | <u>1,122</u> | 34175 |
| <u>1,601</u> | <u>1,700</u> | <u>798</u> | <u>1,602</u> | <u>1,278</u> | 34176 |
| <u>1,501</u> | <u>1,600</u> | <u>900</u> | <u>1,800</u> | <u>1,440</u> | 34177 |
| <u>1,401</u> | <u>1,500</u> | <u>1,002</u> | <u>1,998</u> | <u>1,602</u> | 34178 |
| <u>1,301</u> | <u>1,400</u> | <u>1,098</u> | <u>2,202</u> | <u>1,758</u> | 34179 |
| <u>1,201</u> | <u>1,300</u> | <u>1,200</u> | <u>2,400</u> | <u>1,920</u> | 34180 |
| <u>1,101</u> | <u>1,200</u> | <u>1,302</u> | <u>2,598</u> | <u>2,082</u> | 34181 |
| <u>1,001</u> | <u>1,100</u> | <u>1,398</u> | <u>2,802</u> | <u>2,238</u> | 34182 |
| <u>901</u> | <u>1,000</u> | <u>1,500</u> | <u>3,000</u> | <u>2,400</u> | 34183 |
| <u>801</u> | <u>900</u> | <u>1,602</u> | <u>3,198</u> | <u>2,562</u> | 34184 |
| <u>701</u> | <u>800</u> | <u>1,698</u> | <u>3,402</u> | <u>2,718</u> | 34185 |
| <u>601</u> | <u>700</u> | <u>1,800</u> | <u>3,600</u> | <u>2,280</u> | 34186 |
| <u>501</u> | <u>600</u> | <u>1,902</u> | <u>3,798</u> | <u>3,042</u> | 34187 |
| <u>401</u> | <u>500</u> | <u>1,998</u> | <u>4,002</u> | <u>3,198</u> | 34188 |
| <u>301</u> | <u>400</u> | <u>2,100</u> | <u>4,200</u> | <u>3,360</u> | 34189 |

| | | | | | |
|------------|------------|--------------|--------------|--------------|-------|
| <u>201</u> | <u>300</u> | <u>2,202</u> | <u>4,398</u> | <u>3,522</u> | 34190 |
| <u>101</u> | <u>200</u> | <u>2,298</u> | <u>4,602</u> | <u>3,678</u> | 34191 |
| <u>1</u> | <u>100</u> | <u>2,400</u> | <u>4,800</u> | <u>3,840</u> | 34192 |
| <u>0</u> | <u>0</u> | <u>2,496</u> | <u>4,992</u> | <u>3,996</u> | 34193 |

Three-quarters-time students shall be eligible to receive 34194
awards according to the following table: 34195

Three-Quarters-Time Enrollment 34196

| <u>If the EFC</u> | <u>And the</u> | <u>If the</u> | <u>If the</u> | <u>If the</u> | |
|-------------------|-------------------|---------------------|---------------------|-------------------|-------|
| <u>is equal</u> | <u>EFC is no</u> | <u>student</u> | <u>student</u> | <u>student</u> | 34197 |
| <u>to or</u> | <u>more than:</u> | <u>attends a</u> | <u>attends a</u> | <u>attends a</u> | |
| <u>greater</u> | | <u>public</u> | <u>private</u> | <u>career</u> | |
| <u>than:</u> | | <u>institution,</u> | <u>institution,</u> | <u>college,</u> | |
| | | <u>the annual</u> | <u>the annual</u> | <u>the annual</u> | |
| | | <u>award</u> | <u>award</u> | <u>award</u> | |
| | | <u>shall be:</u> | <u>shall be:</u> | <u>shall be:</u> | |
| <u>\$2,101</u> | <u>\$2,190</u> | <u>\$228</u> | <u>\$450</u> | <u>\$360</u> | 34198 |
| <u>2,001</u> | <u>2,100</u> | <u>300</u> | <u>600</u> | <u>480</u> | 34199 |
| <u>1,901</u> | <u>2,000</u> | <u>372</u> | <u>750</u> | <u>600</u> | 34200 |
| <u>1,801</u> | <u>1,900</u> | <u>450</u> | <u>900</u> | <u>720</u> | 34201 |
| <u>1,701</u> | <u>1,800</u> | <u>528</u> | <u>1,050</u> | <u>840</u> | 34202 |
| <u>1,601</u> | <u>1,700</u> | <u>600</u> | <u>1,200</u> | <u>960</u> | 34203 |
| <u>1,501</u> | <u>1,600</u> | <u>678</u> | <u>1,350</u> | <u>1,080</u> | 34204 |
| <u>1,401</u> | <u>1,500</u> | <u>750</u> | <u>1,500</u> | <u>1,200</u> | 34205 |
| <u>1,301</u> | <u>1,400</u> | <u>822</u> | <u>1,650</u> | <u>1,320</u> | 34206 |
| <u>1,201</u> | <u>1,300</u> | <u>900</u> | <u>1,800</u> | <u>1,440</u> | 34207 |
| <u>1,101</u> | <u>1,200</u> | <u>978</u> | <u>1,950</u> | <u>1,560</u> | 34208 |
| <u>1,001</u> | <u>1,100</u> | <u>1,050</u> | <u>2,100</u> | <u>1,680</u> | 34209 |
| <u>901</u> | <u>1,000</u> | <u>1,128</u> | <u>2,250</u> | <u>1,800</u> | 34210 |
| <u>801</u> | <u>900</u> | <u>1,200</u> | <u>2,400</u> | <u>1,920</u> | 34211 |
| <u>701</u> | <u>800</u> | <u>1,272</u> | <u>2,550</u> | <u>2,040</u> | 34212 |
| <u>601</u> | <u>700</u> | <u>1,350</u> | <u>2,700</u> | <u>2,160</u> | 34213 |
| <u>501</u> | <u>600</u> | <u>1,428</u> | <u>2,850</u> | <u>2,280</u> | 34214 |
| <u>401</u> | <u>500</u> | <u>1,500</u> | <u>3,000</u> | <u>2,400</u> | 34215 |

| | | | | | |
|------------|------------|--------------|--------------|--------------|-------|
| <u>301</u> | <u>400</u> | <u>1,578</u> | <u>3,150</u> | <u>2,520</u> | 34216 |
| <u>201</u> | <u>300</u> | <u>1,650</u> | <u>3,300</u> | <u>2,640</u> | 34217 |
| <u>101</u> | <u>200</u> | <u>1,722</u> | <u>3,450</u> | <u>2,760</u> | 34218 |
| <u>1</u> | <u>100</u> | <u>1,800</u> | <u>3,600</u> | <u>2,880</u> | 34219 |
| <u>0</u> | <u>0</u> | <u>1,872</u> | <u>3,744</u> | <u>3,000</u> | 34220 |

Half-time students shall be eligible to receive awards 34221

according to the following table: 34222

Half-Time Enrollment 34223

If the EFC And if the If the If the If the 34224

is equal EFC is no student student student

to or more than: attends a attends a attends a

greater public private career

than: institution, institution, college,

the annual the annual the annual

award award award

shall be: shall be: shall be:

| | | | | | |
|----------------|----------------|--------------|--------------|--------------|-------|
| <u>\$2,101</u> | <u>\$2,190</u> | <u>\$150</u> | <u>\$300</u> | <u>\$240</u> | 34225 |
| <u>2,001</u> | <u>2,100</u> | <u>204</u> | <u>402</u> | <u>324</u> | 34226 |
| <u>1,901</u> | <u>2,000</u> | <u>252</u> | <u>504</u> | <u>402</u> | 34227 |
| <u>1,801</u> | <u>1,900</u> | <u>300</u> | <u>600</u> | <u>480</u> | 34228 |
| <u>1,701</u> | <u>1,800</u> | <u>354</u> | <u>702</u> | <u>564</u> | 34229 |
| <u>1,601</u> | <u>1,700</u> | <u>402</u> | <u>804</u> | <u>642</u> | 34230 |
| <u>1,501</u> | <u>1,600</u> | <u>450</u> | <u>900</u> | <u>720</u> | 34231 |
| <u>1,401</u> | <u>1,500</u> | <u>504</u> | <u>1,002</u> | <u>804</u> | 34232 |
| <u>1,301</u> | <u>1,400</u> | <u>552</u> | <u>1,104</u> | <u>882</u> | 34233 |
| <u>1,201</u> | <u>1,300</u> | <u>600</u> | <u>1,200</u> | <u>960</u> | 34234 |
| <u>1,101</u> | <u>1,200</u> | <u>654</u> | <u>1,302</u> | <u>1,044</u> | 34235 |
| <u>1,001</u> | <u>1,100</u> | <u>702</u> | <u>1,404</u> | <u>1,122</u> | 34236 |
| <u>901</u> | <u>1,000</u> | <u>750</u> | <u>1,500</u> | <u>1,200</u> | 34237 |
| <u>801</u> | <u>900</u> | <u>804</u> | <u>1,602</u> | <u>1,284</u> | 34238 |
| <u>701</u> | <u>800</u> | <u>852</u> | <u>1,704</u> | <u>1,362</u> | 34239 |
| <u>601</u> | <u>700</u> | <u>900</u> | <u>1,800</u> | <u>1,440</u> | 34240 |
| <u>501</u> | <u>600</u> | <u>954</u> | <u>1,902</u> | <u>1,524</u> | 34241 |

| | | | | | |
|------------|------------|--------------|--------------|--------------|-------|
| <u>401</u> | <u>500</u> | <u>1,002</u> | <u>2,004</u> | <u>1,602</u> | 34242 |
| <u>301</u> | <u>400</u> | <u>1,050</u> | <u>2,100</u> | <u>1,680</u> | 34243 |
| <u>201</u> | <u>300</u> | <u>1,104</u> | <u>2,202</u> | <u>1,764</u> | 34244 |
| <u>101</u> | <u>200</u> | <u>1,152</u> | <u>2,304</u> | <u>1,842</u> | 34245 |
| <u>1</u> | <u>100</u> | <u>1,200</u> | <u>2,400</u> | <u>1,920</u> | 34246 |
| <u>0</u> | <u>0</u> | <u>1,248</u> | <u>2,496</u> | <u>1,998</u> | 34247 |

One-quarter-time students shall be eligible to receive awards 34248

according to the following table: 34249

One-Quarter-Time Enrollment 34250

| <u>If the EFC</u> | <u>And if the</u> | <u>If the</u> | <u>If the</u> | <u>If the</u> | |
|-------------------|-------------------|---------------------|---------------------|-------------------|-------|
| <u>is equal</u> | <u>EFC is no</u> | <u>student</u> | <u>student</u> | <u>student</u> | |
| <u>to or</u> | <u>more than:</u> | <u>attends a</u> | <u>attends a</u> | <u>attends a</u> | |
| <u>greater</u> | | <u>public</u> | <u>private</u> | <u>career</u> | |
| <u>than:</u> | | <u>institution,</u> | <u>institution,</u> | <u>college,</u> | |
| | | <u>the annual</u> | <u>the annual</u> | <u>the annual</u> | |
| | | <u>award</u> | <u>award</u> | <u>award</u> | |
| | | <u>shall be:</u> | <u>shall be:</u> | <u>shall be:</u> | |
| <u>\$2,101</u> | <u>\$2,190</u> | <u>\$78</u> | <u>\$150</u> | <u>\$120</u> | 34252 |
| <u>2,001</u> | <u>2,100</u> | <u>102</u> | <u>198</u> | <u>162</u> | 34253 |
| <u>1,901</u> | <u>2,000</u> | <u>126</u> | <u>252</u> | <u>198</u> | 34254 |
| <u>1,801</u> | <u>1,900</u> | <u>150</u> | <u>300</u> | <u>240</u> | 34255 |
| <u>1,701</u> | <u>1,800</u> | <u>174</u> | <u>348</u> | <u>282</u> | 34256 |
| <u>1,601</u> | <u>1,700</u> | <u>198</u> | <u>402</u> | <u>318</u> | 34257 |
| <u>1,501</u> | <u>1,600</u> | <u>228</u> | <u>450</u> | <u>360</u> | 34258 |
| <u>1,401</u> | <u>1,500</u> | <u>252</u> | <u>498</u> | <u>402</u> | 34259 |
| <u>1,301</u> | <u>1,400</u> | <u>276</u> | <u>552</u> | <u>438</u> | 34260 |
| <u>1,201</u> | <u>1,300</u> | <u>300</u> | <u>600</u> | <u>480</u> | 34261 |
| <u>1,101</u> | <u>1,200</u> | <u>324</u> | <u>648</u> | <u>522</u> | 34262 |
| <u>1,001</u> | <u>1,100</u> | <u>348</u> | <u>702</u> | <u>558</u> | 34263 |
| <u>901</u> | <u>1,000</u> | <u>378</u> | <u>750</u> | <u>600</u> | 34264 |
| <u>801</u> | <u>900</u> | <u>402</u> | <u>798</u> | <u>642</u> | 34265 |
| <u>701</u> | <u>800</u> | <u>426</u> | <u>852</u> | <u>678</u> | 34266 |
| <u>601</u> | <u>700</u> | <u>450</u> | <u>900</u> | <u>720</u> | 34267 |

| | | | | | |
|------------|------------|------------|--------------|--------------|-------|
| <u>501</u> | <u>600</u> | <u>474</u> | <u>948</u> | <u>762</u> | 34268 |
| <u>401</u> | <u>500</u> | <u>498</u> | <u>1,002</u> | <u>798</u> | 34269 |
| <u>301</u> | <u>400</u> | <u>528</u> | <u>1,050</u> | <u>840</u> | 34270 |
| <u>201</u> | <u>300</u> | <u>552</u> | <u>1,098</u> | <u>882</u> | 34271 |
| <u>101</u> | <u>200</u> | <u>576</u> | <u>1,152</u> | <u>918</u> | 34272 |
| <u>1</u> | <u>100</u> | <u>600</u> | <u>1,200</u> | <u>960</u> | 34273 |
| <u>0</u> | <u>0</u> | <u>624</u> | <u>1,248</u> | <u>1,002</u> | 34274 |

(D) For a full-time student enrolled in an eligible institution for a semester or quarter in addition to the portion of the academic year covered by a grant determined under division (C) of this section, the maximum grant amount shall be a percentage of the maximum prescribed in the applicable table of that division. The maximum grant for a fourth quarter shall be one-third of the maximum amount prescribed under that division. The maximum grant for a third semester shall be one-half of the maximum amount prescribed under that division. 34275
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(E) No grant shall be made to any student in a course of study in theology, religion, or other field of preparation for a religious profession unless such course of study leads to an accredited bachelor of arts, bachelor of science, associate of arts, or associate of science degree. 34284
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(F)(1) Except as provided in division (F)(2) of this section, no grant shall be made to any student for enrollment during a fiscal year in an institution with a cohort default rate determined by the United States secretary of education pursuant to the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 20 U.S.C.A. 1085, as amended, as of the fifteenth day of June preceding the fiscal year, equal to or greater than thirty per cent for each of the preceding two fiscal years. 34289
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(2) Division (F)(1) of this section does not apply to the following: 34297
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(a) Any student enrolled in an institution that under the 34299

federal law appeals its loss of eligibility for federal financial aid and the United States secretary of education determines its cohort default rate after recalculation is lower than the rate specified in division (F)(1) of this section or the secretary determines due to mitigating circumstances the institution may continue to participate in federal financial aid programs. The board shall adopt rules requiring institutions to provide information regarding an appeal to the board. 34300
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(b) Any student who has previously received a grant under this section who meets all other requirements of this section. 34308
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(3) The board shall adopt rules for the notification of all institutions whose students will be ineligible to participate in the grant program pursuant to division (F)(1) of this section. 34310
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(4) A student's attendance at an institution whose students lose eligibility for grants under division (F)(1) of this section shall not affect that student's eligibility to receive a grant when enrolled in another institution. 34313
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(G) Institutions of higher education that enroll students receiving needs-based financial aid grants under this section shall report to the board all students who have received needs-based financial aid grants but are no longer eligible for all or part of such grants and shall refund any moneys due the state within thirty days after the beginning of the quarter or term immediately following the quarter or term in which the student was no longer eligible to receive all or part of the student's grant. There shall be an interest charge of one per cent per month on all moneys due and payable after such thirty-day period. The board shall immediately notify the office of budget and management and the legislative service commission of all refunds so received. 34317
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Sec. 3333.123. (A) As used in this section: 34330

(1) "The Ohio college opportunity grant program" means the 34331
program established under section 3333.122 of the Revised Code. 34332

(2) "Rules for the Ohio college opportunity grant program" 34333
means the rules authorized in division (S) of section 3333.04 of 34334
the Revised Code for the implementation of the program. 34335

(B) In adopting rules for the Ohio college opportunity grant 34336
program, the Ohio board of regents may include provisions that 34337
give preferential or priority funding to low-income students who 34338
in their primary and secondary school work participate in or 34339
complete rigorous academic coursework, attain passing scores on 34340
the tests prescribed in section 3301.0710 of the Revised Code, or 34341
meet other high academic performance standards determined by the 34342
board to reduce the need for remediation and ensure academic 34343
success at the postsecondary education level. Any such rules shall 34344
include a specification of procedures needed to certify student 34345
achievement of primary and secondary standards as well as the 34346
timeline for implementation of the provisions authorized by this 34347
section. 34348

Sec. 3333.162. (A) As used in this section, "state 34349
institution of higher education" means an institution of higher 34350
education as defined in section 3345.12 of the Revised Code. 34351

(B) By April 15, 2007, the Ohio board of regents, in 34352
consultation with the department of education, public adult and 34353
secondary career-technical education institutions, and state 34354
institutions of higher education, shall establish criteria, 34355
policies, and procedures that enable students to transfer agreed 34356
upon technical courses completed through an adult career-technical 34357
education institution, a public secondary career-technical 34358
institution, or a state institution of higher education to a state 34359
institution of higher education without unnecessary duplication or 34360
institutional barriers. The courses to which the criteria, 34361

policies, and procedures apply shall be those that adhere to 34362
recognized industry standards and equivalent coursework common to 34363
the secondary career pathway and adult career-technical education 34364
system and regionally accredited state institutions of higher 34365
education. Where applicable, the policies and procedures shall 34366
build upon the articulation agreement and transfer initiative 34367
course equivalency system required by section 3333.16 of the 34368
Revised Code. 34369

(C) By April 15, 2006, the board shall report to the general 34370
assembly on its progress in establishing these policies and 34371
procedures. 34372

Sec. 3333.27. As used in this section: 34373

(A) "Eligible institution" means a nonprofit Ohio institution 34374
of higher education that holds a certificate of authorization 34375
issued under section 1713.02 of the Revised Code and meets the 34376
requirements of Title VI of the Civil Rights Act of 1964. 34377

(B) "Resident" and "full-time student" have the meanings 34378
established for purposes of this section by rule of the Ohio board 34379
of regents. 34380

The board shall establish and administer a student choice 34381
grant program and shall adopt rules for the administration of the 34382
program. 34383

The board may make a grant to any resident of this state who 34384
is enrolled as a full-time student in a bachelor's degree program 34385
at an eligible institution and maintains an academic record that 34386
meets or exceeds the standard established pursuant to this section 34387
by rule of the board, except that no grant shall be made to any 34388
individual who was enrolled as a student in an institution of 34389
higher education on or before July 1, 1984, or is serving a term 34390
of imprisonment. The grant shall not exceed the lesser of the 34391

total instructional and general charges of the institution in 34392
which the student is enrolled, or an amount equal to one-fourth of 34393
the total of any state instructional subsidy amount distributed by 34394
the board in the second fiscal year of the preceding biennium for 34395
all full-time students enrolled in bachelor's degree programs at 34396
four-year state-assisted institutions of higher education divided 34397
by the sum of the actual number of full-time students enrolled in 34398
bachelor's degree programs at four-year state-assisted 34399
institutions of higher education reported to the board for such 34400
year by the institutions to which the subsidy was distributed. 34401

The board shall prescribe the form and manner of application 34402
for grants including the manner of certification by eligible 34403
institutions that each applicant from such institution is enrolled 34404
in a bachelor's degree program as a full-time student and has an 34405
academic record that meets or exceeds the standard established by 34406
the board. 34407

A grant awarded to an eligible student shall be paid to the 34408
institution in which the student is enrolled, and the institution 34409
shall reduce the student's instructional and general charges by 34410
the amount of the grant. Each grant awarded shall be prorated and 34411
paid in equal installments at the time of enrollment for each term 34412
of the academic year for which the grant is awarded. No student 34413
shall be eligible to receive a grant for more than ten semesters, 34414
fifteen quarters, or the equivalent of five academic years. 34415

The receipt of an Ohio student choice grant shall not affect 34416
a student's eligibility for assistance, or the amount of such 34417
assistance, granted under section 3315.33, 3333.12, 3333.122, 34418
3333.22, 3333.26, 5910.03, 5910.032, or 5919.34 of the Revised 34419
Code. If a student receives assistance under one or more of such 34420
sections, the student choice grant made to the student shall not 34421
exceed the difference between the amount of assistance received 34422
under such sections and the total instructional and general 34423

charges of the institution in which the student is enrolled. 34424

The general assembly shall support the student choice grant 34425
program by such sums and in such manner as it may provide, but the 34426
board may also receive funds from other sources to support the 34427
program. 34428

No grant shall be made to any student enrolled in a course of 34429
study leading to a degree in theology, religion, or other field of 34430
preparation for a religious profession unless the course of study 34431
leads to an accredited bachelor of arts or bachelor of science 34432
degree. 34433

Institutions of higher education that enroll students 34434
receiving grants under this section shall report to the board the 34435
name of each student who has received such a grant but who is no 34436
longer eligible for all or part of such grant and shall refund all 34437
moneys due to the state within thirty days after the beginning of 34438
the term immediately following the term in which the student was 34439
no longer eligible to receive all or part of the grant. There 34440
shall be an interest charge of one per cent per month on all 34441
moneys due and payable after such thirty-day period. The board 34442
shall immediately notify the office of budget and management and 34443
~~the legislative budget office of~~ the legislative service 34444
commission of all refunds received. 34445

Sec. 3333.28. (A) The Ohio board of regents shall establish 34446
the nurse education assistance program, the purpose of which shall 34447
be to make loans to students enrolled in prelicensure nurse 34448
education programs at institutions approved by the board of 34449
nursing under section 4723.06 of the Revised Code and 34450
postlicensure nurse education programs approved by the board of 34451
regents under section 3333.04 of the Revised Code or offered by an 34452
institution holding a certificate of authorization issued by the 34453
board of regents under Chapter 1713. of the Revised Code. The 34454

board of nursing shall assist the board of regents in 34455
administering the program. 34456

(B) There is hereby created in the state treasury the nurse 34457
education assistance fund, which shall consist of all money 34458
transferred to it pursuant to section 4743.05 of the Revised Code. 34459
The fund shall be used by the board of regents for loans made 34460
under division (A) of this section and for expenses of 34461
administering the loan program. 34462

(C) The Between July 1, 2005, and January 1, 2012, the board 34463
of regents shall distribute money in the nurse education 34464
assistance fund in the following manner: 34465

(1)(a) Fifty per cent of available funds shall be awarded as 34466
loans to registered nurses enrolled in postlicensure nurse 34467
education programs described in division (A) of this section. To 34468
be eligible for a loan, the applicant shall provide the board with 34469
a letter of intent to practice as a faculty member at a 34470
prelicensure or postlicensure program for nursing in this state 34471
upon completion of the applicant's academic program. 34472

(b) If the borrower of a loan under division (C)(1)(a) of 34473
this section secures employment as a faculty member of an approved 34474
nursing education program in this state within six months 34475
following graduation from an approved nurse education program, the 34476
board may forgive the principal and interest of the student's 34477
loans received under division (C)(1)(a) of this section at a rate 34478
of twenty-five per cent per year, for a maximum of four years, for 34479
each year in which the borrower is so employed. A deferment of the 34480
service obligation, and other conditions regarding the forgiveness 34481
of loans may be granted as provided by the rules adopted under 34482
division (D)(7) of this section. 34483

(c) Loans awarded under division (C)(1)(a) of this section 34484
shall be awarded on the basis of the student's expected family 34485

contribution, with preference given to those applicants with the lowest expected family contribution. However, the board of regents may consider other factors it determines relevant in ranking the applications.

(d) Each loan awarded to a student under division (C)(1)(a) of this section shall be not less than five thousand dollars per year.

(2) Twenty-five per cent of available funds shall be awarded to students enrolled in prelicensure nurse education programs for registered nurses, as defined in section 4723.01 of the Revised Code.

(3) Twenty-five per cent of available funds shall be awarded to students enrolled in prelicensure professional nurse education programs for licensed practical nurses, as defined in section 4723.01 of the Revised Code.

After January 1, 2012, the board of regents shall determine the manner in which to distribute loans under this section.

(D) Subject to the requirements specified in division (C) of this section, the board of regents shall adopt rules in accordance with Chapter 119. of the Revised Code establishing:

(1) Eligibility criteria for receipt of a loan;

(2) Loan application procedures;

(3) The amounts in which loans may be made and the total amount that may be loaned to an individual;

(4) The total amount of loans that can be made each year;

(5) The percentage of the money in the fund that must remain in the fund at all times as a fund balance;

(6) Interest and principal repayment schedules;

(7) Conditions under which a portion of principal and

interest obligations incurred by an individual under the program 34515
will be forgiven; 34516

(8) Ways that the program may be used to encourage 34517
individuals who are members of minority groups to enter the 34518
nursing profession; 34519

(9) Any other matters incidental to the operation of the 34520
program. 34521

~~(D)~~(E) The obligation to repay a portion of the principal and 34522
interest on a loan made under this section shall be forgiven if 34523
the recipient of the loan meets the criteria for forgiveness 34524
established by division (C)(1)(b) of this section, in the case of 34525
loans awarded under division (C)(1)(a) of this section, or by the 34526
board of regents by rule adopted under division ~~(C)~~(D)(7) of this 34527
section, in the case of other loans awarded under this section. 34528

~~(E)~~(F) The receipt of a loan under this section shall not 34529
affect a student's eligibility for assistance, or the amount of 34530
that assistance, granted under section 3333.12, 3333.122, 3333.22, 34531
3333.26, 3333.27, 5910.03, 5910.032, or 5919.34 of the Revised 34532
Code, but the rules of the board of regents may provide for taking 34533
assistance received under those sections into consideration when 34534
determining a student's eligibility for a loan under this section. 34535

Sec. 3333.36. The Provided that sufficient unencumbered and 34536
unexpended funds are available from general revenue fund 34537
appropriations made to the Ohio board of regents, the chancellor 34538
of the Ohio board of regents ~~may~~ shall allocate up to seventy 34539
thousand dollars in each fiscal year to make payments to the 34540
Columbus program in intergovernmental issues, an Ohio internship 34541
program at Kent state university, for scholarships of up to two 34542
thousand dollars for each student enrolled in the program. The 34543
chancellor may utilize any general revenue funds appropriated to 34544
the board of regents that the chancellor determines to be 34545

available for purposes of this section. 34546

Sec. 3333.38. (A) As used in this section: 34547

(1) "Institution of higher education" includes all of the 34548
following: 34549

(a) A state institution of higher education, as defined in 34550
section 3345.011 of the Revised Code; 34551

(b) A nonprofit institution issued a certificate of 34552
authorization by the Ohio board of regents under Chapter 1713. of 34553
the Revised Code; 34554

(c) A private institution exempt from regulation under 34555
Chapter 3332. of the Revised Code, as prescribed in section 34556
3333.046 of the Revised Code; 34557

(d) An institution of higher education with a certificate of 34558
registration from the state board of career colleges and schools 34559
under Chapter 3332. of the Revised Code. 34560

(2) "Student financial assistance supported by state funds" 34561
includes assistance granted under sections 3315.33, 3333.12, 34562
3333.122, 3333.21, 3333.26, 3333.27, 3333.28, 3333.29, 3333.372, 34563
5910.03, 5910.032, and 5919.34 of the Revised Code and any other 34564
post-secondary student financial assistance supported by state 34565
funds. 34566

(B) An individual who is convicted of, pleads guilty to, or 34567
is adjudicated a delinquent child for one of the following 34568
violations shall be ineligible to receive any student financial 34569
assistance supported by state funds at an institution of higher 34570
education for two calendar years from the time the individual 34571
applies for assistance of that nature: 34572

(1) A violation of section 2917.02 or 2917.03 of the Revised 34573
Code; 34574

(2) A violation of section 2917.04 of the Revised Code that 34575
is a misdemeanor of the fourth degree; 34576

(3) A violation of section 2917.13 of the Revised Code that 34577
is a misdemeanor of the fourth or first degree and occurs within 34578
the proximate area where four or more others are acting in a 34579
course of conduct in violation of section 2917.11 of the Revised 34580
Code. 34581

(C) If an individual is convicted of, pleads guilty to, or is 34582
adjudicated a delinquent child for committing a violation of 34583
section 2917.02 or 2917.03 of the Revised Code, and if the 34584
individual is enrolled in a state-supported institution of higher 34585
education, the institution in which the individual is enrolled 34586
shall immediately dismiss the individual. No state-supported 34587
institution of higher education shall admit an individual of that 34588
nature for one academic year after the individual applies for 34589
admission to a state-supported institution of higher education. 34590
This division does not limit or affect the ability of a 34591
state-supported institution of higher education to suspend or 34592
otherwise discipline its students. 34593

Sec. 3334.01. As used in this chapter: 34594

(A) "Aggregate original principal amount" means the aggregate 34595
of the initial offering prices to the public of college savings 34596
bonds, exclusive of accrued interest, if any. "Aggregate original 34597
principal amount" does not mean the aggregate accreted amount 34598
payable at maturity or redemption of such bonds. 34599

(B) "Beneficiary" means: 34600

(1) An individual designated by the purchaser under a tuition 34601
payment contract or through a scholarship program as the 34602
individual on whose behalf tuition ~~credits~~ units purchased under 34603
the contract or awarded through the scholarship program will be 34604

applied toward the payment of undergraduate, graduate, or 34605
professional tuition; or 34606

(2) An individual designated by the contributor under a 34607
variable college savings program contract as the individual whose 34608
tuition and other higher education expenses will be paid from a 34609
variable college savings program account. 34610

(C) "Capital appreciation bond" means a bond for which the 34611
following is true: 34612

(1) The principal amount is less than the amount payable at 34613
maturity or early redemption; and 34614

(2) No interest is payable on a current basis. 34615

(D) "Tuition ~~credit~~ unit" means a credit of the Ohio tuition 34616
trust authority purchased under section 3334.09 of the Revised 34617
Code. "Tuition unit" includes a tuition credit purchased prior to 34618
July 1, 1994. 34619

(E) "College savings bonds" means revenue and other 34620
obligations issued on behalf of the state or any agency or issuing 34621
authority thereof as a zero-coupon or capital appreciation bond, 34622
and designated as college savings bonds as provided in this 34623
chapter. "College savings bond issue" means any issue of bonds of 34624
which any part has been designated as college savings bonds. 34625

(F) "Institution of higher education" means a state 34626
institution of higher education, a private college, university, or 34627
other postsecondary institution located in this state that 34628
possesses a certificate of authorization issued by the Ohio board 34629
of regents pursuant to Chapter 1713. of the Revised Code or a 34630
certificate of registration issued by the state board of career 34631
colleges and schools under Chapter 3332. of the Revised Code, or 34632
an accredited college, university, or other postsecondary 34633
institution located outside this state that is accredited by an 34634
accrediting organization or professional association recognized by 34635

the authority. To be considered an institution of higher 34636
education, an institution shall meet the definition of an eligible 34637
educational institution under section 529 of the Internal Revenue 34638
Code. 34639

(G) "Issuing authority" means any authority, commission, 34640
body, agency, or individual empowered by the Ohio Constitution or 34641
the Revised Code to issue bonds or any other debt obligation of 34642
the state or any agency or department thereof. "Issuer" means the 34643
issuing authority or, if so designated under division (B) of 34644
section 3334.04 of the Revised Code, the treasurer of state. 34645

(H) "Tuition" means the charges imposed to attend an 34646
institution of higher education as an undergraduate, graduate, or 34647
professional student and all fees required as a condition of 34648
enrollment, as determined by the Ohio tuition trust authority. 34649
"Tuition" does not include laboratory fees, room and board, or 34650
other similar fees and charges. 34651

(I) "Weighted average tuition" means the tuition cost 34652
resulting from the following calculation: 34653

(1) Add the products of the annual undergraduate tuition 34654
charged to Ohio residents at each four-year state university 34655
multiplied by that institution's total number of undergraduate 34656
fiscal year equated students; and 34657

(2) Divide the gross total of the products from division 34658
(I)(1) of this section by the total number of undergraduate fiscal 34659
year equated students attending four-year state universities. 34660

When making this calculation, the "annual undergraduate 34661
tuition charged to Ohio residents" shall not incorporate any 34662
tuition reductions that vary in amount among individual recipients 34663
and that are awarded to Ohio residents based upon their particular 34664
circumstances, beyond any minimum amount awarded uniformly to all 34665
Ohio residents. In addition, any tuition reductions awarded 34666

uniformly to all Ohio residents shall be incorporated into this 34667
calculation. 34668

(J) "Zero-coupon bond" means a bond which has a stated 34669
interest rate of zero per cent and on which no interest is payable 34670
until the maturity or early redemption of the bond, and is offered 34671
at a substantial discount from its original stated principal 34672
amount. 34673

(K) "State institution of higher education" includes the 34674
state universities listed in section 3345.011 of the Revised Code, 34675
community colleges created pursuant to Chapter 3354. of the 34676
Revised Code, university branches created pursuant to Chapter 34677
3355. of the Revised Code, technical colleges created pursuant to 34678
Chapter 3357. of the Revised Code, state community colleges 34679
created pursuant to Chapter 3358. of the Revised Code, the medical 34680
university of Ohio at Toledo, and the northeastern Ohio 34681
universities college of medicine. 34682

(L) "Four-year state university" means those state 34683
universities listed in section 3345.011 of the Revised Code. 34684

(M) "Principal amount" refers to the initial offering price 34685
to the public of an obligation, exclusive of the accrued interest, 34686
if any. "Principal amount" does not refer to the aggregate 34687
accreted amount payable at maturity or redemption of an 34688
obligation. 34689

(N) "Scholarship program" means a program registered with the 34690
Ohio tuition trust authority pursuant to section 3334.17 of the 34691
Revised Code. 34692

(O) "Internal Revenue Code" means the "Internal Revenue Code 34693
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., as amended. 34694

(P) "Other higher education expenses" means room and board 34695
and books, supplies, equipment, and nontuition-related fees 34696
associated with the cost of attendance of a beneficiary at an 34697

institution of higher education, but only to the extent that such 34698
expenses meet the definition of "qualified higher education 34699
expenses" under section 529 of the Internal Revenue Code. "Other 34700
higher education expenses" does not include tuition as defined in 34701
division (H) of this section. 34702

(Q) "Purchaser" means the person signing the tuition payment 34703
contract, who controls the account and acquires tuition ~~credits~~ 34704
units for an account under the terms and conditions of the 34705
contract. 34706

(R) "Contributor" means a person who signs a variable college 34707
savings program contract with the Ohio tuition trust authority and 34708
contributes to and owns the account created under the contract. 34709

(S) "Contribution" means any payment directly allocated to an 34710
account for the benefit of the designated beneficiary of the 34711
account. 34712

Sec. 3334.02. (A) In order to help make higher education 34713
affordable and accessible to all citizens of Ohio, to maintain 34714
state institutions of higher education by helping to provide a 34715
stable financial base to these institutions, to provide the 34716
citizens of Ohio with financing assistance for higher education 34717
and protection against rising tuition costs, to encourage saving 34718
to enhance the ability of citizens of Ohio to obtain financial 34719
access to institutions of higher education, to encourage 34720
elementary and secondary students in this state to achieve 34721
academic excellence, and to promote a well-educated and 34722
financially secure population to the ultimate benefit of all 34723
citizens of the state of Ohio, there is hereby created the Ohio 34724
college savings program. The program shall consist of the issuance 34725
of college savings bonds and the sale of tuition ~~credits and, if~~ 34726
~~offered, supplemental credits~~ units. 34727

(B) The provisions of Chapter 1707. of the Revised Code shall 34728

not apply to tuition ~~credits~~ units or any agreement or transaction 34729
related thereto. 34730

(C) To provide the citizens of Ohio with a choice of 34731
tax-advantaged college savings programs and the opportunity to 34732
participate in more than one type of college savings program at a 34733
time, the Ohio tuition trust authority shall establish and 34734
administer a variable college savings program as a qualified state 34735
tuition program under section 529 of the Internal Revenue Code. 34736
The program shall allow contributors to make cash contributions to 34737
variable college savings program accounts created for the purpose 34738
of paying future tuition and other higher education expenses and 34739
providing variable rates of return on contributions. 34740

(D) A person may participate simultaneously in both the Ohio 34741
college savings program and the variable college savings program. 34742

Sec. 3334.03. (A) There is hereby created the Ohio tuition 34743
trust authority, which shall have the powers enumerated in this 34744
chapter and which shall operate as a qualified state tuition 34745
program within the meaning of section 529 of the Internal Revenue 34746
Code. The exercise by the authority of its powers shall be and is 34747
hereby declared an essential state governmental function. The 34748
authority is subject to all provisions of law generally applicable 34749
to state agencies which do not conflict with the provisions of 34750
this chapter. 34751

(B) The Ohio tuition trust authority shall consist of eleven 34752
members, no more than six of whom shall be of the same political 34753
party. Six members shall be appointed by the governor with the 34754
advice and consent of the senate as follows: one shall represent 34755
state institutions of higher education, one shall represent 34756
private nonprofit colleges and universities located in Ohio, one 34757
shall have experience in the field of marketing or public 34758
relations, one shall have experience in the field of information 34759

systems design or management, and two shall have experience in the 34760
field of banking, investment banking, insurance, or law. Four 34761
members shall be appointed by the speaker of the house of 34762
representatives and the president of the senate as follows: the 34763
speaker of the house of representatives shall appoint one member 34764
of the house from each political party and the president of the 34765
senate shall appoint one member of the senate from each political 34766
party. The chancellor of the board of regents shall be an ex 34767
officio voting member; provided, however, that the chancellor may 34768
designate a vice-chancellor of the board of regents to serve as 34769
the chancellor's representative. The political party of the 34770
chancellor shall be deemed the political party of the designee for 34771
purposes of determining that no more than six members are of the 34772
same political party. 34773

Initial gubernatorial appointees to the authority shall serve 34774
staggered terms, with two terms expiring on January 31, 1991, one 34775
term expiring on January 31, 1992, and one term expiring on 34776
January 31, 1993. The governor shall appoint two additional 34777
members to the authority no later than thirty days after ~~the~~ 34778
~~effective date of this amendment~~ March 30, 1999, and their initial 34779
terms shall expire January 31, 2002. Thereafter, terms of office 34780
for gubernatorial appointees shall be for four years. The initial 34781
terms of the four legislative members shall expire on January 31, 34782
1991. Thereafter legislative members shall serve two-year terms, 34783
provided that legislative members may continue to serve on the 34784
authority only if they remain members of the general assembly. Any 34785
vacancy on the authority shall be filled in the same manner as the 34786
original appointment, except that any person appointed to fill a 34787
vacancy shall be appointed to the remainder of the unexpired term. 34788
Any member is eligible for reappointment. 34789

(C) Any member may be removed by the appointing authority for 34790
misfeasance, malfeasance, or willful neglect of duty or for other 34791

cause after notice and a public hearing, unless the notice and 34792
hearing are waived in writing by the member. Members shall serve 34793
without compensation but shall receive their reasonable and 34794
necessary expenses incurred in the conduct of authority business. 34795

(D) The speaker of the house of representatives and the 34796
president of the senate shall each designate a member of the 34797
authority to serve as co-chairpersons. The six gubernatorial 34798
appointees and the chancellor of the board of regents or the 34799
chancellor's designee shall serve as the executive committee of 34800
the authority, and shall elect an executive chairperson from among 34801
the executive committee members. The authority and the executive 34802
committee may elect such other officers as determined by the 34803
authority or the executive committee respectively. The authority 34804
shall meet at least annually at the call of either co-chairperson 34805
and at such other times as either co-chairperson or the authority 34806
determines necessary. In the absence of both co-chairpersons, the 34807
executive chairperson shall serve as the presiding officer of the 34808
authority. The executive committee shall meet at the call of the 34809
executive chairperson or as the executive committee determines 34810
necessary. The authority may delegate to the executive committee 34811
such duties and responsibilities as the authority determines 34812
appropriate, except that the authority may not delegate to the 34813
executive committee the final determination of the annual price of 34814
a tuition ~~credit~~ unit, the final designation of bonds as college 34815
savings bonds, or the employment of an executive director of the 34816
authority. Upon such delegation, the executive committee shall 34817
have the authority to act pursuant to such delegation without 34818
further approval or action by the authority. A majority of the 34819
authority shall constitute a quorum of the authority, and the 34820
affirmative vote of a majority of the members present shall be 34821
necessary for any action taken by the authority. A majority of the 34822
executive committee shall constitute a quorum of the executive 34823
committee, and the affirmative vote of a majority of the members 34824

present shall be necessary for any action taken by the executive 34825
committee. No vacancy in the membership of the authority or the 34826
executive committee shall impair the rights of a quorum to 34827
exercise all rights and perform all duties of the authority or the 34828
executive committee respectively. 34829

Sec. 3334.07. (A) The Ohio tuition trust authority shall 34830
develop a plan for the sale of tuition ~~credits~~ units. The Ohio 34831
board of regents shall cooperate with the authority and provide 34832
technical assistance upon request. 34833

(B) Annually, the authority shall determine the weighted 34834
average tuition of four-year state universities in the academic 34835
year that begins on or after the first day of August of the 34836
current calendar year, and shall establish the price of a tuition 34837
~~credit~~ unit in the ensuing sales period. Such price shall be based 34838
on sound actuarial principles, and shall, to the extent 34839
actuarially possible, reasonably approximate one per cent of the 34840
weighted average tuition for that academic year plus the costs of 34841
administering the ~~tuition-credit~~ program that are in excess of 34842
general revenue fund appropriations for administrative costs. The 34843
sales period to which such price applies shall consist of twelve 34844
months, and the authority by rule shall establish the date on 34845
which the sales period begins. If circumstances arise during a 34846
sales period that the authority determines causes the price of 34847
tuition ~~credits~~ units to be insufficient to ensure the actuarial 34848
soundness of the Ohio tuition trust fund, the authority may adjust 34849
the price of tuition ~~credits~~ units purchased during the remainder 34850
of the sales period. To promote the purchase of tuition ~~credits~~ 34851
units and in accordance with actuarially sound principles, the 34852
authority may adjust the sales price as part of incentive 34853
programs, such as discounting for ~~lump-sum~~ lump sum purchases and 34854
multi-year installment plans at a fixed rate of purchase. 34855

Sec. 3334.08. (A) Subject to division (B) of this section, in addition to any other powers conferred by this chapter, the Ohio tuition trust authority may do any of the following:

(1) Impose reasonable residency requirements for beneficiaries of tuition ~~credits~~ units;

(2) Impose reasonable limits on the number of tuition ~~credit~~ unit participants;

(3) Impose and collect administrative fees and charges in connection with any transaction under this chapter;

(4) Purchase insurance from insurers licensed to do business in this state providing for coverage against any loss in connection with the authority's property, assets, or activities or to further ensure the value of tuition ~~credits~~ units;

(5) Indemnify or purchase policies of insurance on behalf of members, officers, and employees of the authority from insurers licensed to do business in this state providing for coverage for any liability incurred in connection with any civil action, demand, or claim against a director, officer, or employee by reason of an act or omission by the director, officer, or employee that was not manifestly outside the scope of the employment or official duties of the director, officer, or employee or with malicious purpose, in bad faith, or in a wanton or reckless manner;

(6) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of the powers and duties of the authority;

(7) Promote, advertise, and publicize the Ohio college savings program and the variable college savings program;

(8) Adopt rules under section 111.15 of the Revised Code for the implementation of the Ohio college savings program;

(9) Contract, for the provision of all or part of the 34886
services necessary for the management and operation of the Ohio 34887
college savings program and the variable college savings program, 34888
with a bank, trust company, savings and loan association, 34889
insurance company, or licensed dealer in securities if the bank, 34890
company, association, or dealer is authorized to do business in 34891
this state and information about the contract is filed with the 34892
controlling board pursuant to division (D)(6) of section 127.16 of 34893
the Revised Code; 34894

(10) Contract for other services, or for goods, needed by the 34895
authority in the conduct of its business, including but not 34896
limited to credit card services; 34897

(11) Employ an executive director and other personnel as 34898
necessary to carry out its responsibilities under this chapter, 34899
and fix the compensation of these persons. All employees of the 34900
authority shall be in the unclassified civil service and shall be 34901
eligible for membership in the public employees retirement system. 34902

(12) Contract with financial consultants, actuaries, 34903
auditors, and other consultants as necessary to carry out its 34904
responsibilities under this chapter; 34905

(13) Enter into agreements with any agency of the state or 34906
its political subdivisions or with private employers under which 34907
an employee may agree to have a designated amount deducted in each 34908
payroll period from the wages or salary due the employee for the 34909
purpose of purchasing tuition ~~credits~~ units pursuant to a tuition 34910
payment contract or making contributions pursuant to a variable 34911
college savings program contract; 34912

(14) Enter into an agreement with the treasurer of state 34913
under which the treasurer of state will receive, and credit to the 34914
Ohio tuition trust fund or variable college savings program fund, 34915
from any bank or savings and loan association authorized to do 34916

business in this state, amounts that a depositor of the bank or 34917
association authorizes the bank or association to withdraw 34918
periodically from the depositor's account for the purpose of 34919
purchasing tuition ~~credits~~ units pursuant to a tuition payment 34920
contract or making contributions pursuant to a variable college 34921
savings program contract; 34922

(15) Solicit and accept gifts, grants, and loans from any 34923
person or governmental agency and participate in any governmental 34924
program; 34925

(16) Impose limits on the number of ~~credits~~ units which may 34926
be purchased on behalf of or assigned or awarded to any 34927
beneficiary and on the total amount of contributions that may be 34928
made on behalf of a beneficiary; 34929

(17) Impose restrictions on the substitution of another 34930
individual for the original beneficiary under the Ohio college 34931
savings program; 34932

(18) Impose a limit on the age of a beneficiary, above which 34933
tuition ~~credits~~ units may not be purchased on behalf of that 34934
beneficiary; 34935

(19) Enter into a cooperative agreement with the treasurer of 34936
state to provide for the direct disbursement of payments under 34937
tuition payment or variable college savings program contracts; 34938

(20) Determine the other higher education expenses for which 34939
tuition ~~credits~~ units or contributions may be used; 34940

(21) Terminate any tuition payment or variable college 34941
savings program contract if no purchases or contributions are made 34942
for a period of three years or more and there are fewer than a 34943
total of five tuition units ~~or tuition credits~~ or less than a 34944
dollar amount set by rule on account, provided that notice of a 34945
possible termination shall be provided in advance, explaining any 34946
options to prevent termination, and a reasonable amount of time 34947

shall be provided within which to act to prevent a termination; 34948

(22) Maintain a separate account for each tuition payment or 34949
variable college savings program contract; 34950

(23) Perform all acts necessary and proper to carry out the 34951
duties and responsibilities of the authority pursuant to this 34952
chapter. 34953

(B) The authority shall adopt rules under section 111.15 of 34954
the Revised Code for the implementation and administration of the 34955
variable college savings program. The rules shall provide 34956
taxpayers with the maximum tax advantages and flexibility 34957
consistent with section 529 of the Internal Revenue Code and 34958
regulations adopted thereunder with regard to disposition of 34959
contributions and earnings, designation of beneficiaries, and 34960
rollover of account assets to other programs. 34961

(C) Except as otherwise specified in this chapter, the 34962
provisions of Chapters 123., 125., and 4117. of the Revised Code 34963
shall not apply to the authority. The department of administrative 34964
services shall, upon the request of the authority, act as the 34965
authority's agent for the purchase of equipment, supplies, 34966
insurance, or services, or the performance of administrative 34967
services pursuant to Chapter 125. of the Revised Code. 34968

Sec. 3334.09. (A) Except in the case of a scholarship program 34969
established in accordance with section 3334.17 of the Revised 34970
Code, the Ohio tuition trust authority may enter into a tuition 34971
payment contract with any person for the purchase of tuition 34972
~~credits~~ units if either the purchaser or the beneficiary is a 34973
resident of this state at the time the contract is entered into. A 34974
tuition payment contract shall allow any person to purchase 34975
tuition ~~credits~~ units at the price determined by the authority 34976
pursuant to section 3334.07 or 3334.12 of the Revised Code for the 34977
year in which the tuition ~~credit~~ unit is purchased. The purchaser 34978

shall name in the payment contract one specific individual as the beneficiary for the tuition ~~credits~~ units. 34979
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In accordance with rules of the authority, ~~credits~~ units may be transferred to the credit of another beneficiary and a new beneficiary may be substituted for the beneficiary originally named in the contract. 34981
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(B) Each tuition ~~credit~~ unit shall entitle the beneficiary to an amount equal to one per cent of the weighted average tuition. 34985
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(C) Nothing in this chapter or in any tuition payment contract entered into pursuant to this chapter shall be construed as a guarantee by the state, the authority, or any institution of higher education that a beneficiary will be admitted to an institution of higher education, or, upon admission to an institution of higher education, will be permitted to continue to attend or will receive a degree from an institution of higher education. Nothing in this chapter or in any tuition payment contract entered into pursuant to this chapter shall be considered a guarantee that the beneficiary's cost of tuition at an institution of higher education other than a state institution of higher education will be covered in full by the proceeds of the beneficiary's tuition ~~credits~~ units. 34987
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(D) The following information shall be disclosed in writing to each purchaser of tuition ~~credits~~ units and, where appropriate, to each entity establishing a scholarship program under section 3334.17 of the Revised Code: 35000
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(1) The terms and conditions for the purchase and use of tuition ~~credits~~ units; 35004
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(2) In the case of a contract described by division (A) of this section, any restrictions on the substitution of another individual for the original beneficiary and any restrictions on the transfer of ownership of ~~credits~~ units in the payment account; 35006
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| (3) The person or entity entitled to terminate the contract; | 35010 |
| (4) The terms and conditions under which the contract may be terminated and the amount of the refund, if any, to which the person or entity terminating the contract, or that person's or entity's designee, is entitled upon termination; | 35011 35012 35013 35014 |
| (5) The obligation of the authority to make payments to a beneficiary, or an institution of higher education on behalf of a beneficiary, under division (B) of this section based upon the number of tuition credits <u>units</u> purchased on behalf of the beneficiary or awarded to the beneficiary pursuant to a scholarship program; | 35015 35016 35017 35018 35019 35020 |
| (6) The method by which tuition credits <u>units</u> shall be applied toward payment of tuition and other higher education expenses if in any academic term the beneficiary is a part-time student; | 35021 35022 35023 35024 |
| (7) The period of time during which a beneficiary may receive benefits under the contract; | 35025 35026 |
| (8) The terms and conditions under which money may be wholly or partially withdrawn from the program, including, but not limited to, any reasonable charges and fees that may be imposed for withdrawal; | 35027 35028 35029 35030 |
| (9) All other rights and obligations of the purchaser and the authority, including the provisions of division (A) of section 3334.12 of the Revised Code, and any other terms, conditions, and provisions the authority considers necessary and appropriate. | 35031 35032 35033 35034 |
| (E) A tuition payment contract may provide that the authority will pay directly to the institution of higher education in which a beneficiary is enrolled during a term the amount represented by the tuition credits <u>units</u> being used that term. | 35035 35036 35037 35038 |
| (F) A tuition payment contract described by division (A) of | 35039 |

this section may provide that if the contract has not been 35040
terminated or ~~credits~~ units purchased under the contract have not 35041
been applied toward the payment of tuition or other higher 35042
education expenses within a specified period of time, the 35043
authority may, after making a reasonable effort to locate the 35044
purchaser of the tuition ~~credits~~ units, the beneficiary, and any 35045
person designated in the contract to act on behalf of the 35046
purchaser of the ~~credits~~ units or the beneficiary, terminate the 35047
contract and retain the amounts payable under the contract. 35048

(G) If, at any time after tuition ~~credits~~ units are purchased 35049
on behalf of a beneficiary or awarded to a beneficiary or pursuant 35050
to a scholarship program, the beneficiary becomes a nonresident of 35051
this state, or, if the beneficiary was not a resident of this 35052
state at the time the tuition payment contract was entered into, 35053
the purchaser becomes a nonresident of this state, ~~credits~~ units 35054
purchased or awarded while the beneficiary was a resident may be 35055
applied on behalf of the beneficiary toward the payment of tuition 35056
at an institution of higher education and other higher education 35057
expenses in the manner specified in division (B) of this section, 35058
except that if the beneficiary enrolls in a state institution of 35059
higher education, the beneficiary shall be responsible for payment 35060
of all nonresident fees charged to out-of-state residents by the 35061
institution in which the beneficiary is enrolled. 35062

Sec. 3334.10. Divisions (A), and (B), ~~(C), and (D)~~ of this 35063
section do not apply to scholarship programs established under 35064
section 3334.17 of the Revised Code. 35065

(A) Unless otherwise provided for in the ~~contract, a~~ tuition 35066
payment contract ~~may be terminated by the purchaser under any of~~ 35067
~~the following circumstances upon the written request of the~~ 35068
~~purchaser to the authority:~~ 35069

~~(1) Upon the death or permanent disability of the~~ 35070

beneficiary; 35071

~~(2) Upon notification to the Ohio tuition trust authority in writing that the beneficiary is age eighteen or older, has decided not to attend an institution of higher education, and requests that the contract be terminated;~~ 35072
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~~(3) Upon the beneficiary's completion of the degree requirements at an institution of higher education;~~ 35076
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~~(4) Upon the rollover of all amounts in a tuition credit account to an equivalent account in another state;~~ 35078
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~~(5) Upon the occurrence of other circumstances determined by the authority to be grounds for termination.~~ 35080
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~~(B) The authority shall determine the method and schedule for payment of refunds upon termination of a tuition payment contract. , the purchaser may rollover amounts to another qualified tuition program under section 529 of the Internal Revenue Code or terminate the contract for any reason by filing written notice with the Ohio tuition trust authority.~~ 35082
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~~(1) In cases described by division (A)(2) or (3) of this section, If the contract is terminated and the beneficiary is under eighteen years of age, the authority shall use actuarially sound principles to determine the amount of the refund ~~shall be~~ equal to not less than one per cent of the weighted average tuition in the academic year the refund is paid, multiplied by the number of tuition credits purchased and not used, minus any reasonable charges and fees provided for by the authority, or such other lesser sum as shall be determined by the authority but only to the extent that such a lesser sum is necessary to meet the refund penalty requirements for qualified state tuition programs under section 529 of the Internal Revenue Code.~~ 35088
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~~(2) In cases described by division (A)(1) of this section If the contract is terminated because of the death or permanent~~ 35100
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disability of the beneficiary, the amount of the refund shall be 35102
equal to the greater of the following: 35103

(a) One per cent of the weighted average tuition in the 35104
academic year the refund is paid, multiplied by the number of 35105
tuition ~~credits~~ units purchased and not used; 35106

(b) The total purchase price of all tuition ~~credits~~ units 35107
purchased for the beneficiary and not used. 35108

~~(3) In cases described by division (A)(5) of this section,~~ 35109
~~the amount of the refund shall be either of the following as~~ 35110
~~determined by the authority:~~ 35111

~~(a) The refund provided by division (B)(1) of this section:~~ 35112

~~(b) The refund provided by division (B)(2) of this section,~~ 35113
~~or such other lesser sum as shall be determined by the authority~~ 35114
~~but only to the extent that such a lesser sum is necessary to meet~~ 35115
~~the refund penalty requirements for qualified state tuition~~ 35116
~~programs under section 529 of the Internal Revenue Code If all or~~ 35117
~~part of the amount accrued under the contract is liquidated for a~~ 35118
~~rollover to another qualified tuition program under section 529 of~~ 35119
~~the Internal Revenue Code, the rollover amount shall be determined~~ 35120
~~in an actuarially sound manner.~~ 35121

~~(C) Unless otherwise provided for in the contract, a (B) The~~ 35122
~~contributor of a variable college savings program account may be~~ 35123
~~terminated by rollover amounts to another qualified tuition~~ 35124
~~program under section 529 of the Internal Revenue Code or~~ 35125
~~terminate the contributor account for any reason upon the written~~ 35126
~~request of the contributor to the authority. Termination of a~~ 35127
~~variable college savings program account shall occur no earlier~~ 35128
~~than a maturity period set by the authority after the first~~ 35129
~~contribution is made to the account.~~ 35130

~~(D) The authority shall determine the method and schedule for~~ 35131
~~payment of refunds upon termination of a variable savings program~~ 35132

~~account by filing written notice with the Ohio tuition trust authority.~~ 35133
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~~(1) The contributor under a variable savings program contract may receive a refund of the an amount equal to the account balance in an account, less any applicable administrative fees, if the account is terminated upon the death or permanent disability of the beneficiary or, to the extent allowed under rules of the authority, upon the rollover of all amounts in a variable college savings program account to an equivalent account in another state.~~ 35135
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~~(2) If a variable college savings program account is terminated for any reason other than those set forth in division (D)(1) of this section, the contributor may receive a refund of the balance in the account, less any administrative fees, and less any additional amount necessary to meet the minimum refund penalty requirements for a qualified state tuition program under section 529 of the Internal Revenue Code.~~ 35142
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~~(3) Earnings shall be calculated as the total value of the variable savings program account less the aggregate contributions, or in such other manner as prescribed by section 529 of the Internal Revenue Code.~~ 35149
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~~(E) In the case of a (C) A scholarship program, may request a refund of tuition credits units in the program's account may be made only for just cause with the approval of by filing a written request with the authority. The refund shall be paid to the entity that established the scholarship program or, with that entity's approval, to the authority if this is authorized by federal tax law. The amount of any refund shall be determined by the authority and shall meet the requirements for refunds made on account of scholarships under section 529 of the Internal Revenue Code.~~ 35153
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~~(F) If a beneficiary is awarded a scholarship other than under a scholarship program, a waiver of tuition, or similar~~ 35162
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~~subvention that the authority determines cannot be converted into 35164
money by the beneficiary, the authority shall, during each 35165
academic term that the beneficiary furnishes the authority such 35166
information about the scholarship, waiver, or similar subvention 35167
as the authority requires, refund to the person designated in the 35168
contract, or, in the case of a beneficiary under a scholarship 35169
program, to the beneficiary an amount equal to the value that the 35170
tuition credits or the amounts in the variable college savings 35171
program account that are not needed on account of the scholarship, 35172
waiver, or similar subvention would otherwise have to the 35173
beneficiary that term at the institution of higher education where 35174
the beneficiary is enrolled. The authority may, at its sole 35175
option, designate the institution of higher education at which the 35176
beneficiary is enrolled as the agent of the authority for purposes 35177
of refunds pursuant to this division. 35178~~

~~(G) If, in any academic term for which tuition credits or any 35179
amounts in a variable college savings program account have been 35180
used to pay all or part of a beneficiary's tuition, the 35181
beneficiary withdraws from the institution of higher education at 35182
which the beneficiary is enrolled prior to the end of the academic 35183
term, a pro rata share of any refund of tuition as a result of the 35184
withdrawal equal to that portion of the tuition paid with tuition 35185
credits or the amounts in a variable college savings program 35186
account shall be made to the authority, unless the authority 35187
designates a different procedure. The authority shall credit any 35188
refund received, less any reasonable charges and fees provided for 35189
by the authority, to the appropriate account established under 35190
division (F)(1) or (2) of section 3334.11 of the Revised Code or 35191
division (H) of this section. 35192~~

~~(H)(D) The authority shall maintain a separate account for 35193
each variable college savings contract entered into pursuant to 35194
division (A) of section 3334.18 of the Revised Code for 35195~~

contributions made on behalf of a beneficiary, showing the name of 35196
the beneficiary of that contract and the amount of contributions 35197
made pursuant to that contract. Upon request of any beneficiary or 35198
contributor, the authority shall provide a statement indicating, 35199
in the case of a beneficiary, the amount of contributions made 35200
pursuant to that contract on behalf of the beneficiary, or, in the 35201
case of a contributor, contributions made, disbursed, or refunded 35202
pursuant to that contract. 35203

Sec. 3334.11. (A) The assets of the Ohio tuition trust 35204
authority reserved for payment of the obligations of the authority 35205
pursuant to tuition payment contracts shall be placed in a fund, 35206
which is hereby created and shall be known as the Ohio tuition 35207
trust fund. The fund shall be in the custody of the treasurer of 35208
state, but shall not be part of the state treasury. That portion 35209
of payments received by the authority or the treasurer of state 35210
from persons purchasing tuition ~~credits~~ units under tuition 35211
payment contracts that the authority determines is actuarially 35212
necessary for the payment of obligations of the authority pursuant 35213
to tuition payment contracts, all interest and investment income 35214
earned by the fund, and all other receipts of the authority from 35215
any other source that the authority determines appropriate, shall 35216
be deposited in the fund. No purchaser or beneficiary of tuition 35217
~~credits~~ units shall have any claim against the funds of any state 35218
institution of higher education. All investment fees and other 35219
costs incurred in connection with the exercise of the investment 35220
powers of the authority pursuant to divisions (D) and (E) of this 35221
section shall be paid from the assets of the fund. 35222

(B) Unless otherwise provided by the authority, the assets of 35223
the Ohio tuition trust fund shall be expended in the following 35224
order: 35225

(1) To make payments to beneficiaries, or institutions of 35226

higher education on behalf of beneficiaries, under division (B) of 35227
section 3334.09 of the Revised Code; 35228

(2) To make refunds as provided in divisions ~~(B)~~, ~~(E)~~, (A) and 35229
~~(F)~~(C) of section 3334.10 of the Revised Code; 35230

(3) To pay the investment fees and other costs of 35231
administering the fund. 35232

(C)(1) Except as may be provided in an agreement under 35233
division (A)(19) of section 3334.08 of the Revised Code, all 35234
disbursements from the Ohio tuition trust fund shall be made by 35235
the treasurer of state on order of a designee of the authority. 35236

(2) The treasurer of state shall deposit any portion of the 35237
Ohio tuition trust fund not needed for immediate use in the same 35238
manner as state funds are deposited. 35239

(D) The authority is the trustee of the Ohio tuition trust 35240
fund. The authority shall have full power to invest the assets of 35241
the fund and in exercising this power shall be subject to the 35242
limitations and requirements contained in divisions (K) to (M) of 35243
this section and sections 145.112 and 145.113 of the Revised Code. 35244
The evidences of title of all investments shall be delivered to 35245
the treasurer of state or to a qualified trustee designated by the 35246
treasurer of state as provided in section 135.18 of the Revised 35247
Code. Assets of the fund shall be administered by the authority in 35248
a manner designed to be actuarially sound so that the assets of 35249
the fund will be sufficient to satisfy the obligations of the 35250
authority pursuant to tuition payment contracts and defray the 35251
reasonable expenses of administering the fund. 35252

(E) The public employees retirement board shall, with the 35253
approval of the authority, exercise the investment powers of the 35254
authority as set forth in division (D) of this section until the 35255
authority determines that assumption and exercise by the authority 35256
of the investment powers is financially and administratively 35257

feasible. The investment powers shall be exercised by the public 35258
employees retirement board in a manner agreed upon by the 35259
authority that maximizes the return on investment and minimizes 35260
the administrative expenses. 35261

(F)(1) The authority shall maintain a separate account for 35262
each tuition payment contract entered into pursuant to division 35263
(A) of section 3334.09 of the Revised Code for the purchase of 35264
tuition ~~credits~~ units on behalf of a beneficiary or beneficiaries 35265
showing the beneficiary or beneficiaries of that contract and the 35266
number of tuition ~~credits~~ units purchased pursuant to that 35267
contract. Upon request of any beneficiary or person who has 35268
entered into a tuition payment contract, the authority shall 35269
provide a statement indicating, in the case of a beneficiary, the 35270
number of tuition ~~credits~~ units purchased on behalf of the 35271
beneficiary, or in the case of a person who has entered into a 35272
tuition payment contract, the number of tuition ~~credits~~ units 35273
purchased, used, or refunded pursuant to that contract. A 35274
beneficiary and person that have entered into a tuition payment 35275
contract each may file only one request under this division in any 35276
year. 35277

(2) The authority shall maintain an account for each 35278
scholarship program showing the number of tuition ~~credits~~ units 35279
that have been purchased for or donated to the program and the 35280
number of tuition ~~credits~~ units that have been used. Upon the 35281
request of the entity that established the scholarship program, 35282
the authority shall provide a statement indicating these numbers. 35283

(G) In addition to the Ohio tuition trust fund, there is 35284
hereby established a reserve fund that shall be in the custody of 35285
the treasurer of state but shall not be part of the state 35286
treasury, and shall be known as the Ohio tuition trust reserve 35287
fund, and an operating fund that shall be part of the state 35288
treasury, and shall be known as the Ohio tuition trust operating 35289

fund. That portion of payments received by the authority or the 35290
treasurer of state from persons purchasing tuition ~~credits~~ units 35291
under tuition payment contracts that the authority determines is 35292
not actuarially necessary for the payment of obligations of the 35293
authority pursuant to tuition payment contracts, any interest and 35294
investment income earned by the reserve fund, any administrative 35295
charges and fees imposed by the authority on transactions under 35296
this chapter or on purchasers or beneficiaries of tuition ~~credits~~ 35297
units, and all other receipts from any other source that the 35298
authority determines appropriate, shall be deposited in the 35299
reserve fund to pay the operating expenses of the authority and 35300
the costs of administering the program. The assets of the reserve 35301
fund may be invested in the same manner and subject to the same 35302
limitations set forth in divisions (D), (E), and (K) to (M) of 35303
this section and sections 145.112 and 145.113 of the Revised Code. 35304
All investment fees and other costs incurred in connection with 35305
the exercise of the investment powers shall be paid from the 35306
assets of the reserve fund. Except as otherwise provided for in 35307
this chapter, all operating expenses of the authority and costs of 35308
administering the program shall be paid from the operating fund. 35309
The treasurer shall, upon request of the authority, transfer funds 35310
from the reserve fund to the operating fund as the authority 35311
determines appropriate to pay those current operating expenses of 35312
the authority and costs of administering the program as the 35313
authority designates. Any interest or investment income earned on 35314
the assets of the operating fund shall be deposited in the 35315
operating fund. 35316

(H) In January of each year the authority shall report to 35317
each person who received any payments or refunds from the 35318
authority during the preceding year information relative to the 35319
value of the payments or refunds to assist in determining that 35320
person's tax liability. 35321

(I) The authority shall report to the tax commissioner any 35322
information, and at the times, as the tax commissioner requires to 35323
determine any tax liability that a person may have incurred during 35324
the preceding year as a result of having received any payments or 35325
refunds from the authority. 35326

(J) All records of the authority indicating the identity of 35327
purchasers and beneficiaries of tuition ~~credits~~ units or college 35328
savings bonds, the number of tuition ~~credits~~ units purchased, 35329
used, or refunded under a tuition payment contract, and the number 35330
of college savings bonds purchased, held, or redeemed are not 35331
public records within the meaning of section 149.43 of the Revised 35332
Code. 35333

(K) The authority and other fiduciaries shall discharge their 35334
duties with respect to the funds with care, skill, prudence, and 35335
diligence under the circumstances then prevailing that a prudent 35336
person acting in a like capacity and familiar with such matters 35337
would use in the conduct of an enterprise of a like character and 35338
with like aims; and by diversifying the investments of the assets 35339
of the funds so as to minimize the risk of large losses, unless 35340
under the circumstances it is clearly prudent not to do so. 35341

To facilitate investment of the funds, the authority may 35342
establish a partnership, trust, limited liability company, 35343
corporation, including a corporation exempt from taxation under 35344
the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as 35345
amended, or any other legal entity authorized to transact business 35346
in this state. 35347

(L) In exercising its fiduciary responsibility with respect 35348
to the investment of the assets of the funds, it shall be the 35349
intent of the authority to give consideration to investments that 35350
enhance the general welfare of the state and its citizens where 35351
the investments offer quality, return, and safety comparable to 35352
other investments currently available to the authority. In 35353

fulfilling this intent, equal consideration shall also be given to 35354
investments otherwise qualifying under this section that involve 35355
minority owned and controlled firms and firms owned and controlled 35356
by women, either alone or in joint venture with other firms. 35357

The authority shall adopt, in regular meeting, policies, 35358
objectives, or criteria for the operation of the investment 35359
program that include asset allocation targets and ranges, risk 35360
factors, asset class benchmarks, time horizons, total return 35361
objectives, and performance evaluation guidelines. In adopting 35362
policies and criteria for the selection of agents with whom the 35363
authority may contract for the administration of the assets of the 35364
funds, the authority shall give equal consideration to minority 35365
owned and controlled firms, firms owned and controlled by women, 35366
and ventures involving minority owned and controlled firms and 35367
firms owned and controlled by women that otherwise meet the 35368
policies and criteria established by the authority. Amendments and 35369
additions to the policies and criteria shall be adopted in regular 35370
meeting. The authority shall publish its policies, objectives, and 35371
criteria under this provision no less often than annually and 35372
shall make copies available to interested parties. 35373

When reporting on the performance of investments, the 35374
authority shall comply with the performance presentation standards 35375
established by the association for investment management and 35376
research. 35377

(M) All investments shall be purchased at current market 35378
prices and the evidences of title of the investments shall be 35379
placed in the hands of the treasurer of state, who is hereby 35380
designated as custodian thereof, or in the hands of the treasurer 35381
of state's authorized agent. The treasurer of state or the agent 35382
shall collect the principal, dividends, distributions, and 35383
interest thereon as they become due and payable and place them 35384
when so collected into the custodial funds. 35385

The treasurer of state shall pay for investments purchased by 35386
the authority on receipt of written or electronic instructions 35387
from the authority or the authority's designated agent authorizing 35388
the purchase and pending receipt of the evidence of title of the 35389
investment by the treasurer of state or the treasurer of state's 35390
authorized agent. The authority may sell investments held by the 35391
authority, and the treasurer of state or the treasurer of state's 35392
authorized agent shall accept payment from the purchaser and 35393
deliver evidence of title of the investment to the purchaser on 35394
receipt of written or electronic instructions from the authority 35395
or the authority's designated agent authorizing the sale, and 35396
pending receipt of the moneys for the investments. The amount 35397
received shall be placed in the custodial funds. The authority and 35398
the treasurer of state may enter into agreements to establish 35399
procedures for the purchase and sale of investments under this 35400
division and the custody of the investments. 35401

No purchase or sale of any investment shall be made under 35402
this section except as authorized by the authority. 35403

Any statement of financial position distributed by the 35404
authority shall include fair value, as of the statement date, of 35405
all investments held by the authority under this section. 35406

Sec. 3334.12. Notwithstanding anything to the contrary in 35407
sections 3334.07 and 3334.09 of the Revised Code: 35408

(A) Annually, the Ohio tuition trust authority shall have the 35409
actuarial soundness of the Ohio tuition trust fund evaluated by a 35410
nationally recognized actuary and shall determine whether 35411
additional assets are necessary to defray the obligations of the 35412
authority. If, after the authority sets the price for tuition 35413
~~credits~~ units, circumstances arise that the executive director 35414
determines necessitate an additional evaluation of the actuarial 35415
soundness of the fund, the executive director shall have a 35416

nationally recognized actuary conduct the necessary evaluation. If 35417
the assets of the fund are insufficient to ensure the actuarial 35418
soundness of the fund, the authority shall adjust the price of 35419
subsequent purchases of tuition ~~credits~~ units to the extent 35420
necessary to help restore the actuarial soundness of the fund. If, 35421
at any time, the adjustment is likely, in the opinion of the 35422
authority, to diminish the marketability of tuition ~~credits~~ units 35423
to an extent that the continued sale of the ~~credits~~ units likely 35424
would not restore the actuarial soundness of the fund and external 35425
economic factors continue to negatively impact the soundness of 35426
the program, the authority may suspend sales, either permanently 35427
or temporarily, of tuition ~~credits~~ units. During any suspension, 35428
the authority shall continue to service existing college savings 35429
program accounts. 35430

(B) Upon termination of the program or liquidation of the 35431
Ohio tuition trust fund, the Ohio tuition trust reserve fund, and 35432
the Ohio tuition trust operating fund, any remaining assets of the 35433
funds after all obligations of the funds have been satisfied 35434
pursuant to division (B) of section 3334.11 of the Revised Code 35435
shall be transferred to the general revenue fund of the state. 35436

(C) The authority shall prepare and cause to have audited an 35437
annual financial report on all financial activity of the Ohio 35438
tuition trust authority within ninety days of the end of the 35439
fiscal year. The authority shall transmit a copy of the audited 35440
financial report to the governor, the president of the senate, the 35441
speaker of the house of representatives, and the minority leaders 35442
of the senate and the house of representatives. Copies of the 35443
audited financial report also shall be made available, upon 35444
request, to the persons entering into contracts with the authority 35445
and to prospective purchasers of tuition ~~credits~~ units and 35446
prospective contributors to variable college savings program 35447
accounts. 35448

Sec. 3334.15. (A) The right of a person to a tuition ~~credit~~ unit or a payment under section 3334.09 of the Revised Code pursuant to a tuition ~~credit~~ payment contract, a scholarship program, or a variable college savings program account shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other process of law.

(B) The right of a person to a tuition ~~credit~~ unit or a payment under section 3334.09 of the Revised Code pursuant to a tuition ~~credit~~ payment contract, a scholarship program, or a variable college savings program account shall not be used as security or collateral for a loan.

Sec. 3334.16. The general assembly hereby finds that the prepaid tuition program providing for the sale of tuition credits units by the Ohio tuition trust authority is an official state function, offered through an agency of this state, which agency receives state appropriations. Therefore, the authority is directed by the state of Ohio to assume it is exempt from federal tax liability.

Sec. 3334.17. (A) The state, any political subdivision of the state, and any organization that is exempt from federal income taxation under section 501 (a) and described in section 501 (c)(3) of the Internal Revenue Code, including the Ohio tuition trust authority if this is authorized under federal tax law, may establish a scholarship program to award scholarships consisting of contributions made to any college savings program for students. Any scholarship program established under this section shall be registered with the authority. The authority shall be notified of the name and address of each scholarship beneficiary under the program, the amounts awarded, and the institution of higher education in which the beneficiary is enrolled. Scholarship

beneficiaries shall be selected by the entity establishing the 35479
scholarship program, in accordance with criteria established by 35480
the entity. 35481

(B) Any person or governmental entity may purchase tuition 35482
~~credits~~ units on behalf of a scholarship program that is or is to 35483
be established in accordance with division (A) of this section at 35484
the same price as is established for the purchase of ~~credits~~ units 35485
for named beneficiaries pursuant to this chapter. Tuition ~~credits~~ 35486
units shall have the same value to the beneficiary of a 35487
scholarship awarded pursuant to this section as they would have to 35488
any other beneficiary pursuant to division (B) of section 3334.09 35489
of the Revised Code. 35490

(C) The entity establishing and maintaining a scholarship 35491
program shall specify whether a scholarship beneficiary may 35492
receive a refund or payment for the amount awarded under the 35493
scholarship program directly from the authority, or whether the 35494
amount awarded shall be paid by the authority only to the 35495
institution of higher education in which the student is enrolled. 35496

(D) If a scholarship beneficiary does not use the amount 35497
awarded within a length of time specified under the scholarship 35498
program, the amount may be awarded to another beneficiary. 35499

Sec. 3334.18. (A) A variable college savings program 35500
established by the Ohio tuition trust authority shall include 35501
provisions for a contract to be entered into between a contributor 35502
and the authority that will authorize the contributor to open an 35503
account for a beneficiary and authorize the contributor to 35504
substitute a new beneficiary for one originally named in the 35505
contract, to the extent permitted by section 529 of the Internal 35506
Revenue Code. 35507

(B) The authority shall provide adequate safeguards to 35508
prevent total contributions to a variable college savings program 35509

account or purchases of tuition ~~credits~~ units, either separately 35510
or combined, that are made on behalf of a beneficiary from 35511
exceeding the amount necessary to provide for the tuition and 35512
other higher education expenses of the beneficiary, consistent 35513
with the maximum contributions permitted by section 529 of the 35514
Internal Revenue Code. However, in no event shall contributions or 35515
purchases exceed the allowable limit for a qualified ~~state~~ tuition 35516
program under section 529 of the Internal Revenue Code. 35517

(C)(1) Participation in the variable college savings program 35518
does not guarantee that contributions and the investment return on 35519
contributions, if any, will be adequate to cover future tuition 35520
and other higher education expenses or that a beneficiary will be 35521
admitted to or permitted to continue to attend an institution of 35522
higher education. 35523

(2) Returns on contributors' investments in the variable 35524
college savings program are not guaranteed by the state and the 35525
contributors to the variable college savings program assume all 35526
investment risk, including the potential loss of principal and 35527
liability for penalties such as those levied for noneducational 35528
withdrawals. 35529

(3) The state shall have no debt or obligation to any 35530
contributor, beneficiary, or any other person as a result of the 35531
establishment of the program, and the state assumes no risk or 35532
liability for funds invested in the variable college savings 35533
program. 35534

(4) Informational materials about the variable college 35535
savings program prepared by the authority or its agents and 35536
provided to prospective contributors shall state clearly the 35537
information set forth in division (C) of this section. 35538

Sec. 3334.19. (A) The Ohio tuition trust authority shall 35539
adopt an investment plan that sets forth investment policies and 35540

guidelines to be utilized in administering the variable college 35541
savings program. Except as provided in section 3334.20 of the 35542
Revised Code, the authority shall contract with one or more 35543
insurance companies, banks, or other financial institutions to act 35544
as its investment agents and to provide such services as the 35545
authority considers appropriate to the investment plan, including: 35546

(1) Purchase, control, and safekeeping of assets; 35547

(2) Record keeping and accounting for individual accounts and 35548
for the program as a whole; 35549

(3) Provision of consolidated statements of account. 35550

(B) The authority or its investment agents shall maintain a 35551
separate account for the beneficiary of each contract entered into 35552
under the variable college savings program. If a beneficiary has 35553
more than one such account, the authority or its agents shall 35554
track total contributions and earnings and provide a consolidated 35555
system of account distributions to institutions of higher 35556
education. 35557

(C) The authority or its investment agents may place assets 35558
of the program in savings accounts and may purchase fixed or 35559
variable life insurance or annuity contracts, securities, evidence 35560
of indebtedness, or other investment products pursuant to the 35561
investment plan. 35562

(D) Contributors shall not direct the investment of their 35563
contributions under the investment plan. The authority shall 35564
impose other limits on contributors' investment discretion to the 35565
extent required under section 529 of the Internal Revenue Code. 35566

(E) The investment agents with which the authority contracts 35567
shall discharge their duties with respect to program funds with 35568
the care and diligence that a prudent person familiar with such 35569
matters and with the character and aims of the program would use. 35570

(F) The assets of the program shall be preserved, invested, 35571
and expended solely for the purposes of this chapter and shall not 35572
be loaned or otherwise transferred or used by the state for any 35573
other purpose. This section shall not be construed to prohibit the 35574
investment agents of the authority from investing, by purchase or 35575
otherwise, in bonds, notes, or other obligations of the state or 35576
any agency or instrumentality of the state. Unless otherwise 35577
specified by the authority, assets of the program shall be 35578
expended in the following order of priority: 35579

(1) To make payments on behalf of beneficiaries; 35580

(2) To make refunds upon termination of variable college 35581
savings program contracts; 35582

(3) To pay the authority's costs of administering the 35583
program; 35584

(4) To pay or cover any other expenditure or disbursement the 35585
authority determines necessary or appropriate. 35586

(G) Fees, charges, and other costs imposed or collected by 35587
the authority in connection with the variable college savings 35588
program, including any fees or other payments that the authority 35589
requires an investment agent to pay to the authority, shall be 35590
credited to either the variable operating fund or the index 35591
operating fund at the discretion of the authority. ~~The fund shall~~ 35592
~~be~~ These funds are hereby created ~~in the custody of the treasurer~~ 35593
~~of state, but shall not be part of the state treasury.~~ Expenses 35594
incurred in the administration of the variable college savings 35595
program, as well as other expenses, disbursements, or payments the 35596
authority considers appropriate for the benefit of any college 35597
savings programs administered by the authority, the state of Ohio 35598
and its citizens, shall be paid from the variable operating fund 35599
or the index operating fund at the discretion of the authority. 35600

(H) No records of the authority indicating the identity of 35601

purchasers, contributors, and beneficiaries under the program or 35602
amounts contributed to, earned by, or distributed from program 35603
accounts are public records within the meaning of section 149.43 35604
of the Revised Code. 35605

Sec. 3335.02. (A) The government of the Ohio state university 35606
shall be vested in a board of ~~eleven~~ fourteen trustees in 2005, 35607
and seventeen trustees beginning in 2006, who shall be appointed 35608
by the governor, with the advice and consent of the senate. Two of 35609
the ~~eleven~~ seventeen trustees shall be students at the Ohio state 35610
university, and their selection and terms shall be in accordance 35611
with division (B) of this section. Except as provided in division 35612
(C) of this section and except for the terms of student members, 35613
terms of office shall be for nine years, commencing on the 35614
fourteenth day of May and ending on the thirteenth day of May. 35615
Each trustee shall hold office from the date of appointment until 35616
the end of the term for which the trustee was appointed. Any 35617
trustee appointed to fill a vacancy occurring prior to the 35618
expiration of the term for which the trustee's predecessor was 35619
appointed shall hold office for the remainder of such term. Any 35620
trustee shall continue in office subsequent to the expiration date 35621
of the trustee's term until the trustee's successor takes office, 35622
or until a period of sixty days has elapsed, whichever occurs 35623
first. No person who has served a full nine-year term or more than 35624
six years of such a term shall be eligible for reappointment until 35625
a period of four years has elapsed since the last day of the term 35626
for which the person previously served. The trustees shall not 35627
receive compensation for their services, but shall be paid their 35628
reasonable necessary expenses while engaged in the discharge of 35629
their official duties. 35630

(B) The student members of the board of trustees of the Ohio 35631
state university have no voting power on the board. Student 35632
members shall not be considered as members of the board in 35633

determining whether a quorum is present. Student members shall not
be entitled to attend executive sessions of the board. The student
members of the board shall be appointed by the governor, with the
advice and consent of the senate, from a group of five candidates
selected pursuant to a procedure adopted by the university's
student governments and approved by the university's board of
trustees. The initial term of office of one of the student members
shall commence on May 14, 1988 and shall expire on May 13, 1989,
and the initial term of office of the other student member shall
commence on May 14, 1988 and expire on May 13, 1990. Thereafter,
terms of office of student members shall be for two years, each
term ending on the same day of the same month of the year as the
term it succeeds. In the event a student member cannot fulfill a
two-year term, a replacement shall be selected to fill the
unexpired term in the same manner used to make the original
selection.

(C)(1) The initial terms of office for the three additional
trustees appointed in 2005 shall commence on a date in 2005 that
is selected by the governor with one term of office expiring on
May 13, 2009, one term of office expiring on May 13, 2010, and one
term of office expiring on May 13, 2011, as designated by the
governor upon appointment. Thereafter terms of office shall be for
nine years, as provided in division (A) of this section.

(2) The initial terms of office for the three additional
trustees appointed in 2006 shall commence on May 14, 2006, with
one term of office expiring on May 13, 2012, one term of office
expiring on May 13, 2013, and one term of office expiring on May
13, 2014, as designated by the governor upon appointment.
Thereafter terms of office shall be for nine years, as provided in
division (A) of this section.

Sec. 3345.10. (A) As used in this section+ 35664

~~(A), "Institution state institution of higher education"~~ 35665
~~means a state university, municipal university, state medical~~ 35666
~~college, community college, technical college, or state community~~ 35667
~~college has the same meaning as in section 3345.011 of the Revised~~ 35668
~~Code.~~ 35669

(B) Each state institution of higher education shall 35670
establish competitive bidding procedures for the purchase of 35671
printed material and shall award all ~~such~~ contracts for the 35672
purchase of printed material in accordance with ~~such~~ those 35673
procedures. ~~Notwithstanding any other provision of law, The~~ 35674
procedures shall require the institution to evaluate all bids 35675
received for all contracts for the purchase of printed material 35676
shall be let by an institution to vendors who have manufacturing 35677
facilities within this state, ~~except as provided in division (C)~~ 35678
~~of this section.~~ 35679

~~(C) If the required printed products are not available from a~~ 35680
~~vendor who has manufacturing facilities within this state, the~~ 35681
~~institution shall be permitted to purchase from an out of state~~ 35682
~~vendor.~~ 35683

~~(D) No vendor with manufacturing facilities within this state~~ 35684
~~who would execute the printing covered by the proposal shall be~~ 35685
~~prohibited from submitting a proposal for consideration and any~~ 35686
~~such proposal properly submitted shall be considered in accordance~~ 35687
~~with the criteria and procedures established pursuant to divisions~~ 35688
~~(C)(1) and (2) of section 125.09 of the Revised Code for~~ 35689
~~determining whether bidders will produce the printed material at~~ 35690
~~manufacturing facilities within this state or in accordance with~~ 35691
~~the criteria and procedures established pursuant to division~~ 35692
~~(C)(4) or (5) of that section for determining whether bidders are~~ 35693
~~otherwise qualified.~~ 35694

An institution shall select, in accordance with the 35695
procedures it establishes under this section, a bid from among 35696

bidders that fulfill the criteria specified in the applicable 35697
divisions of section 125.09 of the Revised Code where sufficient 35698
competition can be generated within this state to ensure that 35699
compliance with this requirement will not result in paying an 35700
excessive price or acquiring a disproportionately inferior 35701
product. If there are two or more bids from among those bidders, 35702
it shall be deemed that there is sufficient competition to prevent 35703
paying an excessive price or acquiring a disproportionately 35704
inferior product. 35705

Sec. 3345.19. In the exercise of their respective powers of 35706
government conferred by Chapter 3345. of the Revised Code and 35707
other pertinent provisions of law, the boards of trustees of 35708
Bowling Green state university, Kent state university, Miami 35709
university, Ohio university, and the Ohio state university shall 35710
observe the following enrollment limitations insofar as the autumn 35711
quarter enrollment or any other quarter enrollment on a full-time 35712
~~equivalent~~ basis as defined by the Ohio board of regents is 35713
concerned: 35714

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|--------------------------------|--------|-------|
| Bowling Green central campus | 17,000 | 35715 |
| Kent central campus | 22,000 | 35716 |
| Miami central campus | 17,000 | 35717 |
| Ohio university central campus | 22,000 | 35718 |
| The Ohio state central campus | 42,000 | 35719 |

Campus student housing facilities shall only be authorized by 35720
boards of trustees within these limitations. 35721

Sec. 3345.32. (A) As used in this section: 35722

(1) "State university or college" means the institutions 35723
described in section 3345.27 of the Revised Code, the northeastern 35724
Ohio universities college of medicine, and the medical university 35725
of Ohio at Toledo. 35726

(2) "Resident" has the meaning specified by rule of the Ohio board of regents. 35727
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(3) "Statement of selective service status" means a statement certifying one of the following: 35729
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(a) That the individual filing the statement has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended; 35731
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(b) That the individual filing the statement is not required to register with the selective service for one of the following reasons: 35735
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(i) The individual is under eighteen or over twenty-six years of age; 35738
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(ii) The individual is on active duty with the armed forces of the United States other than for training in a reserve or national guard unit; 35740
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(iii) The individual is a nonimmigrant alien lawfully in the United States in accordance with section 101 (a)(15) of the "Immigration and Nationality Act," 8 U.S.C. 1101, as amended; 35743
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(iv) The individual is not a citizen of the United States and is a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands. 35746
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(4) "Institution of higher education" means any eligible institution approved by the United States department of education pursuant to the "Higher Education Act of 1965," 79 Stat. 1219, as amended, or any institution whose students are eligible for financial assistance under any of the programs described by division (E) of this section. 35749
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(B) The Ohio board of regents shall, by rule, specify the form of statements of selective service status to be filed in 35755
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compliance with divisions (C) to (F) of this section. Each 35757
statement of selective service status shall contain a section 35758
wherein a male student born after December 31, 1959, certifies 35759
that the student has registered with the selective service system 35760
in accordance with the "Military Selective Service Act," 62 Stat. 35761
604, 50 U.S.C. App. 453, as amended. For those students not 35762
required to register with the selective service, as specified in 35763
divisions (A)(2)(b)(i) to (iv) of this section, a section shall be 35764
provided on the statement of selective service status for the 35765
certification of nonregistration and for an explanation of the 35766
reason for the exemption. The board of regents may require that 35767
such statements be accompanied by documentation specified by rule 35768
of the board. 35769

(C) A state university or college that enrolls in any course, 35770
class, or program a male student born after December 31, 1959, who 35771
has not filed a statement of selective service status with the 35772
university or college shall, regardless of the student's 35773
residency, charge the student any tuition surcharge charged 35774
students who are not residents of this state. 35775

(D) No male born after December 31, 1959, shall be eligible 35776
to receive any loan, grant, scholarship, or other financial 35777
assistance for educational expenses under section 3315.33, 35778
3333.12, 3333.122, 3333.21, 3333.22, 3333.26, 3333.27, 5910.03, 35779
5910.032, or 5919.34 of the Revised Code unless that person has 35780
filed a statement of selective service status with that person's 35781
institution of higher education. 35782

(E) If an institution of higher education receives a 35783
statement from an individual certifying that the individual has 35784
registered with the selective service system in accordance with 35785
the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 35786
453, as amended or that the individual is exempt from registration 35787
for a reason other than that the individual is under eighteen 35788

years of age, the institution shall not require the individual to 35789
file any further statements. If it receives a statement certifying 35790
that the individual is not required to register because the 35791
individual is under eighteen years of age, the institution shall 35792
require the individual to file a new statement of selective 35793
service status each time the individual seeks to enroll for a new 35794
academic term or makes application for a new loan or loan 35795
guarantee or for any form of financial assistance for educational 35796
expenses, until it receives a statement certifying that the 35797
individual has registered with the selective service system or is 35798
exempt from registration for a reason other than that the 35799
individual is under eighteen years of age. 35800

Sec. 3353.01. As used in ~~sections 3353.01 to 3353.05 of the~~ 35801
~~Revised Code~~ this chapter: 35802

(A) "Educational television or radio" means television or 35803
radio programs which serve the educational needs of the community 35804
and which meet the requirements of the federal communications 35805
commission for noncommercial educational television or radio. 35806

(B) "Educational telecommunications network" means a system 35807
of connected educational television, radio, or radio reading 35808
service facilities and coordinated programs established and 35809
operated or controlled by the eTech Ohio ~~educational~~ 35810
~~telecommunications network~~ commission, pursuant to ~~sections~~ 35811
~~3353.01 to 3353.04 of the Revised Code~~ this chapter. 35812

(C) "Transmission" means the sending out of television, 35813
radio, or radio reading service programs, either directly to the 35814
public, or to broadcasting stations or services for simultaneous 35815
broadcast or rebroadcast. 35816

(D) "Transmission facilities" means structures, equipment, 35817
material, and services used in the transmission of educational 35818
television, radio, or radio reading service programs. 35819

(E) "Interconnection facilities" means the equipment, 35820
material, and services used to link one location to another 35821
location or to several locations by means of telephone line, 35822
coaxial cable, microwave relays, or other available technologies. 35823

(F) "Broadcasting station" means a properly licensed 35824
noncommercial educational television or radio station, 35825
appropriately staffed and equipped to produce programs or lessons 35826
and to broadcast programs. 35827

~~(G) "Production center" means a television, radio, or radio 35828
reading service production studio, staffed and equipped with 35829
equipment, material, and supplies necessary to produce a program 35830
or a lesson for broadcast or for recording on film, video tape, or 35831
audio tape. 35832~~

~~(H) "Radio reading service" means a nonprofit organization 35833
that disseminates news and other information to blind and 35834
physically handicapped persons. 35835~~

~~(H) "Affiliate" means an educational telecommunication 35836
entity, including a television or radio broadcasting station or 35837
radio reading service. 35838~~

Sec. 3353.02. (A) There is hereby created the eTech Ohio 35839
commission as an independent agency to advance education and 35840
accelerate the learning of the citizens of this state through 35841
technology. The commission shall provide leadership and support in 35842
extending the knowledge of the citizens of this state by promoting 35843
access to and use of all forms of educational technology, 35844
including educational television and radio, radio reading 35845
services, broadband networks, videotapes, compact discs, digital 35846
video on demand (DVD), and the internet. The commission also shall 35847
administer programs to provide financial and other assistance to 35848
school districts and other educational institutions for the 35849
acquisition and utilization of educational technology. 35850

The commission is a body corporate and politic, an agency of the state performing essential governmental functions of the state. 35851
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(B) The commission shall consist of thirteen members, nine of whom shall be voting members. Six of the voting members shall be representatives of the public. Of the representatives of the public, four shall be appointed by the governor with the advice and consent of the senate, one shall be appointed by the speaker of the house of representatives, and one shall be appointed by the president of the senate. The superintendent of public instruction or a designee of the superintendent, the chancellor of the Ohio board of regents or a designee of the chancellor, and the director of administrative services or a designee of the director shall be ex officio voting members. Of the nonvoting members, two shall be members of the house of representatives appointed by the speaker of the house of representatives and two shall be members of the senate appointed by the president of the senate. The members appointed from each chamber shall not be members of the same political party. 35854
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(C) Initial terms of office for members appointed by the governor shall be one year for one member, two years for one member, three years for one member, and four years for one member. At the first meeting of the commission, members appointed by the governor shall draw lots to determine the length of the term each member will serve. Thereafter, terms of office for members appointed by the governor shall be for four years. Terms of office for voting members appointed by the speaker of the house of representatives and the president of the senate shall be for four years. Any member who is a representative of the public may be reappointed by the member's respective appointing authority, but no such member may serve more than two consecutive four-year terms. Such a member may be removed by the member's respective 35870
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appointing authority for cause. 35883

Any legislative member appointed by the speaker of the house 35884
of representatives or the president of the senate who ceases to be 35885
a member of the legislative chamber from which the member was 35886
appointed shall cease to be a member of the commission. The 35887
speaker of the house of representatives and the president of the 35888
senate may remove their respective appointments to the commission 35889
at any time. 35890

(D) Vacancies among appointed members shall be filled in the 35891
manner provided for original appointments. Any member appointed to 35892
fill a vacancy occurring prior to the expiration of the term for 35893
which the member's predecessor was appointed shall hold office for 35894
the remainder of that term. Any appointed member shall continue in 35895
office subsequent to the expiration of that member's term until 35896
the member's successor takes office or until a period of sixty 35897
days has elapsed, whichever occurs first. 35898

(E) Members of the commission shall serve without 35899
compensation. The members who are representatives of the public 35900
shall be reimbursed, pursuant to office of budget and management 35901
guidelines, for actual and necessary expenses incurred in the 35902
performance of official duties. 35903

(F) The governor shall appoint the chairperson of the 35904
commission from among the commission's voting members. The 35905
chairperson shall serve a term of two years and may be 35906
reappointed. The commission shall elect other officers as 35907
necessary from among its voting members and shall prescribe its 35908
rules of procedure. 35909

(G) The commission shall establish advisory groups as needed 35910
to address topics of interest and to provide guidance to the 35911
commission regarding educational technology issues and the 35912
technology needs of educators, learners, and the public. Members 35913

of each advisory group shall be appointed by the commission and 35914
shall include representatives of individuals or organizations with 35915
an interest in the topic addressed by the advisory group. 35916

Sec. 3353.03. (A) The eTech Ohio commission shall appoint an 35917
executive director, who shall serve at the pleasure of the 35918
commission. The executive director shall have no authority other 35919
than that provided by law or delegated to the executive director 35920
by the commission. The executive director shall do all of the 35921
following: 35922

(1) Direct commission employees in the administration of all 35923
programs of the commission; 35924

(2) Provide leadership and support in extending the knowledge 35925
of the citizens of this state by promoting equal access to and use 35926
of all forms of educational technology, as directed by the 35927
commission; 35928

(3) Provide financial and other assistance to school 35929
districts and other educational institutions, affiliates, and, if 35930
approved by the commission, educational technology organizations 35931
for the acquisition and utilization of educational technology; 35932

(4) Implement policies and directives issued by the 35933
commission; 35934

(5) Perform other duties authorized by the commission. 35935

(B) The commission shall fix the compensation of the 35936
executive director. The executive director shall employ and fix 35937
the compensation for such employees as necessary to facilitate the 35938
activities and purposes of the commission. The employees shall 35939
serve at the pleasure of the executive director. 35940

(C) The employees of the commission shall be placed in the 35941
unclassified service. 35942

(D)(1) Except as provided in division (D)(2) of this section, 35943

the employees of the commission shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.01 of the Revised Code. 35944
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(2) All employees of the commission who transferred to the commission from one of the commission's predecessor agencies upon the commission's creation and, when employed by the predecessor agency were included in a bargaining unit established under Chapter 4117. of the Revised Code, shall continue to be included in that bargaining unit, are public employees as defined in section 4117.01 of the Revised Code, and may collectively bargain with the commission in accordance with that chapter. Otherwise, any employee hired by the commission after the effective date of this section, either to fill vacancies or to fill new positions, shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.10 of the Revised Code. 35947
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Sec. 3353.04. (A) The ~~eTech~~ Ohio educational telecommunications network commission may perform any act necessary to carry out the functions of this chapter, including any of the following: 35960
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~~(A)~~ (1) Make grants to institutions and other organizations as prescribed by the general assembly for the provision of technical assistance, professional development, and other support services to enable school districts, community schools established under Chapter 3314. of the Revised Code, other educational institutions, and affiliates to utilize educational technology; 35964
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(2) Establish a reporting system for school districts, community schools, other educational institutions, affiliates, and educational technology organizations that receive financial assistance from the commission. The system may require the reporting of information regarding the manner in which the 35970
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assistance was expended, the manner in which the equipment or 35975
services purchased with the assistance is being utilized, the 35976
results or outcome of the utilization, the manner in which the 35977
utilization is compatible with the statewide academic standards 35978
adopted by the state board of education pursuant to section 35979
3301.079 of the Revised Code, and any other information determined 35980
by the commission. 35981

(3) Ensure that, where appropriate, products produced by any 35982
entity to which the commission provides financial assistance for 35983
use in elementary and secondary education are aligned with the 35984
statewide academic standards adopted by the state board pursuant 35985
to section 3301.079 of the Revised Code; 35986

(4) Promote accessibility to educational products aligned 35987
with the statewide academic standards, adopted by the state board 35988
pursuant to section 3301.079 of the Revised Code, for school 35989
districts, community schools, and other entities serving grades 35990
kindergarten through twelve; 35991

(5) Own ~~and~~ or operate transmission facilities and 35992
interconnection facilities, or contract for transmission 35993
facilities and interconnection facilities, for an educational 35994
television, radio, or radio reading service network; 35995

~~(B)~~ (6) Establish standards for interconnection facilities 35996
used by the commission in the transmission of educational 35997
television, radio, or radio reading service programming by the 35998
commission; 35999

~~(C)~~ (7) Enter into agreements with noncommercial educational 36000
television or radio broadcasting stations or radio reading 36001
services for the transmission to the broadcasting stations or 36002
services of identical programs for broadcasting either 36003
simultaneously or through the use of transcription discs, video 36004
tapes, film, or audio tapes operation of the interconnection; 36005

~~(D)~~(8) Enter into agreements with noncommercial educational television, radio, or radio reading service production centers and with broadcasting stations and or radio reading services for the production and use of educational television, radio, or radio reading service programs to be transmitted by the educational telecommunications network;

~~(E)~~(9) Execute contracts and other agreements necessary and desirable to carry out the purposes of ~~sections 3353.01 to 3353.04 of the Revised Code~~ this chapter and other duties prescribed to the commission by law or authorize the executive director of the commission to execute such contracts and agreements on the commission's behalf;

~~(F)~~ Determine programs to be distributed through the Ohio educational telecommunications network;

~~(G)~~(10) Act as consultant with educational television and educational radio stations and radio reading services toward coordination within the state of the distribution of federal funds that may become available for ~~the development of equipment for~~ educational broadcasting or radio reading services;

~~(H)~~(11) Make payments to noncommercial Ohio educational television or radio broadcasting stations or radio reading services to sustain the operation of such stations or services, and may consign equipment to them in exchange for services rendered;

(12) In consultation with participants in programs administered by the commission, establish guidelines governing purchasing and procurement that facilitate the timely and effective implementation of such programs;

(13) In consultation with participants in programs administered by the commission, consider the efficiency and cost savings of statewide procurement prior to allocating and releasing

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| <u>funds for such programs;</u> | 36037 |
| <u>(14) In consultation with participants in programs</u> | 36038 |
| <u>administered by the commission, establish a systems support</u> | 36039 |
| <u>network to facilitate the timely implementation of the programs</u> | 36040 |
| <u>and other projects and activities for which the commission</u> | 36041 |
| <u>provides assistance.</u> | 36042 |
| <u>(B) Chapters 123., 124., 125., and 153. of the Revised Code</u> | 36043 |
| <u>and sections 9.331, 9.332, and 9.333 of the Revised Code do not</u> | 36044 |
| <u>apply to contracts, programs, projects, or activities of the</u> | 36045 |
| <u>commission.</u> | 36046 |
| Sec. 3353.06. (A) The affiliates services fund is hereby | 36047 |
| created in the state treasury. The <u>eTech Ohio educational</u> | 36048 |
| telecommunications network commission shall deposit any money it | 36049 |
| receives <u>for services provided to affiliates</u> to the credit of the | 36050 |
| fund, including: | 36051 |
| (1) Reimbursements for services provided to stations; | 36052 |
| (2) Charges levied for maintenance of telecommunications, | 36053 |
| broadcasting, or transmission equipment; | 36054 |
| (3) Contract or grant payments <u>from affiliates.</u> | 36055 |
| (B) The commission shall use money credited to the affiliates | 36056 |
| services fund for any commission operating purposes, including: | 36057 |
| (1) The purchase, repair, or maintenance of | 36058 |
| telecommunications, broadcasting, or transmission equipment; | 36059 |
| (2) The purchase or lease of educational programming; | 36060 |
| (3) The purchase of tape and maintenance of a media library; | 36061 |
| (4) Professional development programs and services; | 36062 |
| (5) Administrative expenses and legal fees. | 36063 |
| Sec. 3353.07. (A) As used in this section, "broadcasting | 36064 |

~~station" has the same meaning as in section 3353.01 of the Revised Code.~~ 36065
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~~(B)~~ Ohio government telecommunications shall be funded 36067
through the eTech Ohio ~~educational telecommunications network~~ 36068
commission and shall be managed by a broadcasting station under a 36069
contract. The contract shall not take effect until the program 36070
committee of Ohio government telecommunications approves the 36071
contract. The broadcasting station shall manage the staff of Ohio 36072
government telecommunications. 36073

~~(C)~~(B)(1) There is hereby created the program committee of 36074
Ohio government telecommunications that shall consist of the 36075
president of the senate, speaker of the house of representatives, 36076
minority leader of the senate, and minority leader of the house of 36077
representatives, or their designees. By a vote of a majority of 36078
its members, the program committee may add additional members to 36079
the committee. 36080

(2) The program committee shall adopt rules that govern the 36081
operation of Ohio government telecommunications and the coverage 36082
and distribution of official governmental activities by Ohio 36083
government telecommunications. 36084

Sec. 3354.25. (A) The provisions of this section prevail over 36085
conflicting provisions of this chapter; however, except as 36086
provided in this section, the community college district and its 36087
board of trustees created by this section shall comply with the 36088
provisions of this chapter. 36089

(B)(1) The territory of Warren county is hereby added to the 36090
territory of the community college district of Montgomery county, 36091
creating the Warren county Montgomery county community college 36092
district and replacing the former community college district of 36093
Montgomery county. The district created in this section may be 36094
known as and operate under the name of the Sinclair community 36095

college district. 36096

(2) The community college district created by this section shall be divided into separate taxing subdistricts, one consisting of the territory of Warren county, and another consisting of the territory of Montgomery county. 36097
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Taxes for the benefit of the community college district shall be levied and the benefits from the revenues of those taxes shall be apportioned among the subdistricts only in accordance with this section. 36101
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(C) The board of trustees of the two-county community college district created by this section shall consist of eleven members. 36105
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(1) Nine members of the board of trustees shall be residents of Montgomery county. The initial Montgomery county members shall be the same members of the board of trustees of the former community college district of Montgomery county, as it existed prior to the effective date of this section, whose terms shall expire and whose successors shall be appointed as they would have otherwise under division (B) of section 3354.05 of the Revised Code. 36107
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(2) Two members of the board of trustees shall be residents of Warren county, one of whom shall be appointed by the board of county commissioners of Warren county, and one of whom shall be appointed by the governor with the advice and consent of the senate. Each of the initial appointments under division (C)(2) of this section shall be made within ninety days after the effective date of this section. At the time of the initial meeting of the trustees of the community college district created by this section, a drawing among the Warren county appointees shall be held to determine the initial term of each appointee, one trustee to serve for a term ending three years after the expiration date of the Montgomery county trustee's term that is the first to 36115
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expire after the effective date of this section, and the other 36127
trustee to serve for a term ending five years after the expiration 36128
date of the Montgomery county trustee's term that is the first to 36129
expire after the effective date of this section. Thereafter, the 36130
successive terms of the Warren county members of the board of 36131
trustees shall be for five years, each term ending on the same day 36132
of the same month of the year as did the term which it succeeds. 36133
Each trustee shall hold office from the date of the trustee's 36134
appointment until the end of the term for which appointed. Any 36135
trustee appointed to fill a vacancy occurring prior to the 36136
expiration of the term for which the trustee's predecessor was 36137
appointed shall hold office for the remainder of that term. Any 36138
trustee shall continue in office subsequent to the expiration date 36139
of the trustee's term until the trustee's successor takes office, 36140
or until a period of sixty days has elapsed, whichever occurs 36141
first. 36142

(D) The board of trustees of the community college district 36143
created by this section shall continue to comply with division (G) 36144
of section 3354.09 of the Revised Code, regarding tuition for 36145
students who are residents of Ohio but not of the district, and 36146
for students who are nonresidents of Ohio. The tuition rate shall 36147
be based on the student's county of residence and shall apply to 36148
all Sinclair community college classes in all Sinclair community 36149
college locations. Except as provided in division (G)(2) of this 36150
section, students who are residents of Warren county shall 36151
continue to be charged tuition at the same rate as Ohio residents 36152
who are not residents of the district. 36153

(E)(1) Unless the conditions prescribed in division (F) of 36154
this section are satisfied, the trustees from each respective 36155
county of the community college district created by this section 36156
shall have no vote on any of the following matters pertaining to 36157
the other county: 36158

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| <u>(a) Tax levies;</u> | 36159 |
| <u>(b) The expenditure of revenue from tax levies;</u> | 36160 |
| <u>(c) Levy-subsidized tuition rates.</u> | 36161 |
| <u>(2) As long as either of the conditions prescribed in</u> | 36162 |
| <u>division (F)(1) or (2) of this section are satisfied, each member</u> | 36163 |
| <u>of the board of trustees shall have full voting rights on all</u> | 36164 |
| <u>matters coming before the board.</u> | 36165 |
| <u>(3) At all times, on any matter related to community college</u> | 36166 |
| <u>programming or facilities within one county or the other, both of</u> | 36167 |
| <u>the following are necessary:</u> | 36168 |
| <u>(a) The affirmative vote of a majority of the full membership</u> | 36169 |
| <u>of the board of trustees;</u> | 36170 |
| <u>(b) The affirmative vote of at least fifty per cent of the</u> | 36171 |
| <u>trustees from the affected county.</u> | 36172 |
| <u>(4) If the millage rate of the Warren county tax levy</u> | 36173 |
| <u>described in division (F) of this section is subsequently reduced</u> | 36174 |
| <u>by a vote of the electors of Warren county to the extent that it</u> | 36175 |
| <u>no longer satisfies a condition prescribed in either division</u> | 36176 |
| <u>(F)(1) or (2) of this section, the voting restrictions prescribed</u> | 36177 |
| <u>in division (E)(1) of this section again apply to the board</u> | 36178 |
| <u>effective on the first day of the tax year that begins after the</u> | 36179 |
| <u>reduction is approved by the electors.</u> | 36180 |
| <u>(F) The voting restrictions of division (E)(1) of this</u> | 36181 |
| <u>section apply until the electors of Warren county approve a tax</u> | 36182 |
| <u>levy, in accordance with division (G)(3) of this section,</u> | 36183 |
| <u>equivalent to the tax levy approved by the electors of Montgomery</u> | 36184 |
| <u>county for the support of the former community college district of</u> | 36185 |
| <u>Montgomery county prior to the effective date of this section. For</u> | 36186 |
| <u>this purpose, an equivalent tax levy is a tax levied in Warren</u> | 36187 |
| <u>county that either:</u> | 36188 |

(1) In the first tax year for which the tax is collected, 36189
yields revenue per capita equal to or greater than the yield per 36190
capita of levies of the community college district in effect that 36191
tax year in Montgomery county, as jointly determined by the county 36192
auditors of Montgomery and Warren counties; 36193

(2) In the first tax year for which the tax is collected, 36194
imposes a millage rate that is equal to or greater than the 36195
effective tax rate of levies of the community college district in 36196
effect that tax year in Montgomery county, as jointly determined 36197
by the county auditors of Montgomery and Warren counties. 36198

As used in division (F)(2) of this section, "effective tax 36199
rate" means the quotient obtained by dividing the total taxes 36200
charged and payable for the taxing subdistrict for a tax year, 36201
after the reduction prescribed by section 319.301 of the Revised 36202
Code but before the reduction prescribed by section 319.302 or 36203
323.152 of the Revised Code, by the taxable value for the taxing 36204
subdistrict for that tax year. 36205

(G)(1) The board of trustees may propose to levy a tax on 36206
taxable property in Montgomery county to be voted on by the 36207
electors of Montgomery county as provided in division (G)(3) of 36208
this section. Any money raised by a tax levied by the former 36209
community college district of Montgomery county or a subsequent 36210
tax levied in Montgomery county in accordance with division (G)(3) 36211
of this section shall be used solely for the benefit of Montgomery 36212
county residents attending Sinclair community college in the form 36213
of student tuition subsidy, student scholarships, and 36214
instructional facilities, equipment and support services located 36215
within Montgomery county, shall be deposited into a separate fund 36216
from all other revenues of the district, and shall be budgeted 36217
separately. 36218

(2) The board of trustees may propose to levy a tax on 36219
taxable property in Warren county to be voted on by electors of 36220

Warren county as provided in division (G)(3) of this section. Any 36221
money raised by the tax shall be used solely for the benefit of 36222
Warren county residents attending Sinclair community college in 36223
the form of student tuition subsidy, student scholarships, and 36224
instructional facilities, equipment and support services located 36225
within Warren county, shall be deposited into a separate fund from 36226
all other revenues of the district, and shall be budgeted 36227
separately. If the tax is approved in accordance with division 36228
(G)(3)(c) of this section, the board of trustees may adjust the 36229
rate of tuition charged to Warren county residents commensurate 36230
with the amount of that tax the board of trustees dedicates for 36231
instructional and general services provided to Warren county 36232
residents. 36233

(3) For each taxing subdistrict of the community college 36234
district created by this section, the board of trustees may 36235
propose to levy a tax in accordance with the procedures prescribed 36236
in section 3354.12 of the Revised Code, except as provided in 36237
divisions (G)(3)(a) to (c) of this section. 36238

(a) Wherein section 3354.12 of the Revised Code the terms 36239
"district" and "community college district" are used, those terms 36240
shall be construed to mean the appropriate taxing subdistrict 36241
described in division (B)(2) of this section, except that the 36242
"board of trustees of the community college district" means the 36243
board of trustees for the entire community college district as 36244
described in division (C) of this section. That board of trustees 36245
may propose separate levies for either of the two taxing 36246
subdistricts. 36247

(b) "Tax duplicate," as used in section 3354.12 of the 36248
Revised Code, means the tax duplicate of only the appropriate 36249
taxing subdistrict and not the tax duplicate of the entire 36250
community college district. 36251

(c) The resolution of the board of trustees proposing a tax 36252

levy in the Warren county taxing subdistrict is subject to 36253
approval of a two-thirds vote of the board of county commissioners 36254
of Warren county. If so approved by the board of county 36255
commissioners of Warren county, that board shall certify the 36256
resolution to the Warren county board of elections, which shall 36257
place on the ballot for the electors of Warren county the question 36258
of levying the tax proposed in the resolution on all taxable 36259
property of the county. If approved by the electors of the county, 36260
the tax shall be levied as provided in section 3354.12 of the 36261
Revised Code and anticipation notes may be issued by the board of 36262
trustees in accordance with that section. 36263

(H)(1) The board of trustees of the community college 36264
district created by this section may issue bonds in accordance 36265
with section 3354.11 of the Revised Code; however, the board may 36266
limit the question of approval of the issue of those bonds to the 36267
electors of only one of the two taxing subdistricts described in 36268
division (B)(2) of this section, in which case the board also may 36269
limit the use of the property or improvements to the residents of 36270
that subdistrict. 36271

(2) A resolution of the board of trustees proposing the 36272
issuance of bonds for only the Warren county taxing subdistrict is 36273
subject to approval of a two-thirds vote of the board of county 36274
commissioners of Warren county. If so approved by the board of 36275
county commissioners of Warren county, that board shall certify 36276
the resolution to the Warren county board of elections which shall 36277
place on the ballot for the electors of Warren county the question 36278
of issuing bonds as proposed in the resolution. 36279

Sec. 3362.02. The board of trustees of Shawnee state 36280
university shall annually elect from their members a ~~chairman~~ 36281
chairperson and ~~vice-chairman~~ vice-chairperson; and they may also 36282
appoint a secretary of the board, a treasurer, and such other 36283

officers of the university as the interests of the university 36284
require, who may be members of the board. The treasurer, before 36285
entering upon the discharge of ~~his~~ official duties, shall give 36286
bond to the state or be insured for the faithful performance of 36287
~~his~~ the treasurer's duties and the proper accounting for all 36288
moneys coming into ~~his~~ the treasurer's care. The amount of said 36289
bond or insurance shall be determined by the board, but shall not 36290
be for a sum less than the estimated amount which may come into 36291
the treasurer's sole control at any time, less any reasonable 36292
deductible. ~~Said bond shall be approved by the attorney general.~~ 36293

Sec. 3365.01. As used in ~~sections 3365.01 to 3365.10 of the~~ 36294
~~Revised Code~~ this chapter: 36295

(A) "College" means any state-assisted college or university 36296
described in section 3333.041 of the Revised Code, any nonprofit 36297
institution holding a certificate of authorization pursuant to 36298
Chapter 1713. of the Revised Code, any private institution exempt 36299
from regulation under Chapter 3332. of the Revised Code as 36300
prescribed in section 3333.046 of the Revised Code, and any 36301
institution holding a certificate of registration from the state 36302
board of career colleges and schools and program authorization for 36303
an associate or bachelor's degree program issued under section 36304
3332.05 of the Revised Code. 36305

(B) "School district," except as specified in division (G) of 36306
this section, means any school district to which a student is 36307
admitted under section 3313.64, 3313.65, 3313.98, or 3317.08 of 36308
the Revised Code and does not include a joint vocational or 36309
cooperative education school district. 36310

(C) "Parent" has the same meaning as in section 3313.64 of 36311
the Revised Code. 36312

(D) "Participant" means a student enrolled in a college under 36313
the post-secondary enrollment options program established by this 36314

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| chapter. | 36315 |
| (E) "Secondary grade" means the ninth through twelfth grades. | 36316 |
| (F) "School foundation payments" means the amount required to be paid to a school district for a fiscal year under Chapter 3317. of the Revised Code. | 36317 36318 36319 |
| (G) "Tuition base" means, with respect to a participant's school district, the <u>greater of the following:</u> | 36320 36321 |
| (1) <u>The fiscal year 2005 formula amount defined in division (B) of section 3317.02 of the Revised Code multiplied by the district's <u>fiscal year 2005</u> cost-of-doing-business factor defined in division (N) of <u>that</u> section 3317.02 of the Revised Code. The</u> | 36322 36323 36324 36325 |
| (2) <u>The sum of (the current formula amount times the current cost-of-doing-business factor defined in section 3317.02 of the Revised Code) plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.</u> | 36326 36327 36328 36329 36330 |
| <u>The</u> participant's "school district" in the case of a participant enrolled in a community school shall be the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. | 36331 36332 36333 36334 |
| (H) "Educational program" means enrollment in one or more school districts, in a nonpublic school, or in a college under division (B) of section 3365.04 of the Revised Code. | 36335 36336 36337 |
| (I) "Nonpublic school" means a chartered or nonchartered school for which minimum standards are prescribed by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code. | 36338 36339 36340 36341 |
| (J) "School year" means the year beginning on the first day of July and ending on the thirtieth day of June. | 36342 36343 |
| (K) "Community school" means any school established pursuant | 36344 |

to Chapter 3314. of the Revised Code that includes secondary 36345
grades. 36346

(L) "Community school payments" means payments made by the 36347
department of education to a community school pursuant to division 36348
(D) of section 3314.08 of the Revised Code. 36349

Sec. 3365.02. There is hereby established the post-secondary 36350
enrollment options program under which a secondary grade student 36351
who is a resident of this state may enroll at a college, on a 36352
full- or part-time basis, and complete nonsectarian courses for 36353
high school and college credit. The purpose of the program is to 36354
provide enriched education opportunitites to secondary grade 36355
students that are beyond the opportunities offered by the high 36356
school in which they are enrolled. 36357

Secondary grade students in a nonpublic school may 36358
participate in the post-secondary enrollment options program if 36359
the chief administrator of such school notifies the department of 36360
education by the first day of April prior to the school year in 36361
which the school's students will participate. 36362

The state board of education, after consulting with the board 36363
of regents, shall adopt rules governing the program. The rules 36364
shall include: 36365

(A) Requirements for school districts, community schools, or 36366
participating nonpublic schools to provide information about the 36367
program prior to the first day of March of each year to all 36368
students enrolled in grades eight through eleven; 36369

(B) A requirement that a student or the student's parent 36370
inform the district board of education, the governing authority of 36371
a community school, or the nonpublic school administrator by the 36372
thirtieth day of March of the student's intent to participate in 36373
the program during the following school year. The rule shall 36374

provide that any student who fails to notify a district board, the governing authority of a community school, or the nonpublic school administrator by the required date may not participate in the program during the following school year without the written consent of the district superintendent, the governing authority of a community school, or the nonpublic school administrator.

(C) Requirements that school districts and community schools provide counseling services to students in grades eight through eleven and to their parents before the students participate in the program under this chapter to ensure that students and parents are fully aware of the possible risks and consequences of participation. Counseling information shall include without limitation:

- (1) Program eligibility;
- (2) The process for granting academic credits;
- (3) Financial arrangements for tuition, books, materials, and fees;
- (4) Criteria for any transportation aid;
- (5) Available support services;
- (6) Scheduling;
- (7) The consequences of failing or not completing a course in which the student enrolls and the effect of the grade attained in the course being included in the student's grade point average, if applicable;
- (8) The effect of program participation on the student's ability to complete the district's, community school's, or nonpublic school's graduation requirements;
- (9) The academic and social responsibilities of students and parents under the program;
- (10) Information about and encouragement to use the

counseling services of the college in which the student intends to enroll. 36405
36406

(D) A requirement that the student and the student's parent sign a form, provided by the school district or school, stating that they have received the counseling required by division (C) of this section and that they understand the responsibilities they must assume in the program; 36407
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(E) The options required by section 3365.04 of the Revised Code; 36412
36413

(F) A requirement that a student may not enroll in any specific college course through the program if the student has taken high school courses in the same subject area as that college course and has failed to attain a cumulative grade point average of at least 3.0 on a 4.0 scale, or the equivalent, in such completed high school courses; 36414
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(G) A requirement that a student or the student's parent will reimburse the state for the amount of state funds paid to a college for a course in which the student is enrolled under this chapter if the student does not attain a passing final grade in that course. 36420
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Sec. 3365.04. The rules adopted under section 3365.02 of the Revised Code shall provide for students to enroll in courses under either of the following options: 36425
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(A) The student may elect at the time of enrollment to ~~receive only college credit for~~ be responsible for payment of all tuition and the cost of all textbooks, materials, and fees associated with the course. The college shall notify the student about payment of tuition and fees in the customary manner followed by the college, ~~and the student shall be responsible for payment of all tuition and the cost of all textbooks, materials, and fees~~ 36428
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~~associated with the course. If A student electing this option also 36435
shall elect, at the time of enrollment, whether to receive only 36436
college credit or high school credit and college credit for the 36437
course. 36438~~

(1) The student may elect to receive only college credit for 36439
the course. Except as provided in section 3365.041 of the Revised 36440
Code, if the student successfully completes the course, the 36441
college shall award the student full credit for the course, but 36442
the board of education, community school governing authority, or 36443
nonpublic participating school shall not award the high school 36444
credit. 36445

(2) The student may elect to receive both high school credit 36446
and college credit for the course. Except as provided in section 36447
3365.041 of the Revised Code, if the student successfully 36448
completes the course, the college shall award the student full 36449
credit for the course and the board of education, community school 36450
governing authority, or nonpublic school shall award the student 36451
high school credit. 36452

(B) The student may elect at the time of enrollment for each 36453
course to ~~receive both~~ have the college credit and high school 36454
~~credit~~ reimbursed under section 3365.07 of the Revised Code. 36455
Except as provided in section 3365.041 of the Revised Code, if the 36456
student successfully completes the course, the college shall award 36457
the student full credit for the course, the board of education, 36458
community school governing authority, or nonpublic school shall 36459
award the student high school credit, and the college shall be 36460
reimbursed in accordance with section 3365.07 of the Revised Code. 36461

When determining a school district's formula ADM under 36462
section 3317.03 of the Revised Code, the time a participant is 36463
attending courses under division (A) of this section shall be 36464
considered as time the participant is not attending or enrolled in 36465
school anywhere, and the time a participant is attending courses 36466

under division (B) of this section shall be considered as time the 36467
participant is attending or enrolled in the district's schools. 36468

Sec. 3365.041. (A) When a school district superintendent or 36469
governing authority of a community school expels a student under 36470
division (B) of section 3313.66 of the Revised Code, the district 36471
superintendent or board shall send a written notice of the 36472
expulsion to any college in which the expelled student is enrolled 36473
under section 3365.03 of the Revised Code at the time the 36474
expulsion is imposed. The notice shall indicate the date the 36475
expulsion is scheduled to expire. The notice also shall indicate 36476
whether the district board of education or community school 36477
governing authority has adopted a policy under section 3313.613 of 36478
the Revised Code to deny high school credit for post-secondary 36479
courses taken during an expulsion. If the expulsion is extended 36480
under division (F) of section 3313.66 of the Revised Code, the 36481
district superintendent or governing authority shall notify the 36482
college of the extension. 36483

(B) A college may withdraw its acceptance under section 36484
3365.03 of the Revised Code of a student who is expelled from 36485
school under division (B) of section 3313.66 of the Revised Code. 36486
As provided in section 3365.03 of the Revised Code, regardless of 36487
whether the college withdraws its acceptance of the student for 36488
the college term in which the student is expelled, the student is 36489
ineligible to enroll in a college under that section for 36490
subsequent college terms during the period of the expulsion, 36491
unless the student enrolls in another school district or community 36492
school, or participating nonpublic school during that period. 36493

If a college withdraws its acceptance of an expelled student 36494
who elected ~~the~~ either option of division (A) (1) or (2) of section 36495
3365.04 of the Revised Code, the college shall refund tuition and 36496
fees paid by the student in the same proportion that it refunds 36497

tuition and fees to students who voluntarily withdraw from the 36498
college at the same time in the term. 36499

If a college withdraws its acceptance of an expelled student 36500
who elected the option of division (B) of section 3365.04 of the 36501
Revised Code, the school district or community school shall not 36502
award high school credit for the college courses in which the 36503
student was enrolled at the time the college withdrew its 36504
acceptance, and any reimbursement under section 3365.07 of the 36505
Revised Code for the student's attendance prior to the withdrawal 36506
shall be the same as would be paid for a student who voluntarily 36507
withdrew from the college at the same time in the term. If the 36508
withdrawal results in the college's receiving no reimbursement, 36509
the college may require the student to return or pay for the 36510
textbooks and materials it provided the student free of charge 36511
under section 3365.08 of the Revised Code. 36512

(C) When a student who elected the option of division (B) of 36513
section 3365.04 of the Revised Code is expelled under division (B) 36514
of section 3313.66 of the Revised Code from a school district or 36515
community school that has adopted a policy under section 3313.613 36516
of the Revised Code, that election is automatically revoked for 36517
all college courses in which the student is enrolled during the 36518
college term in which the expulsion is imposed. Any reimbursement 36519
under section 3365.07 of the Revised Code for the student's 36520
attendance prior to the expulsion shall be the same as would be 36521
paid for a student who voluntarily withdrew from the college at 36522
the same time in the term. If the revocation results in the 36523
college's receiving no reimbursement, the college may require the 36524
student to return or pay for the textbooks and materials it 36525
provided the student free of charge under section 3365.08 of the 36526
Revised Code. 36527

No later than five days after receiving an expulsion notice 36528
from the superintendent of a district or the governing authority 36529

of a community school that has adopted a policy under section 36530
3313.613 of the Revised Code, the college shall send a written 36531
notice to the expelled student that the student's election of 36532
division (B) of section 3365.04 of the Revised Code is revoked. If 36533
the college elects not to withdraw its acceptance of the student, 36534
the student shall pay all applicable tuition and fees for the 36535
college courses and shall pay for the textbooks and materials that 36536
the college provided under section 3365.08 of the Revised Code. 36537

Sec. 3365.05. High school credit awarded for courses 36538
successfully completed under this chapter shall count toward the 36539
graduation requirements and subject area requirements of the 36540
school district, community school, or nonpublic school. If a 36541
course comparable to one a student completed at a college is 36542
offered by the district, community school, or nonpublic school, 36543
the board or school shall award comparable credit for the course 36544
completed at the college. If no comparable course is offered by 36545
the district, community school, or nonpublic school, the board or 36546
school shall grant an appropriate number of credits in a similar 36547
subject area to the student. 36548

If there is a dispute between a school district board or a 36549
community school governing authority and a student regarding high 36550
school credits granted for a course, the student may appeal the 36551
board's or governing authority's decision to the state board of 36552
education. The state board's decision regarding any high school 36553
credits granted under this ~~division~~ section is final. 36554

Evidence of successful completion of each course and the high 36555
school credits awarded by the district, community school, or 36556
participating nonpublic school shall be included in the student's 36557
record. The record shall indicate that the credits were earned as 36558
a participant under this chapter and shall include the name of the 36559
college at which the credits were earned. The district board, 36560

community school governing authority, or nonpublic school shall 36561
determine whether and the manner in which the grade achieved in a 36562
course completed at a college under division (A)(2) or (B) of 36563
section 3365.04 of the Revised Code will be counted in any 36564
cumulative grade point average maintained for the student. 36565

Sec. 3365.08. (A) A college that expects to receive or 36566
receives reimbursement under section 3365.07 of the Revised Code 36567
shall furnish to a participant all textbooks and materials 36568
directly related to a course taken by the participant under 36569
division (B) of section 3365.04 of the Revised Code. No college 36570
shall charge such participant for tuition, textbooks, materials, 36571
or other fees directly related to any such course. 36572

(B) No student enrolled under this chapter in a course for 36573
which credit toward high school graduation is awarded shall 36574
receive direct financial aid through any state or federal program. 36575

(C) If a school district provides transportation for resident 36576
school students in grades eleven and twelve under section 3327.01 36577
of the Revised Code, a parent of a pupil enrolled in a course 36578
under division (A)(2) or (B) of section 3365.04 of the Revised 36579
Code may apply to the board of education for full or partial 36580
reimbursement for the necessary costs of transporting the student 36581
between the secondary school the student attends and the college 36582
in which the student is enrolled. Reimbursement may be paid solely 36583
from funds received by the district under division (D) of section 36584
3317.022 of the Revised Code. The state board of education shall 36585
establish guidelines, based on financial need, under which a 36586
district may provide such reimbursement. 36587

(D) If a community school provides or arranges transportation 36588
for its pupils in grades nine through twelve under section 36589
3314.091 of the Revised Code, a parent of a pupil of the community 36590
school who is enrolled in a course under division (A)(2) or (B) of 36591

section 3365.04 of the Revised Code may apply to the governing 36592
authority of the community school for full or partial 36593
reimbursement of the necessary costs of transporting the student 36594
between the community school and the college. The governing 36595
authority may pay the reimbursement in accordance with the state 36596
board's rules adopted under division (C) of this section solely 36597
from funds paid to it under section 3314.091 of the Revised Code. 36598

Sec. 3365.11. If the superintendent of the school district or 36599
the chief administrator of the community school or nonpublic 36600
school in which the student is enrolled notifies the 36601
superintendent of public instruction that the student has not 36602
attained a passing final grade in a college course in which the 36603
student is enrolled under this chapter, the superintendent of 36604
public instruction shall initiate proceedings to seek 36605
reimbursement from the student or the student's parent for the 36606
amount of state funds calculated for payment to the college on 36607
behalf of the student for enrollment in that college course. In 36608
seeking reimbursement, the superintendent of public instruction 36609
may request that the attorney general bring a civil action in the 36610
court of common pleas of the county in which the school district, 36611
community school, or nonpublic school is located, if the 36612
superintendent of public instruction determines it appropriate to 36613
bring such an action. 36614

Upon the collection of any funds from a student or student's 36615
parent under this section, the superintendent of public 36616
instruction shall credit the amount collected to the school 36617
district or community school from which an amount was deducted 36618
under division (D) of section 3365.07 of the Revised Code for the 36619
course or, if the student is enrolled in a nonpublic school, to 36620
the general revenue fund. 36621

Sec. 3375.40. Each board of library trustees appointed 36622

pursuant to section 3375.06, 3375.10, 3375.12, 3375.15, 3375.22,
or 3375.30 of the Revised Code may do the following:

(A) Hold title to and have the custody of all real and
personal property of the free public library under its
jurisdiction;

(B) Expend for library purposes, and in the exercise of the
power enumerated in this section, all moneys, whether derived from
the county library and local government support fund or otherwise,
credited to the free public library under its jurisdiction and
generally do all things it considers necessary for the
establishment, maintenance, and improvement of the free public
library under its jurisdiction;

(C) Purchase, lease, construct, remodel, renovate, or
otherwise improve, equip, and furnish buildings or parts of
buildings and other real property, and purchase, lease, or
otherwise acquire motor vehicles and other personal property,
necessary for the proper maintenance and operation of the free
public library under its jurisdiction, and pay their costs in
installments or otherwise. Financing of these costs may be
provided through the issuance of notes, through an installment
sale, or through a lease-purchase agreement. Any such notes shall
be issued pursuant to section 3375.404 of the Revised Code.

(D) Purchase, lease, lease with an option to purchase, or
erect buildings or parts of buildings to be used as main
libraries, branch libraries, or library stations pursuant to
section 3375.41 of the Revised Code;

(E) Establish and maintain a main library, branches, library
stations, and traveling library service within the territorial
boundaries of the political subdivision or district over which it
has jurisdiction of free public library service;

(F) Except as otherwise provided in this division, establish

and maintain branches, library stations, and traveling library 36654
service in any school district, outside the territorial boundaries 36655
of the political subdivision or district over which it has 36656
jurisdiction of free public library service, upon application to 36657
and approval of the state library board, pursuant to section 36658
3375.05 of the Revised Code. The board of library trustees of any 36659
free public library maintaining branches, stations, or traveling 36660
library service, outside the territorial boundaries of the 36661
political subdivision or district over which it has jurisdiction 36662
of free public library service, on September 4, 1947, may continue 36663
to maintain and operate those branches, those stations, and that 36664
traveling library service without the approval of the state 36665
library board. 36666

(G) Appoint and fix the compensation of all of the employees 36667
of the free public library under its jurisdiction, pay the 36668
reasonable cost of tuition for any of its employees who enroll in 36669
a course of study the board considers essential to the duties of 36670
the employee or to the improvement of the employee's performance, 36671
and reimburse applicants for employment for any reasonable 36672
expenses they incur by appearing for a personal interview; 36673

(H) Make and publish rules for the proper operation and 36674
management of the free public library and facilities under its 36675
jurisdiction, including rules pertaining to the provision of 36676
library services to individuals, corporations, or institutions 36677
that are not inhabitants of the county; 36678

(I) Assess uniform fees for the provision of services to 36679
patrons of the library, but no fee shall be assessed for the 36680
circulation of printed materials held by the library except for 36681
the assessment of fines for materials not returned in accordance 36682
with the board's rules; 36683

(J) Establish and maintain a museum in connection with and as 36684
an adjunct to the free public library under its jurisdiction; 36685

~~(J)~~(K) By the adoption of a resolution, accept any bequest, 36686
gift, or endowment upon the conditions connected with the bequest, 36687
gift, or endowment. No such bequest, gift, or endowment shall be 36688
accepted by the board if its conditions remove any portion of the 36689
free public library under the board's jurisdiction from the 36690
control of the board or if the conditions, in any manner, limit 36691
the free use of the library or any part of it by the residents of 36692
the counties in which the library is located. 36693

~~(K)~~(L) At the end of any fiscal year, by a two-thirds vote of 36694
its full membership, set aside any unencumbered surplus remaining 36695
in the general fund of the free public library under its 36696
jurisdiction for any purpose, including creating or increasing a 36697
special building and repair fund, or for operating the library or 36698
acquiring equipment and supplies; 36699

~~(L)~~(M) Procure and pay all or part of the cost of group term 36700
life, hospitalization, surgical, major medical, disability 36701
benefit, dental care, eye care, hearing aids, or prescription drug 36702
insurance or coverage, or a combination of any of those types of 36703
insurance or coverage, whether issued by an insurance company or a 36704
health insuring corporation duly licensed by the state, covering 36705
its employees, and, in the case of group term life, 36706
hospitalization, surgical, major medical, dental care, eye care, 36707
hearing aids, or prescription drug insurance or coverage, also 36708
covering the dependents and spouses of its employees, and, in the 36709
case of disability benefits, also covering the spouses of its 36710
employees. 36711

~~(M)~~(N) Pay reasonable dues and expenses for the free public 36712
library and library trustees in library associations. 36713

Any instrument by which real property is acquired pursuant to 36714
this section shall identify the agency of the state that has the 36715
use and benefit of the real property as specified in section 36716
5301.012 of the Revised Code. 36717

~~Section Sec. 3375.48. The judges of the court of common pleas~~ 36718
~~of any county in which there is a A law library association which~~ 36719
~~furnishes that receives fines and penalties, and moneys arising~~ 36720
~~from forfeited bail, under sections 3375.50 to 3375.53 of the~~ 36721
~~Revised Code shall furnish to all of the members of the Ohio~~ 36722
~~general assembly, the county officers of the county in which the~~ 36723
~~association is located, and the judges of the several courts in~~ 36724
~~the that county admission to its the associations's law library~~ 36725
~~and the use of its books, materials, and equipment free of charge,~~ 36726
~~upon the appointment by the. The association's board of trustees~~ 36727
~~of such association of may appoint a person to act as librarian~~ 36728
~~thereof, or of a person to act as librarian and not more than two~~ 36729
~~additional persons to act as assistant law librarians thereof, of~~ 36730
~~the law library. The board shall ~~fix~~ be responsible for fixing and~~ 36731
~~paying the compensation of such those persons, which shall be paid~~ 36732
~~from the county treasury subject to section 3375.49 of the Revised~~ 36733
~~Code.~~ 36734

Sec. 3375.49. ~~For~~ (A) Subject to divisions (B) and (C) of 36735
this section, for the use of the law library referred to in 36736
section 3375.48 of the Revised Code, the board of county 36737
commissioners shall provide, ~~at the expense of the county,~~ 36738
~~suitable rooms with sufficient and suitable bookcases~~ space in the 36739
county courthouse or, if there are no suitable rooms in the 36740
courthouse, any other suitable rooms at in any other building 36741
located in the county seat with sufficient, and ~~suitable bookcases~~ 36742
utilities for that space. The 36743

(B)(1) Subject to division (C) of this section, through 36744
calendar year 2006, the board of county commissioners shall be 36745
responsible for paying the compensation of the librarian and up to 36746
two assistant librarians of the law library appointed by the board 36747
of trustees of the law library association under section 3375.48 36748

of the Revised Code and the costs of the space in the county 36749
courthouse or other building that the board provides for the use 36750
of the law library under division (A) of this section, the 36751
utilities for that space, and furniture and fixtures for the law 36752
library. 36753

(2) In calendar years 2007 through 2010, the board of county 36754
commissioners and the board of trustees shall be responsible for 36755
paying the compensation of the librarian and up to two assistant 36756
librarians appointed under section 3375.48 of the Revised Code and 36757
the costs of the space in the county courthouse or other building 36758
that the board of county commissioners provides for the use of the 36759
law library under division (A) of this section, the utilities for 36760
that space, and furniture and fixtures for the law library as 36761
follows: 36762

(a) In calendar year 2007, the board of county commissioners 36763
shall pay eighty per cent, and the board of trustees shall pay 36764
twenty per cent. 36765

(b) In calendar year 2008, the board of county commissioners 36766
shall pay sixty per cent, and the board of trustees shall pay 36767
forty per cent. 36768

(c) In calendar year 2009, the board of county commissioners 36769
shall pay forty per cent, and the board of trustees shall pay 36770
sixty per cent. 36771

(d) In calendar year 2010, the board of county commissioners 36772
shall pay twenty per cent, and the board of trustees shall pay 36773
eighty per cent. 36774

(3) Beginning in calendar year 2011 and thereafter, the board 36775
of trustees shall be responsible for paying the compensation of 36776
the librarian and all assistant librarians appointed under section 36777
3375.48 of the Revised Code as well as the costs of the space in 36778
the county courthouse or other building that the board of county 36779

commissioners provides for the use of the law library under 36780
division (A) of this section, the utilities for that space, and 36781
the law library's furniture and fixtures. 36782

(C) If the board of trustees of a law library association 36783
referred to in section 3375.48 of the Revised Code rents, leases, 36784
lease-purchases, or otherwise acquires space for the use of the 36785
law library, or constructs, enlarges, renovates, or otherwise 36786
modifies buildings or other structures to provide space for the 36787
use of the law library, the board of county commissioners of the 36788
county in which the association is located has no further 36789
obligation under division (A) of this section to provide space in 36790
the county courthouse or any other building located in the county 36791
seat for the use of the law library and utilities for that space, 36792
and has no further obligation under division (B) of this section 36793
to make payments for the compensation of the librarian and up to 36794
two assistant librarians of the law library appointed under 36795
section 3375.48 of the Revised Code and for the costs of space in 36796
the county courthouse or an other building for the use of the law 36797
library, the utilities for that space, and the law library's 36798
furniture and fixtures. 36799

(D) The librarian ~~or person in charge~~ of the law library 36800
shall receive and safely keep in ~~these rooms~~ the law library the 36801
law reports and other books furnished by the state for use of the 36802
court and bar. ~~The board of county commissioners shall heat and~~ 36803
~~light any such rooms. The~~ 36804

(E) The books, computer communications console that is a 36805
means of access to a system of computerized legal research, 36806
microform materials and equipment, videotape materials and 36807
equipment, audio or visual materials and equipment, other 36808
materials and equipment utilized in conducting legal research, ~~and~~ 36809
furniture, and fixtures of the law library association that are 36810
owned by, and used exclusively in, the law library are exempt from 36811

taxation. 36812

Sec. 3375.54. The money that is paid to the board of trustees 36813
of a law library association under sections 3375.50 to 3375.53 of 36814
the Revised Code shall be expended in the support and operation of 36815
the law library association ~~and~~; in the purchase, lease, or rental 36816
of lawbooks, a computer communications console that is a means of 36817
access to a system of computerized legal research, microform 36818
materials and equipment, videotape materials and equipment, audio 36819
or visual materials and equipment, ~~and other services, materials,~~ 36820
and equipment ~~that provide legal information or facilitate~~ 36821
utilized in conducting legal research, furniture, and fixtures 36822
used in the association's law library; and to pay the compensation 36823
of any librarian and assistant librarians of the law library 36824
appointed under section 3375.48 of the Revised Code. 36825

Sec. 3375.55. ~~Judges of the county court in the county and~~ 36826
~~officers~~ Officers of the townships and municipal corporations 36827
~~therein~~ in a county in which a law library association that 36828
receives fines and penalties, and moneys arising from forfeited 36829
bail, under sections 3375.50 to 3375.53 of the Revised Code is 36830
located shall have the same free use of the books, materials, and 36831
equipment of the association's law library ~~receiving moneys under~~ 36832
~~sections 3375.50 to 3375.53, inclusive, of the Revised Code,~~ as 36833
general assembly members and the judges and county officers 36834
mentioned in section 3375.48 of the Revised Code. 36835

Sec. 3381.02. A regional arts and cultural district may be 36836
created ~~under section 3381.03 or 3381.04 of the Revised Code~~ for 36837
any of the following purposes: making grants to support the 36838
operating or capital expenses of arts or cultural organizations 36839
located within its district, or acquiring, constructing, 36840
equipping, furnishing, repairing, remodeling, renovating, 36841

enlarging, improving, or administering artistic or cultural 36842
facilities. A regional arts and cultural district is a political 36843
subdivision of the state and a body corporate, comprised of the 36844
territory of a county, or two or more counties, municipal 36845
corporations, townships, or any combination thereof, ~~provided,~~ 36846
~~that if.~~ If more than one county is in a regional arts and 36847
cultural district, each county shall be contiguous to a county in 36848
~~its~~ the district, and, ~~provided~~ also in the case of a combination 36849
of political subdivisions, ~~that~~ each municipal corporation or 36850
township shall either be contiguous to a county, municipal 36851
corporation, or township in ~~its~~ the regional arts and cultural 36852
district, or each municipal corporation or township shall be 36853
located in a county that is contiguous to a county in ~~its~~ the 36854
district. 36855

Sec. 3381.04. (A) In lieu of the procedure set forth in 36856
section 3381.03 of the Revised Code, any county with a population 36857
of five hundred thousand or more ~~may,~~ at any time ~~prior to~~ before 36858
the creation of a regional arts and cultural district ~~pursuant to~~ 36859
under that section ~~3381.03 of the Revised Code,~~ may create a 36860
regional arts and cultural district by adoption of a resolution ~~or~~ 36861
~~ordinance~~ by the board of county commissioners of ~~such~~ that 36862
county. ~~Such~~ The resolution shall state all of the following: 36863

~~(A)~~(1) The purposes for the creation of the district; 36864

~~(B)~~(2) That the territory of the district shall be 36865
coextensive with the territory of ~~such~~ the county; 36866

~~(C)~~(3) The official name by which the district shall be 36867
known; 36868

~~(D)~~(4) The location of the principal office of the district 36869
or the manner in which the location shall be selected. 36870

(B) The district provided for in ~~such~~ the resolution ~~or~~ 36871

ordinance shall be created upon the adoption of ~~such the~~ 36872
resolution ~~or ordinance~~ by the board of county commissioners of 36873
~~such that~~ county. Upon the adoption of ~~such the~~ resolution ~~or~~ 36874
~~ordinance~~, ~~such the~~ county and the municipal corporations and 36875
townships contained ~~therein in the county~~ shall not thereafter be 36876
a part of any other regional arts and cultural district. 36877

(C) The board of trustees of any regional arts and cultural 36878
district formed in accordance with this section shall be comprised 36879
of ~~three members appointed by the same persons who comprise such~~ 36880
~~county's~~ board of county commissioners. 36881

Sec. 3381.05. Within sixty days after a regional arts and 36882
cultural district has been created ~~under section 3381.03 of the~~ 36883
~~Revised Code~~, the board of trustees of the district shall be 36884
appointed as provided in this section. 36885

Members of a board of trustees of a regional arts and 36886
cultural district created by the exclusive action of a county 36887
shall be appointed by the board of county commissioners of ~~such~~ 36888
the county. A board of trustees of a district created by two or 36889
more political subdivisions shall consist of ~~such the~~ number of 36890
members, and shall be appointed by ~~such the~~ public officers or 36891
bodies, as shall be provided in the resolutions or ordinances 36892
creating ~~such the~~ district, or any amendments ~~thereto to them~~. ~~All~~ 36893

All members of a board of trustees of a regional arts and 36894
cultural district ~~created under section 3381.03 of the Revised~~ 36895
~~Code~~ shall be persons who have broad knowledge and experience in 36896
the arts or cultural heritage and shall have other qualifications 36897
as are specified in the ~~resolution~~ resolutions or ~~ordinance~~ 36898
ordinances creating the district, or any amendments ~~thereto to~~ 36899
them; provided, that at least two members of the board of trustees 36900
shall be persons who devote a major portion of their time to 36901
practicing, performing, or teaching any of the arts or who are 36902

professional administrators in any field of the arts or cultural 36903
heritage, and the ~~resolution~~ resolutions or ~~ordinance~~ ordinances 36904
creating ~~such regional arts and cultural~~ the district shall so 36905
provide. All members of the board of trustees also shall be 36906
qualified electors in the district's territory. ~~The~~ 36907

The appointing authority shall consider for appointment as 36908
members of the board of trustees, but need not appoint, ~~such~~ 36909
persons ~~as are~~ nominated by area arts councils, as defined in 36910
section 757.03 of the Revised Code, located within the district; 36911
provided that all ~~such~~ those persons shall meet the qualifications 36912
specified in this section and the ~~resolution~~ resolutions or 36913
~~ordinance~~ ordinances creating the district. ~~The resolution~~ 36914
resolutions or ~~ordinance~~ ordinances creating the district may, but 36915
need not, provide that the members of an area arts council located 36916
within the district shall constitute the board of trustees of the 36917
district. ~~The~~ 36918

The appointing authority ~~may,~~ at any time, may remove a 36919
~~trustee member of the board of trustees~~ for misfeasance, 36920
nonfeasance, or malfeasance in office. 36921

The initially appointed members of the board of trustees of 36922
any regional arts and cultural district ~~created under section~~ 36923
~~3381.03 of the Revised Code~~ shall serve staggered terms of one, 36924
two, and three years. Thereafter, each ~~trustee member~~ shall serve 36925
~~terms~~ a term of three years, except that any person appointed to 36926
fill a vacancy shall be appointed to only the unexpired term. Any 36927
~~appointed trustee member~~ is eligible for reappointment, except as 36928
otherwise provided in the ~~resolution~~ resolutions or ~~ordinance~~ 36929
ordinances creating ~~such~~ the district, or any amendment ~~thereto to~~ 36930
them. 36931

Sec. 3381.06. All the power and authority granted to a 36932
regional arts and cultural district ~~created under section 3381.03~~ 36933

~~er 3381.04 of the Revised Code~~ shall be vested in and exercised by 36934
its board of trustees, which shall manage and conduct its affairs. 36935
The board ~~shall~~, within the limitations of this chapter, shall 36936
provide, by rules, the procedure for its actions, the manner of 36937
selection of its president, vice-president, executive director, 36938
and other officers and employees, their titles, terms of office, 36939
compensation, duties, number, and qualifications, and any other 36940
lawful subject necessary or desirable to the operation and 36941
administration of the district and the exercise of the powers 36942
granted to it. 36943

Sec. 3381.07. Upon the creation of a regional arts and 36944
cultural district ~~under section 3381.03 or 3381.04 of the Revised~~ 36945
~~Code~~ and upon the qualifying of its board of trustees and the 36946
election of a president and a vice-president, the district shall 36947
exercise in its own name all the rights, powers, and duties vested 36948
in and conferred upon it by this chapter. A regional arts and 36949
cultural district: 36950

(A) May sue or be sued in its corporate name; 36951

(B) May make contracts in the exercise of the rights, powers, 36952
and duties conferred upon it; 36953

(C) May adopt and alter a seal and use ~~such~~ that seal by 36954
causing it to be impressed, affixed, reproduced, or otherwise 36955
used, but failure to affix the seal shall not affect the validity 36956
of any instrument; 36957

(D) May make, adopt, amend, and repeal bylaws for the 36958
administration of its affairs and rules for the administration and 36959
operation of any artistic or cultural facilities under its control 36960
and for the exercise of all of its rights of ownership ~~therein~~ in 36961
those facilities, provided, however, that it may not be directly 36962
involved in any programmatic activities; 36963

(E) May make grants, on such terms and conditions as it may 36964
deem advisable, to any arts or cultural organization within its 36965
district as provided in section 3381.17 of the Revised Code; 36966

(F) May fix, alter, and collect rentals and other charges for 36967
the use of any artistic or cultural facilities under its control, 36968
to be determined exclusively by it for the purpose of providing 36969
for the payment of the expenses of the district, the acquisition, 36970
construction, equipping, improvement, extension, repair, 36971
maintenance, renovation, enlargement, administration, and 36972
operation of artistic or cultural facilities under its control, 36973
and the payment of principal and interest on its obligations, and 36974
~~to fulfill~~ fulfilling the terms of any agreements made with the 36975
purchasers or holders of any such obligations, or with any person 36976
or political subdivision; 36977

(G) Shall have jurisdiction, control, possession, and 36978
supervision over the use and disposition of all property, rights, 36979
licenses, moneys, contracts, accounts, liens, books, records, or 36980
other property rights and interests conveyed, delivered, 36981
transferred, or assigned to it; 36982

(H) May acquire, construct, improve, extend, repair, remodel, 36983
renovate, furnish, equip, enlarge, lease, or maintain artistic or 36984
cultural facilities within its territory as it considers necessary 36985
to accomplish the purposes of this chapter, and make charges for 36986
the use of artistic or cultural facilities; 36987

(I) May levy and collect taxes as provided in section 3381.16 36988
of the Revised Code; 36989

(J) May issue bonds secured by its general credit as provided 36990
in section 3381.08 of the Revised Code; 36991

(K) May hold, encumber, control, acquire by donation, 36992
purchase, construct, own, lease as lessee or lessor, use, and sell 36993
real and personal property, or any interest or right ~~therein~~ in 36994

real or personal property, within or without its territory; 36995

(L) May employ or retain and fix the compensation of ~~such~~ 36996
employees, ~~agent~~ agents, accountants, attorneys, and consultants 36997
or advisors ~~as may be~~ necessary or desirable for the 36998
accomplishment of its purposes; 36999

(M) May procure insurance against loss to it by reason of 37000
damages to its properties resulting from fire, theft, accident, or 37001
other casualties or by reason of its liability for any damages to 37002
persons or property; 37003

(N) May maintain ~~such~~ funds as it determines necessary or 37004
desirable for the efficient performance of its duties; 37005

(O) May procure a policy or policies insuring members of its 37006
board of trustees, and its officers, employees, and agents, 37007
against liability on account of damages or injury to persons and 37008
property resulting from any act or omission of such person in ~~his~~ 37009
the person's official capacity or resulting solely out of ~~his~~ the 37010
person's service to ~~such~~ the district; 37011

(P) May receive and expend gifts, grants, bequests, or 37012
devices, or grants, including, but not limited to, grants of 37013
public funds. 37014

Sec. 3381.15. (A) The board of county commissioners of any 37015
county, the legislative authority of any municipal corporation, 37016
and the board of township trustees of any township, included 37017
within a regional arts and cultural district may appropriate 37018
annually, from moneys to the credit of the general fund of the 37019
county, the municipal corporation, or the township and not 37020
otherwise appropriated, that portion of the expense of the 37021
district to be paid by ~~such~~ the county, municipal corporation, or 37022
township as provided in the resolution creating or enlarging the 37023
district adopted under section 3381.03 of the Revised Code, or by 37024

any amendment ~~thereto~~ to the resolution. 37025

(B) In addition to the authority granted to a board of county commissioners under division (A) of this section, a board of county commissioners in a county with a population of one million two hundred thousand or more may establish and provide local funding options for the support of arts and cultural organizations operating within the regional arts and cultural district in which the county is included. 37026
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Sec. 3383.02. (A) There is hereby created the Ohio cultural facilities commission. The commission shall engage in and provide for the development, performance, and presentation or making available of culture and professional sports and athletics to the public in this state, and the provision of training or education in culture, by the exercise of its powers under this chapter, including the provision, operation, management, and cooperative use of Ohio cultural facilities and Ohio sports facilities. The commission is a body corporate and politic, an agency of state government and an instrumentality of the state, performing essential governmental functions of this state. The carrying out of the purposes and the exercise by the commission of its powers conferred by this chapter are essential public functions and public purposes of the state and of state government. The commission may, in its own name, sue and be sued, enter into contracts, and perform all the powers and duties given to it by this chapter; however, it does not have and shall not exercise the power of eminent domain. 37033
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(B) The commission shall consist of ~~ten~~ twelve members, ~~seven~~ nine of whom shall be voting members and three of whom shall be nonvoting members. The ~~seven~~ nine voting members shall be appointed by the governor, with the advice and consent of the senate, from different geographical regions of the state. In 37051
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addition, one of the voting members shall represent the state 37056
architect. Not more than ~~four~~ five of the members appointed by the 37057
governor shall be affiliated with the same political party. The 37058
nonvoting members shall be the staff director of the Ohio arts 37059
council, a member of the senate appointed by the president of the 37060
senate, and a member of the house of representatives appointed by 37061
the speaker of the house. 37062

(C) Of the five initial appointments made by the governor, 37063
one shall be for a term expiring December 31, 1989, two shall be 37064
for terms expiring December 31, 1990, and two shall be for terms 37065
expiring December 31, 1991. Of the initial appointments of the 37066
sixth and seventh voting members made by the governor, one shall 37067
be for a term expiring December 31, 2003, and one shall be for a 37068
term expiring December 31, 2004. Of the initial appointments of 37069
the eighth and ninth voting members made by the governor, one 37070
shall be for a term expiring December 31, 2007, and one shall be 37071
for a term expiring December 31, 2008. These voting members shall 37072
be appointed within sixty days after the effective date of this 37073
amendment. Thereafter, each such term shall be for three years, 37074
commencing on the first day of January and ending on the 37075
thirty-first day of December. Each appointment by the president of 37076
the senate and by the speaker of the house of representatives 37077
shall be for the balance of the then legislative biennium. Each 37078
member shall hold office from the date of the member's appointment 37079
until the end of the term for which the member was appointed. Any 37080
member appointed to fill a vacancy occurring prior to the 37081
expiration of the term for which the member's predecessor was 37082
appointed shall hold office for the remainder of such term. Any 37083
member shall continue in office subsequent to the expiration date 37084
of the member's term until the member's successor takes office, or 37085
until a period of sixty days has elapsed, whichever occurs first. 37086

(D) Members of the commission shall serve without 37087

compensation. 37088

(E) Organizational meetings of the commission shall be held 37089
at the first meeting of each calendar year. At each organizational 37090
meeting, the commission shall elect from among its voting members 37091
a chairperson, a vice-chairperson, and a secretary-treasurer, who 37092
shall serve until the next annual meeting. The commission shall 37093
adopt rules pursuant to section 111.15 of the Revised Code for the 37094
conduct of its internal business and shall keep a journal of its 37095
proceedings. 37096

(F) ~~Four~~ Five voting members of the commission constitute a 37097
quorum, and the affirmative vote of ~~four~~ five members is necessary 37098
for approval of any action taken by the commission. A vacancy in 37099
the membership of the commission does not impair a quorum from 37100
exercising all the rights and performing all the duties of the 37101
commission. Meetings of the commission may be held anywhere in the 37102
state, and shall be held in compliance with section 121.22 of the 37103
Revised Code. 37104

(G) All expenses incurred in carrying out this chapter are 37105
payable solely from money accrued under this chapter or 37106
appropriated for these purposes by the general assembly, and the 37107
commission shall incur no liability or obligation beyond such 37108
money. 37109

(H) The commission shall file an annual report of its 37110
activities and finances with the governor, director of budget and 37111
management, speaker of the house of representatives, president of 37112
the senate, and chairpersons of the house and senate finance 37113
committees. 37114

(I) There is hereby established in the state treasury the 37115
Ohio cultural facilities commission administration fund. All 37116
revenues of the commission shall be credited to that fund and to 37117
any accounts created in ~~the~~ that fund with the commission's 37118

approval. All expenses of the commission, including reimbursement 37119
of, or payment to, any other fund or any governmental agency for 37120
advances made or services rendered to or on behalf of the 37121
commission, shall be paid from ~~the Ohio cultural facilities~~ 37122
~~commission administration~~ that fund as determined by or pursuant 37123
to directions of the commission. All investment earnings of ~~the~~ 37124
~~administration~~ that fund shall be credited to ~~the fund~~ it and 37125
shall be allocated among any accounts created in the fund in the 37126
manner determined by the commission. 37127

(J) Title to all real property and lesser interests in real 37128
property acquired by the commission, including leasehold and other 37129
interests, pursuant to this chapter shall be taken in the name of 37130
the state and shall be held for the use and benefit of the 37131
commission. The commission shall not mortgage such real property 37132
and interests in real property. Title to other property and 37133
interests in it acquired by the commission pursuant to this 37134
chapter shall be taken in its name. 37135

Sec. 3383.09. (A) There is hereby created in the state 37136
treasury the cultural and sports facilities building fund, which 37137
shall consist of proceeds of obligations authorized to pay costs 37138
of Ohio cultural facilities and Ohio sports facilities for which 37139
appropriations are made by the general assembly. All investment 37140
earnings of the fund shall be credited to the fund. 37141

(B) The director of budget and management may transfer, to 37142
the Ohio cultural facilities commission administration fund, 37143
investment earnings credited, or the premium paid on any bonds 37144
issued on behalf of the commission and credited, to the cultural 37145
and sports facilities building fund that exceed the amounts 37146
required to meet estimated federal arbitrage rebate requirements 37147
when requested of the director of budget and management by the 37148
chairperson or executive director of the commission. 37149

Sec. 3501.141. (A) The board of elections of any county may 37150
contract, purchase, or otherwise procure and pay all or any part 37151
of the cost of group insurance policies that may provide benefits 37152
for hospitalization, surgical care, major medical care, 37153
disability, dental care, eye care, medical care, hearing aids, or 37154
prescription drugs, and that may provide sickness and accident 37155
insurance, or group life insurance, or a combination of any of the 37156
foregoing types of insurance or coverage for the full-time 37157
employees of such board and their immediate dependents, whether 37158
issued by an insurance company or a health insuring corporation, 37159
duly authorized to do business in this state. The authority 37160
granted under this division applies only when the board of county 37161
commissioners, by resolution, denies coverage described in this 37162
division to full-time employees of the board of elections. 37163

(B) The board of elections of any county, with the approval 37164
of the board of county commissioners, may procure and pay all or 37165
any part of the cost of group hospitalization, surgical, major 37166
medical, or sickness and accident insurance or a combination of 37167
any of the foregoing types of insurance or coverage for the 37168
members appointed to the board of elections under section 3501.06 37169
of the Revised Code and their immediate dependents when each 37170
member's term begins, whether issued by an insurance company or a 37171
health insuring corporation, duly authorized to do business in 37172
this state. 37173

Sec. 3501.17. (A) The expenses of the board of elections 37174
shall be paid from the county treasury, in pursuance of 37175
appropriations by the board of county commissioners, in the same 37176
manner as other county expenses are paid. If the board of county 37177
commissioners fails to appropriate an amount sufficient to provide 37178
for the necessary and proper expenses of the board of elections 37179
pertaining to the conduct of elections, other than expenses for 37180

employee compensation and benefits incurred in the conduct of 37181
elections, ~~such~~ the board of elections may apply to the court of 37182
common pleas within the county, which shall fix the amount 37183
necessary to be appropriated and ~~such~~ the amount shall be 37184
appropriated. Payments shall be made upon vouchers of the board of 37185
elections certified to by its chairperson or acting chairperson 37186
and the director or deputy director, upon warrants of the county 37187
auditor. ~~The~~ 37188

The board of elections shall not incur any obligation 37189
involving the expenditure of money unless there are moneys 37190
sufficient in the funds appropriated therefor to meet ~~such~~ 37191
~~obligations~~ the obligation as required in division (D) of section 37192
5705.41 of the Revised Code. ~~Such~~ If the board of elections 37193
requests a transfer of funds from one of its appropriation items 37194
to another, the board of county commissioners shall adopt a 37195
resolution providing for the transfer except as otherwise provided 37196
in section 5705.40 of the Revised Code. The expenses of the board 37197
of elections shall be apportioned among the county and the various 37198
subdivisions as provided in this section, and the amount 37199
chargeable to each subdivision shall be withheld by the auditor 37200
from the moneys payable thereto at the time of the next tax 37201
settlement. At the time of submitting budget estimates in each 37202
year, the board of elections shall submit to the taxing authority 37203
of each subdivision, upon the request of the subdivision, an 37204
estimate of the amount to be withheld ~~therefrom~~ from the 37205
subdivision during the next fiscal year. 37206

(B) Except as otherwise provided in division (F) of this 37207
section, the entire compensation of the members of the board of 37208
elections and of the director, deputy director, and other 37209
employees in the board's offices; the expenditures for the rental, 37210
furnishing, and equipping of the office of the board and for the 37211
necessary office supplies for the use of the board; the 37212

expenditures for the acquisition, repair, care, and custody of the 37213
polling places, booths, guardrails, and other equipment for 37214
polling places; the cost of pollbooks, tally sheets, maps, flags, 37215
ballot boxes, and all other permanent records and equipment; the 37216
cost of all elections held in and for the state and county; and 37217
all other expenses of the board which are not chargeable to a 37218
political subdivision in accordance with this section shall be 37219
paid in the same manner as other county expenses are paid. 37220

(C) The compensation of judges and clerks of elections; the 37221
cost of renting, moving, heating, and lighting polling places and 37222
of placing and removing ballot boxes and other fixtures and 37223
equipment thereof; the cost of printing and delivering ballots, 37224
cards of instructions, and other election supplies; and all other 37225
expenses of conducting primaries and elections in the odd-numbered 37226
years shall be charged to the subdivisions in and for which such 37227
primaries or elections are held. The charge for each primary or 37228
general election in odd-numbered years for each subdivision shall 37229
be determined in the following manner: first, the total cost of 37230
all chargeable items used in conducting such elections shall be 37231
ascertained; second, the total charge shall be divided by the 37232
number of precincts participating in such election, in order to 37233
fix the cost per precinct; third, the cost per precinct shall be 37234
prorated by the board of elections to the subdivisions conducting 37235
elections for the nomination or election of offices in such 37236
precinct; fourth, the total cost for each subdivision shall be 37237
determined by adding the charges prorated to it in each precinct 37238
within the subdivision. 37239

(D) The entire cost of special elections held on a day other 37240
than the day of a primary or general election, both in 37241
odd-numbered or in even-numbered years, shall be charged to the 37242
subdivision. Where a special election is held on the same day as a 37243
primary or general election in an even-numbered year, the 37244

subdivision submitting the special election shall be charged only 37245
for the cost of ballots and advertising. Where a special election 37246
is held on the same day as a primary or general election in an 37247
odd-numbered year, the subdivision submitting the special election 37248
shall be charged for the cost of ballots and advertising for such 37249
special election, in addition to the charges prorated to such 37250
subdivision for the election or nomination of candidates in each 37251
precinct within the subdivision, as set forth in the preceding 37252
paragraph. 37253

(E) Where a special election is held on the day specified by 37254
division (E) of section 3501.01 of the Revised Code for the 37255
holding of a primary election, for the purpose of submitting to 37256
the voters of the state constitutional amendments proposed by the 37257
general assembly, and a subdivision conducts a special election on 37258
the same day, the entire cost of the special election shall be 37259
divided proportionally between the state and the subdivision based 37260
upon a ratio determined by the number of issues placed on the 37261
ballot by each, except as otherwise provided in division (G) of 37262
this section. Such proportional division of cost shall be made 37263
only to the extent funds are available for such purpose from 37264
amounts appropriated by the general assembly to the secretary of 37265
state. If a primary election is also being conducted in the 37266
subdivision, the costs shall be apportioned as otherwise provided 37267
in this section. 37268

(F) When a precinct is open during a general, primary, or 37269
special election solely for the purpose of submitting to the 37270
voters a statewide ballot issue, the state shall bear the entire 37271
cost of the election in that precinct and shall reimburse the 37272
county for all expenses incurred in opening the precinct. 37273

(G) The state shall bear the entire cost of advertising in 37274
newspapers statewide ballot issues, explanations of those issues, 37275
and arguments for or against those issues, as required by Section 37276

1g of Article II and Section 1 of Article XVI, Ohio Constitution, 37277
and any other section of law and shall reimburse the counties for 37278
all expenses they incur for such advertising. 37279

(H) The cost of renting, heating, and lighting registration 37280
places; the cost of the necessary books, forms, and supplies for 37281
the conduct of registration; and the cost of printing and posting 37282
precinct registration lists shall be charged to the subdivision in 37283
which such registration is held. 37284

(I) As used in this section, "statewide ballot issue" means 37285
any ballot issue, whether proposed by the general assembly or by 37286
initiative or referendum, that is submitted to the voters 37287
throughout the state. 37288

Sec. 3513.04. Candidates for party nominations to state, 37289
district, county, and municipal offices or positions, for which 37290
party nominations are provided by law, and for election as members 37291
of party controlling committees shall have their names printed on 37292
the official primary ballot by filing a declaration of candidacy 37293
and paying the fees specified for the office under divisions (A) 37294
and (B) of section 3513.10 of the Revised Code, except that the 37295
joint candidates for party nomination to the offices of governor 37296
and lieutenant governor shall, for the two of them, file one 37297
declaration of candidacy. The joint candidates also shall pay the 37298
fees specified for the joint candidates under divisions (A) and 37299
(B) of section 3513.10 of the Revised Code. 37300

The secretary of state shall not accept for filing the 37301
declaration of candidacy of a candidate for party nomination to 37302
the office of governor unless the declaration of candidacy also 37303
shows a joint candidate for the same party's nomination to the 37304
office of lieutenant governor, shall not accept for filing the 37305
declaration of candidacy of a candidate for party nomination to 37306
the office of lieutenant governor unless the declaration of 37307

candidacy also shows a joint candidate for the same party's 37308
nomination to the office of governor, and shall not accept for 37309
filing a declaration of candidacy that shows a candidate for party 37310
nomination to the office of governor or lieutenant governor who, 37311
for the same election, has already filed a declaration of 37312
candidacy or a declaration of intent to be a write-in candidate, 37313
or has become a candidate by the filling of a vacancy under 37314
section 3513.30 of the Revised Code for any other state office or 37315
any federal or county office. 37316

No person who seeks party nomination for an office or 37317
position at a primary election by declaration of candidacy or by 37318
declaration of intent to be a write-in candidate and no person who 37319
is a first choice for president of candidates seeking election as 37320
delegates and alternates to the national conventions of the 37321
different major political parties who are chosen by direct vote of 37322
the electors as provided in this chapter shall be permitted to 37323
become a candidate by nominating petition or by declaration of 37324
intent to be a write-in candidate at the following general 37325
election for any office other than the office of member of the 37326
state board of education, office of member of a city, local, or 37327
exempted village board of education, office of member of a 37328
governing board of an educational service center, or office of 37329
township trustee. 37330

Sec. 3513.041. A write-in space shall be provided on the 37331
ballot for every office, except in an election for which the board 37332
of elections has received no valid declarations of intent to be a 37333
write-in candidate under this section. Write-in votes shall not be 37334
counted for any candidate who has not filed a declaration of 37335
intent to be a write-in candidate pursuant to this section. A 37336
qualified person who has filed a declaration of intent may receive 37337
write-in votes at either a primary or general election. Any 37338
candidate, ~~except one whose candidacy is to be submitted to~~ 37339

~~electors throughout the entire state,~~ shall file a declaration of 37340
intent to be a write-in candidate before four p.m. of the fiftieth 37341
day preceding the election at which such candidacy is to be 37342
considered. If the election is to be determined by electors of a 37343
county or a district or subdivision within the county, such 37344
declaration shall be filed with the board of elections of that 37345
county. If the election is to be determined by electors of a 37346
subdivision located in more than one county, such declaration 37347
shall be filed with the board of elections of the county in which 37348
the major portion of the population of such subdivision is 37349
located. If the election is to be determined by electors of a 37350
district comprised of more than one county but less than all of 37351
the counties of the state, such declaration shall be filed with 37352
the board of elections of the most populous county in such 37353
district. Any candidate for an office to be voted upon by electors 37354
throughout the entire state shall file a declaration of intent to 37355
be a write-in candidate with the secretary of state before four 37356
p.m. of the fiftieth day preceding the election at which such 37357
candidacy is to be considered. In addition, candidates for 37358
president and vice-president of the United States shall also file 37359
with the secretary of state by said fiftieth day a slate of 37360
presidential electors sufficient in number to satisfy the 37361
requirements of the United States constitution. 37362

A board of elections shall not accept for filing the 37363
declaration of intent to be a write-in candidate of a person 37364
seeking to become a candidate if that person, for the same 37365
election, has already filed a declaration of candidacy, a 37366
declaration of intent to be a write-in candidate, or a nominating 37367
petition, or has become a candidate through party nomination at a 37368
primary election or by the filling of a vacancy under section 37369
3513.30 or 3513.31 of the Revised Code, for any federal, state, or 37370
county office, if the declaration of intent to be a write-in 37371
candidate is for a state or county office, or for any municipal or 37372

township office, for member of a city, local, or exempted village 37373
board of education, or for member of a governing board of an 37374
educational service center, if the declaration of intent to be a 37375
write-in candidate is for a municipal or township office, or for 37376
member of a city, local, or exempted village board of education, 37377
or for member of a governing board of an educational service 37378
center. 37379

No person shall file a declaration of intent to be a write-in 37380
candidate for the office of governor unless the declaration also 37381
shows the intent of another person to be a write-in candidate for 37382
the office of lieutenant governor. No person shall file a 37383
declaration of intent to be a write-in candidate for the office of 37384
lieutenant governor unless the declaration also shows the intent 37385
of another person to be a write-in candidate for the office of 37386
governor. No person shall file a declaration of intent to be a 37387
write-in candidate for the office of governor or lieutenant 37388
governor if the person has previously filed a declaration of 37389
intent to be a write-in candidate to the office of governor or 37390
lieutenant governor at the same primary or general election. A 37391
write-in vote for the two candidates who file such a declaration 37392
shall be counted as a vote for them as joint candidates for the 37393
offices of governor and lieutenant governor. 37394

The secretary of state shall not accept for filing the 37395
declaration of intent to be a write-in candidate of a person for 37396
the office of governor unless the declaration also shows the 37397
intent of another person to be a write-in candidate for the office 37398
of lieutenant governor, shall not accept for filing the 37399
declaration of intent to be a write-in candidate of a person for 37400
the office of lieutenant governor unless the declaration also 37401
shows the intent of another person to be a write-in candidate for 37402
the office of governor, and shall not accept for filing the 37403
declaration of intent to be a write-in candidate of a person to 37404

the office of governor or lieutenant governor if that person, for 37405
the same election, has already filed a declaration of candidacy, a 37406
declaration of intent to be a write-in candidate, or a nominating 37407
petition, or has become a candidate through party nomination at a 37408
primary election or by the filling of a vacancy under section 37409
3513.30 or 3513.31 of the Revised Code, for any other state office 37410
or any federal or county office. 37411

Protests against the candidacy of any person filing a 37412
declaration of intent to be a write-in candidate may be filed by 37413
any qualified elector who is eligible to vote in the election at 37414
which the candidacy is to be considered. The protest shall be in 37415
writing and shall be filed not later than four p.m. of the 37416
forty-fifth day before the day of the election. The protest shall 37417
be filed with the board of elections with which the declaration of 37418
intent to be a write-in candidate was filed. Upon the filing of 37419
the protest, the board with which it is filed shall promptly fix 37420
the time for hearing it and shall proceed in regard to the hearing 37421
in the same manner as for hearings set for protests filed under 37422
section 3513.05 of the Revised Code. At the time fixed, the board 37423
shall hear the protest and determine the validity or invalidity of 37424
the declaration of intent to be a write-in candidate. If the board 37425
finds that the candidate is not an elector of the state, district, 37426
county, or political subdivision in which the candidate seeks 37427
election to office or has not fully complied with the requirements 37428
of Title XXXV of the Revised Code in regard to the candidate's 37429
candidacy, the candidate's declaration of intent to be a write-in 37430
candidate shall be determined to be invalid and shall be rejected; 37431
otherwise, it shall be determined to be valid. The determination 37432
of the board is final. 37433

The secretary of state shall prescribe the form of the 37434
declaration of intent to be a write-in candidate. 37435

Sec. 3513.05. Each person desiring to become a candidate for 37436
a party nomination or for election to an office or position to be 37437
voted for at a primary election, except persons desiring to become 37438
joint candidates for the offices of governor and lieutenant 37439
governor and except as otherwise provided in section 3513.051 of 37440
the Revised Code, shall, not later than four p.m. of the 37441
seventy-fifth day before the day of the primary election, or if 37442
the primary election is a presidential primary election, not later 37443
than four p.m. of the sixtieth day before the day of the 37444
presidential primary election, file a declaration of candidacy and 37445
petition and pay the fees required under divisions (A) and (B) of 37446
section 3513.10 of the Revised Code. The declaration of candidacy 37447
and all separate petition papers shall be filed at the same time 37448
as one instrument. When the offices are to be voted for at a 37449
primary election, persons desiring to become joint candidates for 37450
the offices of governor and lieutenant governor shall, not later 37451
than four p.m. of the seventy-fifth day before the day of the 37452
primary election, comply with section 3513.04 of the Revised Code. 37453
The prospective joint candidates' declaration of candidacy and all 37454
separate petition papers of candidacies shall be filed at the same 37455
time as one instrument. The secretary of state or a board of 37456
elections shall not accept for filing a declaration of candidacy 37457
and petition of a person seeking to become a candidate if that 37458
person, for the same election, has already filed a declaration of 37459
candidacy or a declaration of intent to be a write-in candidate, 37460
or has become a candidate by the filling of a vacancy under 37461
section 3513.30 of the Revised Code for any federal, state, or 37462
county office, if the declaration of candidacy is for a state or 37463
county office, or for any municipal or township office, if the 37464
declaration of candidacy is for a municipal or township office. 37465

If the declaration of candidacy declares a candidacy which is 37466
to be submitted to electors throughout the entire state, the 37467

petition, including a petition for joint candidates for the 37468
offices of governor and lieutenant governor, shall be signed by at 37469
least one thousand qualified electors who are members of the same 37470
political party as the candidate or joint candidates, and the 37471
declaration of candidacy and petition shall be filed with the 37472
secretary of state; provided that the secretary of state shall not 37473
accept or file any such petition appearing on its face to contain 37474
signatures of more than three thousand electors. 37475

Except as otherwise provided in this paragraph, if the 37476
declaration of candidacy is of one that is to be submitted only to 37477
electors within a district, political subdivision, or portion 37478
thereof, the petition shall be signed by not less than fifty 37479
qualified electors who are members of the same political party as 37480
the political party of which the candidate is a member. If the 37481
declaration of candidacy is for party nomination as a candidate 37482
for member of the legislative authority of a municipal corporation 37483
elected by ward, the petition shall be signed by not less than 37484
twenty-five qualified electors who are members of the political 37485
party of which the candidate is a member. 37486

No such petition, except the petition for a candidacy that is 37487
to be submitted to electors throughout the entire state, shall be 37488
accepted for filing if it appears to contain on its face 37489
signatures of more than three times the minimum number of 37490
signatures. When a petition of a candidate has been accepted for 37491
filing by a board of elections, the petition shall not be deemed 37492
invalid if, upon verification of signatures contained in the 37493
petition, the board of elections finds the number of signatures 37494
accepted exceeds three times the minimum number of signatures 37495
required. A board of elections may discontinue verifying 37496
signatures on petitions when the number of verified signatures 37497
equals the minimum required number of qualified signatures. 37498

If the declaration of candidacy declares a candidacy for 37499

party nomination or for election as a candidate of an intermediate 37500
or minor party, the minimum number of signatures on such petition 37501
is one-half the minimum number provided in this section, except 37502
that, when the candidacy is one for election as a member of the 37503
state central committee or the county central committee of a 37504
political party, the minimum number shall be the same for an 37505
intermediate or minor party as for a major party. 37506

If a declaration of candidacy is one for election as a member 37507
of the state central committee or the county central committee of 37508
a political party, the petition shall be signed by five qualified 37509
electors of the district, county, ward, township, or precinct 37510
within which electors may vote for such candidate. The electors 37511
signing such petition shall be members of the same political party 37512
as the political party of which the candidate is a member. 37513

For purposes of signing or circulating a petition of 37514
candidacy for party nomination or election, an elector is 37515
considered to be a member of a political party if the elector 37516
voted in that party's primary election within the preceding two 37517
calendar years, or if the elector did not vote in any other 37518
party's primary election within the preceding two calendar years. 37519

If the declaration of candidacy is of one that is to be 37520
submitted only to electors within a county, or within a district 37521
or subdivision or part thereof smaller than a county, the petition 37522
shall be filed with the board of elections of the county. If the 37523
declaration of candidacy is of one that is to be submitted only to 37524
electors of a district or subdivision or part thereof that is 37525
situated in more than one county, the petition shall be filed with 37526
the board of elections of the county within which the major 37527
portion of the population thereof, as ascertained by the next 37528
preceding federal census, is located. 37529

A petition shall consist of separate petition papers, each of 37530
which shall contain signatures of electors of only one county. 37531

Petitions or separate petition papers containing signatures of 37532
electors of more than one county shall not thereby be declared 37533
invalid. In case petitions or separate petition papers containing 37534
signatures of electors of more than one county are filed, the 37535
board shall determine the county from which the majority of 37536
signatures came, and only signatures from such county shall be 37537
counted. Signatures from any other county shall be invalid. 37538

Each separate petition paper shall be circulated by one 37539
person only, who shall be the candidate or a joint candidate or a 37540
member of the same political party as the candidate or joint 37541
candidates, and each separate petition paper shall be governed by 37542
the rules set forth in section 3501.38 of the Revised Code. 37543

The secretary of state shall promptly transmit to each board 37544
such separate petition papers of each petition accompanying a 37545
declaration of candidacy filed with the secretary of state as 37546
purport to contain signatures of electors of the county of such 37547
board. The board of the most populous county of a district shall 37548
promptly transmit to each board within such district such separate 37549
petition papers of each petition accompanying a declaration of 37550
candidacy filed with it as purport to contain signatures of 37551
electors of the county of each such board. The board of a county 37552
within which the major portion of the population of a subdivision, 37553
situated in more than one county, is located, shall promptly 37554
transmit to the board of each other county within which a portion 37555
of such subdivision is located such separate petition papers of 37556
each petition accompanying a declaration of candidacy filed with 37557
it as purport to contain signatures of electors of the portion of 37558
such subdivision in the county of each such board. 37559

All petition papers so transmitted to a board and all 37560
petitions accompanying declarations of candidacy filed with ~~such a~~ 37561
board shall, under proper regulations, be open to public 37562
inspection until four p.m. of the seventieth day before the day of 37563

the next primary election, or if that next primary election is a presidential primary election, the fifty-fifth day before that presidential primary election. Each board shall, not later than the sixty-eighth day before the day of ~~such~~ that primary election, or if the primary election is a presidential primary election, not later than the fifty-third day before such presidential primary election, examine and determine the validity or invalidity of the signatures on the petition papers so transmitted to or filed with it and shall return to the secretary of state all petition papers transmitted to it by the secretary of state, together with its certification of its determination as to the validity or invalidity of signatures thereon, and shall return to each other board all petition papers transmitted to it by such board, together with its certification of its determination as to the validity or invalidity of the signatures thereon. All other matters affecting the validity or invalidity of such petition papers shall be determined by the secretary of state or the board with whom such petition papers were filed.

Protests against the candidacy of any person filing a declaration of candidacy for party nomination or for election to an office or position, as provided in this section, may be filed by any qualified elector who is a member of the same political party as the candidate and who is eligible to vote at the primary election for the candidate whose declaration of candidacy the elector objects to, or by the controlling committee of ~~such~~ that political party. ~~Such~~ The protest ~~must~~ shall be in writing, and ~~must~~ shall be filed not later than four p.m. of the sixty-fourth day before the day of the primary election, or if the primary election is a presidential primary election, not later than four p.m. of the forty-ninth day before the day of the presidential primary election. ~~Such~~ The protest shall be filed with the election officials with whom the declaration of candidacy and petition was filed. Upon the filing of ~~such~~ the protest, the

election officials with whom it is filed shall promptly fix the 37597
time for hearing it, and shall forthwith mail notice of the filing 37598
of ~~such~~ the protest and the time fixed for hearing to the person 37599
whose candidacy is so protested. They shall also forthwith mail 37600
notice of the time fixed for such hearing to the person who filed 37601
the protest. At the time fixed, such election officials shall hear 37602
the protest and determine the validity or invalidity of the 37603
declaration of candidacy and petition. If they find that such 37604
candidate is not an elector of the state, district, county, or 37605
political subdivision in which the candidate seeks a party 37606
nomination or election to an office or position, or has not fully 37607
complied with this chapter, the candidate's declaration of 37608
candidacy and petition shall be determined to be invalid and shall 37609
be rejected; otherwise, it shall be determined to be valid. ~~Such~~ 37610
That determination shall be final. 37611

A protest against the candidacy of any persons filing a 37612
declaration of candidacy for joint party nomination to the offices 37613
of governor and lieutenant governor shall be filed, heard, and 37614
determined in the same manner as a protest against the candidacy 37615
of any person filing a declaration of candidacy singly. 37616

The secretary of state shall, on the sixtieth day before the 37617
day of a primary election, or if the primary election is a 37618
presidential primary election, on the forty-fifth day before the 37619
day of the presidential primary election, certify to each board in 37620
the state the forms of the official ballots to be used at ~~such~~ the 37621
primary election, together with the names of the candidates to be 37622
printed ~~thereon~~ on the ballots whose nomination or election is to 37623
be determined by electors throughout the entire state and who 37624
filed valid declarations of candidacy and petitions. 37625

The board of the most populous county in a district comprised 37626
of more than one county but less than all of the counties of the 37627
state shall, on the sixtieth day before the day of a primary 37628

election, or if the primary election is a presidential primary 37629
election, on the forty-fifth day before the day of a presidential 37630
primary election, certify to the board of each county in the 37631
district the names of the candidates to be printed on the official 37632
ballots to be used at ~~such~~ the primary election, whose nomination 37633
or election is to be determined only by electors within ~~such~~ the 37634
district and who filed valid declarations of candidacy and 37635
petitions. 37636

The board of a county within which the major portion of the 37637
population of a subdivision smaller than the county and situated 37638
in more than one county is located shall, on the sixtieth day 37639
before the day of a primary election, or if the primary election 37640
is a presidential primary election, on the forty-fifth day before 37641
the day of a presidential primary election, certify to the board 37642
of each county in which a portion of ~~such~~ that subdivision is 37643
located the names of the candidates to be printed on the official 37644
ballots to be used at ~~such~~ the primary election, whose nomination 37645
or election is to be determined only by electors within ~~such~~ that 37646
subdivision and who filed valid declarations of candidacy and 37647
petitions. 37648

Sec. 3513.052. (A) No person shall seek nomination or 37649
election to any of the following offices or positions at the same 37650
election by filing a declaration of candidacy and petition, a 37651
declaration of intent to be a write-in candidate, or a nominating 37652
petition, or by becoming a candidate through party nomination in a 37653
primary election, or by the filling of a vacancy under section 37654
3513.30 or 3513.31 of the Revised Code: 37655

- (1) Two or more state offices; 37656
- (2) Two or more county offices; 37657
- (3) A state office and a county office; 37658

- (4) A federal office and a state or county office; 37659
- (5) Any combination of two or more municipal or township 37660
offices, positions as a member of a city, local, or exempted 37661
village board of education, or positions as a member of a 37662
governing board of an educational service center. 37663
- (B) The secretary of state or a board of elections shall not 37664
accept for filing a declaration of candidacy and petition, a 37665
declaration of intent to be a write-in candidate, or a nominating 37666
petition of a person seeking to become a candidate if that person, 37667
for the same election, has already filed a declaration of 37668
candidacy, a declaration of intent to be a write-in candidate, or 37669
a nominating petition, or has become a candidate through party 37670
nomination at a primary election or by the filling of a vacancy 37671
under section 3513.30 or 3513.31 of the Revised Code for: 37672
- (1) Any federal, state, or county office, if the declaration 37673
of candidacy, declaration of intent to be a write-in candidate, or 37674
nominating petition is for a state or county office; 37675
- (2) Any municipal or township office, or for member of a 37676
city, local, or exempted village board of education, or for member 37677
of a governing board of an educational service center, if the 37678
declaration of candidacy, declaration of intent to be a write-in 37679
candidate, or nominating petition is for a municipal or township 37680
office, or for member of a city, local, or exempted village board 37681
of education, or for member of a governing board of an educational 37682
service center. 37683
- (C)(1) If the secretary of state determines, before the day 37684
of the primary election, that a person is seeking nomination to 37685
more than one office at that election in violation of division (A) 37686
of this section, the secretary of state shall do one of the 37687
following: 37688
- (a) If each office or the district for each office for which 37689

the person is seeking nomination is wholly within a single county 37690
and none of those offices is a federal office, the secretary of 37691
state shall notify the board of elections of that county. The 37692
board then shall determine the date on which the person first 37693
sought to become a candidate for each of those offices by filing a 37694
declaration of candidacy or a declaration of intent to be a 37695
write-in candidate or by the filling of a vacancy under section 37696
3513.30 of the Revised Code. The board shall vote promptly to 37697
disqualify that person as a candidate for each office for which 37698
the person sought to become a candidate after the date on which 37699
the person first sought to become a candidate for any of those 37700
offices. If the board determines that the person sought to become 37701
a candidate for more than one of those offices on the same date, 37702
the board shall vote promptly to disqualify that person as a 37703
candidate for each office that would be listed on the ballot below 37704
the highest office for which that person seeks nomination, 37705
according to the ballot order prescribed under section 3505.03 of 37706
the Revised Code. 37707

(b) If one or more of the offices for which the person is 37708
seeking nomination is a state office or an office with a district 37709
larger than a single county and none of the offices for which the 37710
person is seeking nomination is a federal office, the secretary of 37711
state shall determine the date on which the person first sought to 37712
become a candidate for each of those offices by filing a 37713
declaration of candidacy or a declaration of intent to be a 37714
write-in candidate or by the filling of a vacancy under section 37715
3513.30 of the Revised Code. The secretary of state shall order 37716
the board of elections of each county in which the person is 37717
seeking to appear on the ballot to disqualify that person as a 37718
candidate for each office for which the person sought to become a 37719
candidate after the date on which the person first sought to 37720
become a candidate for any of those offices. If the secretary of 37721
state determines that the person sought to become a candidate for 37722

more than one of those offices on the same date, the secretary of 37723
state shall order the board of elections of each county in which 37724
the person is seeking to appear on the ballot to disqualify that 37725
person as a candidate for each office that would be listed on the 37726
ballot below the highest office for which that person seeks 37727
nomination, according to the ballot order prescribed under section 37728
3505.03 of the Revised Code. Each board of elections so notified 37729
shall vote promptly to disqualify the person as a candidate in 37730
accordance with the order of the secretary of state. 37731

(c) If each office or the district for each office for which 37732
the person is seeking nomination is wholly within a single county 37733
and any of those offices is a federal office, the secretary of 37734
state shall notify the board of elections of that county. The 37735
board then shall vote promptly to disqualify that person as a 37736
candidate for each office that is not a federal office. 37737

(d) If one or more of the offices for which the person is 37738
seeking nomination is a state office and any of the offices for 37739
which the person is seeking nomination is a federal office, the 37740
secretary of state shall order the board of elections of each 37741
county in which the person is seeking to appear on the ballot to 37742
disqualify that person as a candidate for each office that is not 37743
a federal office. Each board of elections so notified shall vote 37744
promptly to disqualify the person as a candidate in accordance 37745
with the order of the secretary of state. 37746

(2) If a board of elections determines, before the day of the 37747
primary election, that a person is seeking nomination to more than 37748
one office at that election in violation of division (A) of this 37749
section, the board shall do one of the following: 37750

(a) If each office or the district for each office for which 37751
the person is seeking nomination is wholly within that county and 37752
none of those offices is a federal office, the board shall 37753
determine the date on which the person first sought to become a 37754

candidate for each of those offices by filing a declaration of 37755
candidacy or a declaration of intent to be a write-in candidate or 37756
by the filling of a vacancy under section 3513.30 of the Revised 37757
Code. The board shall vote promptly to disqualify that person as a 37758
candidate for each office for which the person sought to become a 37759
candidate after the date on which the person first sought to 37760
become a candidate for any of those offices. If the board 37761
determines that the person sought to become a candidate for more 37762
than one of those offices on the same date, the board shall vote 37763
promptly to disqualify that person as a candidate for each office 37764
that would be listed on the ballot below the highest office for 37765
which that person seeks nomination, according to the ballot order 37766
prescribed under section 3505.03 of the Revised Code. 37767

(b) If one or more of the offices for which the person is 37768
seeking nomination is a state office or an office with a district 37769
larger than a single county and none of the offices for which the 37770
person is seeking nomination is a federal office, the board shall 37771
notify the secretary of state. The secretary of state then shall 37772
determine the date on which the person first sought to become a 37773
candidate for each of those offices by filing a declaration of 37774
candidacy or a declaration of intent to be a write-in candidate or 37775
by the filling of a vacancy under section 3513.30 of the Revised 37776
Code. The secretary of state shall order the board of elections of 37777
each county in which the person is seeking to appear on the ballot 37778
to disqualify that person as a candidate for each office for which 37779
the person sought to become a candidate after the date on which 37780
the person first sought to become a candidate for any of those 37781
offices. If the secretary of state determines that the person 37782
sought to become a candidate for more than one of those offices on 37783
the same date, the secretary of state shall order the board of 37784
elections of each county in which the person is seeking to appear 37785
on the ballot to disqualify that person as a candidate for each 37786
office that would be listed on the ballot below the highest office 37787

for which that person seeks nomination, according to the ballot 37788
order prescribed under section 3505.03 of the Revised Code. Each 37789
board of elections so notified shall vote promptly to disqualify 37790
the person as a candidate in accordance with the order of the 37791
secretary of state. 37792

(c) If each office or the district for each office for which 37793
the person is seeking nomination is wholly within a single county 37794
and any of those offices is a federal office, the board shall vote 37795
promptly to disqualify that person as a candidate for each office 37796
that is not a federal office. 37797

(d) If one or more of the offices for which the person is 37798
seeking nomination is a state office and any of the offices for 37799
which the person is seeking nomination is a federal office, the 37800
board shall notify the secretary of state. The secretary of state 37801
then shall order the board of elections of each county in which 37802
the person is seeking to appear on the ballot to disqualify that 37803
person as a candidate for each office that is not a federal 37804
office. Each board of elections so notified shall vote promptly to 37805
disqualify the person as a candidate in accordance with the order 37806
of the secretary of state. 37807

(D)(1) If the secretary of state determines, after the day of 37808
the primary election and before the day of the general election, 37809
that a person is seeking election to more than one office at that 37810
election in violation of division (A) of this section, the 37811
secretary of state shall do one of the following: 37812

(a) If each office or the district for each office for which 37813
the person is seeking election is wholly within a single county 37814
and none of those offices is a federal office, the secretary of 37815
state shall notify the board of elections of that county. The 37816
board then shall determine the offices for which the person seeks 37817
to appear as a candidate on the ballot. The board shall vote 37818
promptly to disqualify that person as a candidate for each office 37819

that would be listed on the ballot below the highest office for 37820
which that person seeks election, according to the ballot order 37821
prescribed under section 3505.03 of the Revised Code. If the 37822
person sought nomination at a primary election and has not yet 37823
been issued a certificate of nomination, the board shall not issue 37824
that certificate for that person for any office that would be 37825
listed on the ballot below the highest office for which that 37826
person seeks election, according to the ballot order prescribed 37827
under section 3505.03 of the Revised Code. 37828

(b) If one or more of the offices for which the person is 37829
seeking election is a state office or an office with a district 37830
larger than a single county and none of the offices for which the 37831
person is seeking election is a federal office, the secretary of 37832
state shall promptly investigate and determine the offices for 37833
which the person seeks to appear as a candidate on the ballot. The 37834
secretary of state shall order the board of elections of each 37835
county in which the person is seeking to appear on the ballot to 37836
disqualify that person as a candidate for each office that would 37837
be listed on the ballot below the highest office for which that 37838
person seeks election, according to the ballot order prescribed 37839
under section 3505.03 of the Revised Code. Each board of elections 37840
so notified shall vote promptly to disqualify the person as a 37841
candidate in accordance with the order of the secretary of state. 37842
If the person sought nomination at a primary election and has not 37843
yet been issued a certificate of nomination, the board shall not 37844
issue that certificate for that person for any office that would 37845
be listed on the ballot below the highest office for which that 37846
person seeks election, according to the ballot order prescribed 37847
under section 3505.03 of the Revised Code. 37848

(c) If each office or the district for each office for which 37849
the person is seeking election is wholly within a single county 37850
and any of those offices is a federal office, the secretary of 37851

state shall notify the board of elections of that county. The 37852
board then shall vote promptly to disqualify that person as a 37853
candidate for each office that is not a federal office. If the 37854
person sought nomination at a primary election and has not yet 37855
been issued a certificate of nomination, the board shall not issue 37856
that certificate for that person for any office that is not a 37857
federal office. 37858

(d) If one or more of the offices for which the person is 37859
seeking election is a state office and any of the offices for 37860
which the person is seeking election is a federal office, the 37861
secretary of state shall order the board of elections of each 37862
county in which the person is seeking to appear on the ballot to 37863
disqualify that person as a candidate for each office that is not 37864
a federal office. Each board of elections so notified shall vote 37865
promptly to disqualify the person as a candidate in accordance 37866
with the order of the secretary of state. If the person sought 37867
nomination at a primary election and has not yet been issued a 37868
certificate of nomination, the board shall not issue that 37869
certificate for that person for any office that is not a federal 37870
office. 37871

(2) If a board of elections determines, after the day of the 37872
primary election and before the day of the general election, that 37873
a person is seeking election to more than one office at that 37874
election in violation of division (A) of this section, the board 37875
of elections shall do one of the following: 37876

(a) If each office or the district for each office for which 37877
the person is seeking election is wholly within that county and 37878
none of those offices is a federal office, the board shall 37879
determine the offices for which the person seeks to appear as a 37880
candidate on the ballot. The board shall vote promptly to 37881
disqualify that person as a candidate for each office that would 37882
be listed on the ballot below the highest office for which that 37883

person seeks election, according to the ballot order prescribed 37884
under section 3505.03 of the Revised Code. If the person sought 37885
nomination at a primary election and has not yet been issued a 37886
certificate of nomination, the board shall not issue that 37887
certificate for that person for any office that would be listed on 37888
the ballot below the highest office for which that person seeks 37889
election, according to the ballot order prescribed under section 37890
3505.03 of the Revised Code. 37891

(b) If one or more of the offices for which the person is 37892
seeking election is a state office or an office with a district 37893
larger than a single county and none of the offices for which the 37894
person is seeking election is a federal office, the board shall 37895
notify the secretary of state. The secretary of state promptly 37896
shall investigate and determine the offices for which the person 37897
seeks to appear as a candidate on the ballot. The secretary of 37898
state shall order the board of elections of each county in which 37899
the person is seeking to appear on the ballot to disqualify that 37900
person as a candidate for each office that would be listed on the 37901
ballot below the highest office for which that person seeks 37902
election, according to the ballot order prescribed under section 37903
3505.03 of the Revised Code. Each board of elections so notified 37904
shall vote promptly to disqualify the person as a candidate in 37905
accordance with the order of the secretary of state. If the person 37906
sought nomination at a primary election and has not yet been 37907
issued a certificate of nomination, the board shall not issue that 37908
certificate for that person for any office that would be listed on 37909
the ballot below the highest office for which that person seeks 37910
election, according to the ballot order prescribed under section 37911
3505.03 of the Revised Code. 37912

(c) If each office or the district for each office for which 37913
the person is seeking election is wholly within that county and 37914
any of those offices is a federal office, the board shall vote 37915

promptly to disqualify that person as a candidate for each office 37916
that is not a federal office. If the person sought nomination at a 37917
primary election and has not yet been issued a certificate of 37918
nomination, the board shall not issue that certificate for that 37919
person for any office that is not a federal office. 37920

(d) If one or more of the offices for which the person is 37921
seeking election is a state office and any of the offices for 37922
which the person is seeking election is a federal office, the 37923
board shall notify the secretary of state. The secretary of state 37924
shall order the board of elections of each county in which the 37925
person is seeking to appear on the ballot to disqualify that 37926
person as a candidate for each office that is not a federal 37927
office. Each board of elections so notified shall vote promptly to 37928
disqualify the person as a candidate in accordance with the order 37929
of the secretary of state. If the person sought nomination at a 37930
primary election and has not yet been issued a certificate of 37931
nomination, the board shall not issue that certificate for that 37932
person for any office that is not a federal office. 37933

(E) When a person is disqualified as a candidate under 37934
division (C) or (D) of this section, that person's name shall not 37935
appear on the ballots for any office for which that person has 37936
been disqualified as a candidate. If the ballots have already been 37937
prepared, the board of elections shall remove the name of the 37938
disqualified candidate from the ballots to the extent practicable 37939
in the time remaining before the election and according to the 37940
directions of the secretary of state. If the name is not removed 37941
from the ballots before the day of the election, the votes for the 37942
disqualified candidate are void and shall not be counted. 37943

(F) Any vacancy created by the disqualification of a person 37944
as a candidate under division (C) or (D) of this section may be 37945
filled in the manner provided for in sections 3513.30 and 3513.31 37946
of the Revised Code. 37947

(G) Nothing in this section or section 3513.04, 3513.041, 37948
3513.05, 3513.251, 3513.253, 3513.254, 3513.255, 3513.257, 37949
3513.259, or 3513.261 of the Revised Code prohibits, and the 37950
secretary of state or a board of elections shall not disqualify, a 37951
person from being a candidate for an office, if that person timely 37952
withdraws as a candidate for any offices specified in division (A) 37953
of this section for which that person first sought to become a 37954
candidate by filing a declaration of candidacy and petition, a 37955
declaration of intent to be a write-in candidate, or a nominating 37956
petition, by party nomination in a primary election, or by the 37957
filling of a vacancy under section 3513.30 or 3513.31 of the 37958
Revised Code. 37959

(H) As used in this section: 37960

(1) "State office" means the offices of governor, lieutenant 37961
governor, secretary of state, auditor of state, treasurer of 37962
state, attorney general, member of the state board of education, 37963
member of the general assembly, chief justice of the supreme 37964
court, and justice of the supreme court. 37965

(2) "Timely withdraws" means either of the following: 37966

(a) Withdrawing as a candidate before the applicable deadline 37967
for filing a declaration of candidacy, declaration of intent to be 37968
a write-in candidate, or nominating petition for the subsequent 37969
office for which the person is seeking to become a candidate at 37970
the same election; 37971

(b) Withdrawing as a candidate before the applicable deadline 37972
for the filling of a vacancy under section 3513.30 or 3513.31 of 37973
the Revised Code, if the person is seeking to become a candidate 37974
for a subsequent office at the same election under either of those 37975
sections. 37976

Sec. 3513.257. Each person desiring to become an independent 37977

candidate for an office for which candidates may be nominated at a 37978
primary election, except persons desiring to become independent 37979
joint candidates for the offices of governor and lieutenant 37980
governor and for the offices of president and vice-president of 37981
the United States, shall file no later than four p.m. of the day 37982
before the day of the primary election immediately preceding the 37983
general election at which such candidacy is to be voted for by the 37984
voters, a statement of candidacy and nominating petition as 37985
provided in section 3513.261 of the Revised Code. Persons desiring 37986
to become independent joint candidates for the offices of governor 37987
and lieutenant governor shall file, not later than four p.m. of 37988
the day before the day of the primary election, one statement of 37989
candidacy and one nominating petition for the two of them. Persons 37990
desiring to become independent joint candidates for the offices of 37991
president and vice-president of the United States shall file, not 37992
later than four p.m. of the seventy-fifth day before the day of 37993
the general election at which the president and vice-president are 37994
to be elected, one statement of candidacy and one nominating 37995
petition for the two of them. The prospective independent joint 37996
candidates' statement of candidacy shall be filed with the 37997
nominating petition as one instrument. 37998

The statement of candidacy and separate petition papers of 37999
each candidate or pair of joint candidates shall be filed at the 38000
same time as one instrument. 38001

The nominating petition shall contain signatures of qualified 38002
electors of the district, political subdivision, or portion of a 38003
political subdivision in which the candidacy is to be voted on in 38004
an amount to be determined as follows: 38005

(A) If the candidacy is to be voted on by electors throughout 38006
the entire state, the nominating petition, including the 38007
nominating petition of independent joint candidates for the 38008
offices of governor and lieutenant governor, shall be signed by no 38009

less than five thousand qualified electors, provided that no 38010
petition shall be accepted for filing if it purports to contain 38011
more than fifteen thousand signatures. 38012

(B) If the candidacy is to be voted on by electors in any 38013
district, political subdivision, or part thereof in which less 38014
than five thousand electors voted for the office of governor at 38015
the most recent election for that office, the nominating petition 38016
shall contain signatures of not less than twenty-five qualified 38017
electors of the district, political subdivision, or part thereof, 38018
or a number of qualified signatures equal to at least five per 38019
cent of that vote, if this number is less than twenty-five. 38020

(C) If the candidacy is to be voted on by electors in any 38021
district, political subdivision, or part thereof in which five 38022
thousand or more electors voted for the office of governor at the 38023
most recent election for that office, the nominating petition 38024
shall contain a number of signatures equal to at least one per 38025
cent of those electors. 38026

All nominating petitions of candidates for offices to be 38027
voted on by electors throughout the entire state shall be filed in 38028
the office of the secretary of state. No nominating petition for 38029
the offices of president and vice-president of the United States 38030
shall be accepted for filing unless there is submitted to the 38031
secretary of state, at the time of filing the petition, a slate of 38032
presidential electors sufficient in number to satisfy the 38033
requirement of the United States Constitution. The secretary of 38034
state shall not accept for filing the statement of candidacy of a 38035
person who desires to be an independent candidate for the office 38036
of governor unless it also shows the joint candidacy of a person 38037
who desires to be an independent candidate for the office of 38038
lieutenant governor, shall not accept for filing the statement of 38039
candidacy of a person who desires to be an independent candidate 38040
for the office of lieutenant governor unless it also shows the 38041

joint candidacy of a person who desires to be an independent 38042
candidate for the office of governor, and shall not accept for 38043
filing the statement of candidacy of a person who desires to be an 38044
independent candidate to the office of governor or lieutenant 38045
governor who, for the same election, has already filed a 38046
declaration of candidacy, a declaration of intent to be a write-in 38047
candidate, or a statement of candidacy, or has become a candidate 38048
by the filling of a vacancy under section 3513.30 of the Revised 38049
Code for any other state office or any federal or county office. 38050

Nominating petitions of candidates for offices to be voted on 38051
by electors within a district or political subdivision comprised 38052
of more than one county but less than all counties of the state 38053
shall be filed with the boards of elections of that county or part 38054
of a county within the district or political subdivision which had 38055
a population greater than that of any other county or part of a 38056
county within the district or political subdivision according to 38057
the last federal decennial census. 38058

Nominating petitions for offices to be voted on by electors 38059
within a county or district smaller than a county shall be filed 38060
with the board of elections for such county. 38061

No petition other than the petition of a candidate whose 38062
candidacy is to be considered by electors throughout the entire 38063
state shall be accepted for filing if it appears on its face to 38064
contain more than three times the minimum required number of 38065
signatures. A board of elections shall not accept for filing a 38066
nominating petition of a person seeking to become a candidate if 38067
that person, for the same election, has already filed a 38068
declaration of candidacy, a declaration of intent to be a write-in 38069
candidate, or a nominating petition, or has become a candidate by 38070
the filling of a vacancy under section 3513.30 of the Revised Code 38071
for any federal, state, or county office, if the nominating 38072
petition is for a state or county office, or for any municipal or 38073

township office, for member of a city, local, or exempted village 38074
board of education, or for member of a governing board of an 38075
educational service center, if the nominating petition is for a 38076
municipal or township office, or for member of a city, local, or 38077
exempted village board of education, or for member of a governing 38078
board of an educational service center. When a petition of a 38079
candidate has been accepted for filing by a board of elections, 38080
the petition shall not be deemed invalid if, upon verification of 38081
signatures contained in the petition, the board of elections finds 38082
the number of signatures accepted exceeds three times the minimum 38083
number of signatures required. A board of elections may 38084
discontinue verifying signatures when the number of verified 38085
signatures on a petition equals the minimum required number of 38086
qualified signatures. 38087

Any nonjudicial candidate who files a nominating petition may 38088
request, at the time of filing, that the candidate be designated 38089
on the ballot as a nonparty candidate or as an other-party 38090
candidate, or may request that the candidate's name be placed on 38091
the ballot without any designation. Any such candidate who fails 38092
to request a designation either as a nonparty candidate or as an 38093
other-party candidate shall have the candidate's name placed on 38094
the ballot without any designation. 38095

The purpose of establishing a filing deadline for independent 38096
candidates prior to the primary election immediately preceding the 38097
general election at which the candidacy is to be voted on by the 38098
voters is to recognize that the state has a substantial and 38099
compelling interest in protecting its electoral process by 38100
encouraging political stability, ensuring that the winner of the 38101
election will represent a majority of the community, providing the 38102
electorate with an understandable ballot, and enhancing voter 38103
education, thus fostering informed and educated expressions of the 38104
popular will in a general election. The filing deadline for 38105

independent candidates required in this section prevents 38106
splintered parties and unrestrained factionalism, avoids political 38107
fragmentation, and maintains the integrity of the ballot. The 38108
deadline, one day prior to the primary election, is the least 38109
drastic or restrictive means of protecting these state interests. 38110
The general assembly finds that the filing deadline for 38111
independent candidates in primary elections required in this 38112
section is reasonably related to the state's purpose of ensuring 38113
fair and honest elections while leaving unimpaired the political, 38114
voting, and associational rights secured by the first and 38115
fourteenth amendments to the United States Constitution. 38116

Sec. 3513.259. Nominations of candidates for the office of 38117
member of the state board of education shall be made only by 38118
nominating petition. The nominating petition of a candidate for 38119
the office of member of the state board of education shall be 38120
signed by not less than one hundred qualified electors. 38121

No such nominating petition shall be accepted for filing if 38122
it appears on its face to contain signatures aggregating in number 38123
more than three times the minimum number of signatures required by 38124
this section. A board of elections shall not accept for filing a 38125
nominating petition of a person if that person, for the same 38126
election, has already filed a declaration of candidacy, a 38127
declaration of intent to be a write-in candidate, or a nominating 38128
petition, or has become a candidate through party nomination at a 38129
primary election or by the filling of a vacancy under section 38130
3513.30 or 3513.31 of the Revised Code, to be a candidate for any 38131
other state office or any federal or county office. When a 38132
petition of a candidate has been accepted for filing by a board of 38133
elections, the petition shall not be deemed invalid if, upon 38134
verification of signatures contained in the petition, the board of 38135
elections finds the number of signatures accepted exceeds three 38136
times the minimum number of signatures required. A board of 38137

elections may discontinue verifying signatures when the number of 38138
verified signatures equals the minimum required number of 38139
signatures. Such petition shall be filed with the board of 38140
elections of the most populous county in such district not later 38141
than four p.m. of the seventy-fifth day before the day of the 38142
general election at which state board of education members are 38143
elected. 38144

Each nominating petition shall be signed by qualified 38145
electors residing in the district in which the candidate 38146
designated therein would be a candidate for election to the office 38147
of member of the state board of education. Each candidate shall be 38148
a qualified elector residing in the district in which the 38149
candidate seeks election to such office. 38150

As the word "district" is used in this section, it refers to 38151
a district created under section 3301.01 of the Revised Code. 38152

Sec. 3513.261. A nominating petition may consist of one or 38153
more separate petition papers, each of which shall be 38154
substantially in the form prescribed in this section. If the 38155
petition consists of more than one separate petition paper, the 38156
statement of candidacy of the candidate or joint candidates named 38157
need be signed by the candidate or joint candidates on only one of 38158
such separate petition papers, but the statement of candidacy so 38159
signed shall be copied on each other separate petition paper 38160
before the signatures of electors are placed on it. Each 38161
nominating petition containing signatures of electors of more than 38162
one county shall consist of separate petition papers each of which 38163
shall contain signatures of electors of only one county; provided 38164
that petitions containing signatures of electors of more than one 38165
county shall not thereby be declared invalid. In case petitions 38166
containing signatures of electors of more than one county are 38167
filed, the board of elections shall determine the county from 38168

which the majority of the signatures came, and only signatures 38169
from this county shall be counted. Signatures from any other 38170
county shall be invalid. 38171

All signatures on nominating petitions shall be written in 38172
ink or indelible pencil. 38173

At the time of filing a nominating petition, the candidate 38174
designated in the nominating petition, and joint candidates for 38175
governor and lieutenant governor, shall pay to the election 38176
officials with whom it is filed the fees specified for the office 38177
under divisions (A) and (B) of section 3513.10 of the Revised 38178
Code. The fees shall be disposed of by those election officials in 38179
the manner that is provided in section 3513.10 of the Revised Code 38180
for the disposition of other fees, and in no case shall a fee 38181
required under that section be returned to a candidate. 38182

Candidates or joint candidates whose names are written on the 38183
ballot, and who are elected, shall pay the same fees under section 38184
3513.10 of the Revised Code that candidates who file nominating 38185
petitions pay. Payment of these fees shall be a condition 38186
precedent to the granting of their certificates of election. 38187

Each nominating petition shall contain a statement of 38188
candidacy that shall be signed by the candidate or joint 38189
candidates named in it. Such statement of candidacy shall contain 38190
a declaration made under penalty of election falsification that 38191
the candidate desires to be a candidate for the office named in 38192
it, and that the candidate is an elector qualified to vote for the 38193
office the candidate seeks. 38194

The form of the nominating petition and statement of 38195
candidacy shall be substantially as follows: 38196

"STATEMENT OF CANDIDACY 38197

I, (Name of candidate), 38198
the undersigned, hereby declare under penalty of election 38199

falsification that my voting residence is in 38200
..... Precinct of the (Township) or 38201
(Ward and City, or Village) in the county of Ohio; 38202
that my post-office address is 38203
(Street and Number, if any, or Rural Route and Number) of the 38204
..... (City, Village, or post office) of 38205
....., Ohio; and that I am a qualified elector in 38206
the precinct in which my voting residence is located. I hereby 38207
declare that I desire to be a candidate for election to the office 38208
of in the (State, 38209
District, County, City, Village, Township, or School District) for 38210
the (Full term or unexpired 38211
term ending) at the General Election to be held 38212
on the day of, 38213

I further declare that I am an elector qualified to vote for 38214
the office I seek. Dated this day of, 38215
..... 38216
(Signature of candidate) 38217

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY 38218
OF THE FIFTH DEGREE. 38219

I,, hereby constitute the 38220
persons named below a committee to represent me: 38221

| Name | Residence | |
|-------|-----------|-------|
| | | 38222 |
| | | 38223 |
| | | 38224 |
| | | 38225 |
| | | 38226 |
| | | 38227 |

NOMINATING PETITION 38228

We, the undersigned, qualified electors of the state of Ohio, 38229
whose voting residence is in the County, City, Village, Ward, 38230
Township or Precinct set opposite our names, hereby nominate 38231

..... as a candidate for election to the office of 38232
..... in the 38233
(State, District, County, City, Village, Township, or School 38234
District) for the (Full term or unexpired term 38235
ending) to be voted for at the general 38236
election next hereafter to be held, and certify that this person 38237
is, in our opinion, well qualified to perform the duties of the 38238
office or position to which the person desires to be elected. 38239
38240

Street 38241
Address 38242
or R.F.D. 38243
(Must use 38244
address on City, 38245
file with Village 38246
the board of or Date of 38247
Signature elections) Township Ward Precinct County Signing 38248
38249

..... 38250
..... 38251
..... 38252
....., declares under penalty of election 38253
falsification that such person is a qualified elector of the state 38254
of Ohio and resides at the address appearing below such person's 38255
signature hereto; that such person is the circulator of the 38256
foregoing petition paper containing signatures; 38257
that such person witnessed the affixing of every signature; that 38258
all signers were to the best of such person's knowledge and belief 38259
qualified to sign; and that every signature is to the best of such 38260
person's knowledge and belief the signature of the person whose 38261
signature it purports to be. 38262

| | |
|--|-------|
| | 38263 |
| (Signature of circulator) | 38264 |
| | 38265 |
| (Address) | 38266 |
| | 38267 |
| (If petition is for a statewide | 38268 |
| candidate, the name and address | 38269 |
| of person employing circulator | 38270 |
| to circulate petition, if any) | 38271 |
| WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY | 38272 |
| OF THE FIFTH DEGREE." | 38273 |
| The secretary of state shall prescribe a form of nominating | 38274 |
| petition for a group of candidates for the office of member of a | 38275 |
| board of education, township office, and offices of municipal | 38276 |
| corporations of under two thousand population. | 38277 |
| The secretary of state shall prescribe a form of statement of | 38278 |
| candidacy and nominating petition, which shall be substantially | 38279 |
| similar to the form of statement of candidacy and nominating | 38280 |
| petition set forth in this section, that will be suitable for | 38281 |
| joint candidates for the offices of governor and lieutenant | 38282 |
| governor. | 38283 |
| If such petition nominates a candidate whose election is to | 38284 |
| be determined by the electors of a county or a district or | 38285 |
| subdivision within the county, it shall be filed with the board of | 38286 |
| such county. If the petition nominates a candidate whose election | 38287 |
| is to be determined by the voters of a subdivision located in more | 38288 |
| than one county, it shall be filed with the board of the county in | 38289 |
| which the major portion of the population of such subdivision is | 38290 |
| located. | 38291 |
| If the petition nominates a candidate whose election is to be | 38292 |
| determined by the electors of a district comprised of more than | 38293 |
| one county but less than all of the counties of the state, it | 38294 |

shall be filed with the board of elections of the most populous 38295
county in such district. If the petition nominates a candidate 38296
whose election is to be determined by the electors of the state at 38297
large, it shall be filed with the secretary of state. 38298

The secretary of state or a board of elections shall not 38299
accept for filing a nominating petition of a person seeking to 38300
become a candidate if that person, for the same election, has 38301
already filed a declaration of candidacy, a declaration of intent 38302
to be a write-in candidate, or a nominating petition, or has 38303
become a candidate through party nomination at a primary election 38304
or by the filling of a vacancy under section 3513.30 or 3513.31 of 38305
the Revised Code for any federal, state, or county office, if the 38306
nominating petition is for a state or county office, or for any 38307
municipal or township office, for member of a city, local, or 38308
exempted village board of education, or for member of a governing 38309
board of an educational service center, if the nominating petition 38310
is for a municipal or township office, or for member of a city, 38311
local, or exempted village board of education, or for member of a 38312
governing board of an educational service center. 38313

Sec. 3517.13. (A)(1) No campaign committee of a statewide 38314
candidate shall fail to file a complete and accurate statement 38315
required under division (A)(1) of section 3517.10 of the Revised 38316
Code. 38317

(2) No campaign committee of a statewide candidate shall fail 38318
to file a complete and accurate monthly statement, and no campaign 38319
committee of a statewide candidate or a candidate for the office 38320
of chief justice or justice of the supreme court shall fail to 38321
file a complete and accurate two-business-day statement, as 38322
required under section 3517.10 of the Revised Code. 38323

As used in this division, "statewide candidate" has the same 38324
meaning as in division (F)(2) of section 3517.10 of the Revised 38325

| | |
|---|--|
| Code. | 38326 |
| (B) No campaign committee shall fail to file a complete and accurate statement required under division (A)(1) of section 3517.10 of the Revised Code. | 38327 38328 38329 |
| (C) No campaign committee shall fail to file a complete and accurate statement required under division (A)(2) of section 3517.10 of the Revised Code. | 38330 38331 38332 |
| (D) No campaign committee shall fail to file a complete and accurate statement required under division (A)(3) or (4) of section 3517.10 of the Revised Code. | 38333 38334 38335 |
| (E) No person other than a campaign committee shall knowingly fail to file a statement required under section 3517.10 or 3517.107 of the Revised Code. | 38336 38337 38338 |
| (F) No person shall make cash contributions to any person totaling more than one hundred dollars in each primary, special, or general election. | 38339 38340 38341 |
| (G)(1) No person shall knowingly conceal or misrepresent contributions given or received, expenditures made, or any other information required to be reported by a provision in sections 3517.08 to 3517.13 and 3517.17 of the Revised Code. | 38342 38343 38344 38345 |
| (2)(a) No person shall make a contribution to a campaign committee, political action committee, political contributing entity, legislative campaign fund, political party, or person making disbursements to pay the direct costs of producing or airing electioneering communications in the name of another person. | 38346 38347 38348 38349 38350 38351 |
| (b) A person does not make a contribution in the name of another when either of the following applies: | 38352 38353 |
| (i) An individual makes a contribution from a partnership or other unincorporated business account, if the contribution is | 38354 38355 |

reported by listing both the name of the partnership or other 38356
unincorporated business and the name of the partner or owner 38357
making the contribution as required under division (I) of section 38358
3517.10 of the Revised Code. 38359

(ii) A person makes a contribution in that person's spouse's 38360
name or in both of their names. 38361

(H) No person within this state, publishing a newspaper or 38362
other periodical, shall charge a campaign committee for political 38363
advertising a rate in excess of the rate such person would charge 38364
if the campaign committee were a general rate advertiser whose 38365
advertising was directed to promoting its business within the same 38366
area as that encompassed by the particular office that the 38367
candidate of the campaign committee is seeking. The rate shall 38368
take into account the amount of space used, as well as the type of 38369
advertising copy submitted by or on behalf of the campaign 38370
committee. All discount privileges otherwise offered by a 38371
newspaper or periodical to general rate advertisers shall be 38372
available upon equal terms to all campaign committees. 38373

No person within this state, operating a radio or television 38374
station or network of stations in this state, shall charge a 38375
campaign committee for political broadcasts a rate that exceeds: 38376

(1) During the forty-five days preceding the date of a 38377
primary election and during the sixty days preceding the date of a 38378
general or special election in which the candidate of the campaign 38379
committee is seeking office, the lowest unit charge of the station 38380
for the same class and amount of time for the same period; 38381

(2) At any other time, the charges made for comparable use of 38382
that station by its other users. 38383

(I) Subject to divisions (K), (L), (M), and (N) of this 38384
section, no agency or department of this state or any political 38385
subdivision shall award any contract, other than one let by 38386

competitive bidding or a contract incidental to such contract or 38387
which is by force account, for the purchase of goods costing more 38388
than five hundred dollars or services costing more than five 38389
hundred dollars to any individual, partnership, association, 38390
including, without limitation, a professional association 38391
organized under Chapter 1785. of the Revised Code, estate, or 38392
trust if the individual has made or the individual's spouse has 38393
made, or any partner, shareholder, administrator, executor, or 38394
trustee or the spouse of any of them has made, as an individual, 38395
within the two previous calendar years, one or more contributions 38396
totaling in excess of one thousand dollars to the holder of the 38397
public office having ultimate responsibility for the award of the 38398
contract or to the public officer's campaign committee. 38399

(J) Subject to divisions (K), (L), (M), and (N) of this 38400
section, no agency or department of this state or any political 38401
subdivision shall award any contract, other than one let by 38402
competitive bidding or a contract incidental to such contract or 38403
which is by force account, for the purchase of goods costing more 38404
than five hundred dollars or services costing more than five 38405
hundred dollars to a corporation or business trust, except a 38406
professional association organized under Chapter 1785. of the 38407
Revised Code, if an owner of more than twenty per cent of the 38408
corporation or business trust or the spouse of that person has 38409
made, as an individual, within the two previous calendar years, 38410
taking into consideration only owners for all of that period, one 38411
or more contributions totaling in excess of one thousand dollars 38412
to the holder of a public office having ultimate responsibility 38413
for the award of the contract or to the public officer's campaign 38414
committee. 38415

(K) For purposes of divisions (I) and (J) of this section, if 38416
a public officer who is responsible for the award of a contract is 38417
appointed by the governor, whether or not the appointment is 38418

subject to the advice and consent of the senate, excluding members 38419
of boards, commissions, committees, authorities, councils, boards 38420
of trustees, task forces, and other such entities appointed by the 38421
governor, the office of the governor is considered to have 38422
ultimate responsibility for the award of the contract. 38423

(L) For purposes of divisions (I) and (J) of this section, if 38424
a public officer who is responsible for the award of a contract is 38425
appointed by the elected chief executive officer of a municipal 38426
corporation, or appointed by the elected chief executive officer 38427
of a county operating under an alternative form of county 38428
government or county charter, excluding members of boards, 38429
commissions, committees, authorities, councils, boards of 38430
trustees, task forces, and other such entities appointed by the 38431
chief executive officer, the office of the chief executive officer 38432
is considered to have ultimate responsibility for the award of the 38433
contract. 38434

(M)(1) Divisions (I) and (J) of this section do not apply to 38435
contracts awarded by the board of commissioners of the sinking 38436
fund, municipal legislative authorities, boards of education, 38437
boards of county commissioners, boards of township trustees, or 38438
other boards, commissions, committees, authorities, councils, 38439
boards of trustees, task forces, and other such entities created 38440
by law, by the supreme court or courts of appeals, by county 38441
courts consisting of more than one judge, courts of common pleas 38442
consisting of more than one judge, or municipal courts consisting 38443
of more than one judge, or by a division of any court if the 38444
division consists of more than one judge. This division shall 38445
apply to the specified entity only if the members of the entity 38446
act collectively in the award of a contract for goods or services. 38447

(2) Divisions (I) and (J) of this section do not apply to 38448
actions of the controlling board. 38449

(N)(1) Divisions (I) and (J) of this section apply to 38450

contributions made to the holder of a public office having 38451
ultimate responsibility for the award of a contract, or to the 38452
public officer's campaign committee, during the time the person 38453
holds the office and during any time such person was a candidate 38454
for the office. Those divisions do not apply to contributions made 38455
to, or to the campaign committee of, a candidate for or holder of 38456
the office other than the holder of the office at the time of the 38457
award of the contract. 38458

(2) Divisions (I) and (J) of this section do not apply to 38459
contributions of a partner, shareholder, administrator, executor, 38460
trustee, or owner of more than twenty per cent of a corporation or 38461
business trust made before the person held any of those positions 38462
or after the person ceased to hold any of those positions in the 38463
partnership, association, estate, trust, corporation, or business 38464
trust whose eligibility to be awarded a contract is being 38465
determined, nor to contributions of the person's spouse made 38466
before the person held any of those positions, after the person 38467
ceased to hold any of those positions, before the two were 38468
married, after the granting of a decree of divorce, dissolution of 38469
marriage, or annulment, or after the granting of an order in an 38470
action brought solely for legal separation. Those divisions do not 38471
apply to contributions of the spouse of an individual whose 38472
eligibility to be awarded a contract is being determined made 38473
before the two were married, after the granting of a decree of 38474
divorce, dissolution of marriage, or annulment, or after the 38475
granting of an order in an action brought solely for legal 38476
separation. 38477

(O) No beneficiary of a campaign fund or other person shall 38478
convert for personal use, and no person shall knowingly give to a 38479
beneficiary of a campaign fund or any other person, for the 38480
beneficiary's or any other person's personal use, anything of 38481
value from the beneficiary's campaign fund, including, without 38482

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| limitation, payments to a beneficiary for services the beneficiary | 38483 |
| personally performs, except as reimbursement for any of the | 38484 |
| following: | 38485 |
| (1) Legitimate and verifiable prior campaign expenses | 38486 |
| incurred by the beneficiary; | 38487 |
| (2) Legitimate and verifiable ordinary and necessary prior | 38488 |
| expenses incurred by the beneficiary in connection with duties as | 38489 |
| the holder of a public office, including, without limitation, | 38490 |
| expenses incurred through participation in nonpartisan or | 38491 |
| bipartisan events if the participation of the holder of a public | 38492 |
| office would normally be expected; | 38493 |
| (3) Legitimate and verifiable ordinary and necessary prior | 38494 |
| expenses incurred by the beneficiary while doing any of the | 38495 |
| following: | 38496 |
| (a) Engaging in activities in support of or opposition to a | 38497 |
| candidate other than the beneficiary, political party, or ballot | 38498 |
| issue; | 38499 |
| (b) Raising funds for a political party, political action | 38500 |
| committee, political contributing entity, legislative campaign | 38501 |
| fund, campaign committee, or other candidate; | 38502 |
| (c) Participating in the activities of a political party, | 38503 |
| political action committee, political contributing entity, | 38504 |
| legislative campaign fund, or campaign committee; | 38505 |
| (d) Attending a political party convention or other political | 38506 |
| meeting. | 38507 |
| For purposes of this division, an expense is incurred | 38508 |
| whenever a beneficiary has either made payment or is obligated to | 38509 |
| make payment, as by the use of a credit card or other credit | 38510 |
| procedure or by the use of goods or services received on account. | 38511 |
| (P) No beneficiary of a campaign fund shall knowingly accept, | 38512 |

and no person shall knowingly give to the beneficiary of a 38513
campaign fund, reimbursement for an expense under division (O) of 38514
this section to the extent that the expense previously was 38515
reimbursed or paid from another source of funds. If an expense is 38516
reimbursed under division (O) of this section and is later paid or 38517
reimbursed, wholly or in part, from another source of funds, the 38518
beneficiary shall repay the reimbursement received under division 38519
(O) of this section to the extent of the payment made or 38520
reimbursement received from the other source. 38521

(Q) No candidate or public official or employee shall accept 38522
for personal or business use anything of value from a political 38523
party, political action committee, political contributing entity, 38524
legislative campaign fund, or campaign committee other than the 38525
candidate's or public official's or employee's own campaign 38526
committee, and no person shall knowingly give to a candidate or 38527
public official or employee anything of value from a political 38528
party, political action committee, political contributing entity, 38529
legislative campaign fund, or such a campaign committee, except 38530
for the following: 38531

(1) Reimbursement for legitimate and verifiable ordinary and 38532
necessary prior expenses not otherwise prohibited by law incurred 38533
by the candidate or public official or employee while engaged in 38534
any legitimate activity of the political party, political action 38535
committee, political contributing entity, legislative campaign 38536
fund, or such campaign committee. Without limitation, reimbursable 38537
expenses under this division include those incurred while doing 38538
any of the following: 38539

(a) Engaging in activities in support of or opposition to 38540
another candidate, political party, or ballot issue; 38541

(b) Raising funds for a political party, legislative campaign 38542
fund, campaign committee, or another candidate; 38543

(c) Attending a political party convention or other political meeting. 38544
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(2) Compensation not otherwise prohibited by law for actual and valuable personal services rendered under a written contract to the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee for any legitimate activity of the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee. 38546
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Reimbursable expenses under this division do not include, and it is a violation of this division for a candidate or public official or employee to accept, or for any person to knowingly give to a candidate or public official or employee from a political party, political action committee, political contributing entity, legislative campaign fund, or campaign committee other than the candidate's or public official's or employee's own campaign committee, anything of value for activities primarily related to the candidate's or public official's or employee's own campaign for election, except for contributions to the candidate's or public official's or employee's campaign committee. 38553
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For purposes of this division, an expense is incurred whenever a candidate or public official or employee has either made payment or is obligated to make payment, as by the use of a credit card or other credit procedure, or by the use of goods or services on account. 38565
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(R)(1) Division (O) or (P) of this section does not prohibit a campaign committee from making direct advance or post payment from contributions to vendors for goods and services for which reimbursement is permitted under division (O) of this section, except that no campaign committee shall pay its candidate or other beneficiary for services personally performed by the candidate or 38570
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other beneficiary. 38576

(2) If any expense that may be reimbursed under division (O), 38577
(P), or (Q) of this section is part of other expenses that may not 38578
be paid or reimbursed, the separation of the two types of expenses 38579
for the purpose of allocating for payment or reimbursement those 38580
expenses that may be paid or reimbursed may be by any reasonable 38581
accounting method, considering all of the surrounding 38582
circumstances. 38583

(3) For purposes of divisions (O), (P), and (Q) of this 38584
section, mileage allowance at a rate not greater than that allowed 38585
by the internal revenue service at the time the travel occurs may 38586
be paid instead of reimbursement for actual travel expenses 38587
allowable. 38588

(S)(1) As used in division (S) of this section: 38589

(a) "State elective office" has the same meaning as in 38590
section 3517.092 of the Revised Code. 38591

(b) "Federal office" means a federal office as defined in the 38592
Federal Election Campaign Act. 38593

(c) "Federal campaign committee" means a principal campaign 38594
committee or authorized committee as defined in the Federal 38595
Election Campaign Act. 38596

(2) No person who is a candidate for state elective office 38597
and who previously sought nomination or election to a federal 38598
office shall transfer any funds or assets from that person's 38599
federal campaign committee for nomination or election to the 38600
federal office to that person's campaign committee as a candidate 38601
for state elective office. 38602

(3) No campaign committee of a person who is a candidate for 38603
state elective office and who previously sought nomination or 38604
election to a federal office shall accept any funds or assets from 38605

that person's federal campaign committee for that person's 38606
nomination or election to the federal office. 38607

(T)(1) Except as otherwise provided in division (B)(6)(c) of 38608
section 3517.102 of the Revised Code, a state or county political 38609
party shall not disburse moneys from any account other than a 38610
state candidate fund to make contributions to any of the 38611
following: 38612

(a) A state candidate fund; 38613

(b) A legislative campaign fund; 38614

(c) A campaign committee of a candidate for the office of 38615
governor, lieutenant governor, secretary of state, auditor of 38616
state, treasurer of state, attorney general, member of the state 38617
board of education, or member of the general assembly. 38618

(2) No state candidate fund, legislative campaign fund, or 38619
campaign committee of a candidate for any office described in 38620
division (T)(1)(c) of this section shall knowingly accept a 38621
contribution in violation of division (T)(1) of this section. 38622

(U) No person shall fail to file the statement required under 38623
section 3517.12 of the Revised Code. 38624

(V) No campaign committee shall fail to file a statement 38625
required under division (K)(3) of section 3517.10 of the Revised 38626
Code. 38627

(W)(1) No foreign national shall, directly or indirectly 38628
through any other person or entity, make a contribution, 38629
expenditure, or independent expenditure or promise, either 38630
expressly or implicitly, to make a contribution, expenditure, or 38631
independent expenditure in support of or opposition to a candidate 38632
for any elective office in this state, including an office of a 38633
political party. 38634

(2) No candidate, campaign committee, political action 38635

committee, political contributing entity, legislative campaign 38636
fund, state candidate fund, political party, or separate 38637
segregated fund shall solicit or accept a contribution, 38638
expenditure, or independent expenditure from a foreign national. 38639
The secretary of state may direct any candidate, committee, 38640
entity, fund, or party that accepts a contribution, expenditure, 38641
or independent expenditure in violation of this division to return 38642
the contribution, expenditure, or independent expenditure or, if 38643
it is not possible to return the contribution, expenditure, or 38644
independent expenditure, then to return instead the value of it, 38645
to the contributor. 38646

(3) As used in division (W) of this section, "foreign 38647
national" has the same meaning as in section 441e(b) of the 38648
Federal Election Campaign Act. 38649

(X)(1) No state or county political party shall transfer any 38650
moneys from its restricted fund to any account of the political 38651
party into which contributions may be made or from which 38652
contributions or expenditures may be made. 38653

(2)(a) No state or county political party shall deposit a 38654
contribution or contributions that it receives into its restricted 38655
fund. 38656

(b) No state or county political party shall make a 38657
contribution or an expenditure from its restricted fund. 38658

(3)(a) No corporation or labor organization shall make a gift 38659
or gifts from the corporation's or labor organization's money or 38660
property aggregating more than ten thousand dollars to any one 38661
state or county political party for the party's restricted fund in 38662
a calendar year. 38663

(b) No state or county political party shall accept a gift or 38664
gifts for the party's restricted fund aggregating more than ten 38665
thousand dollars from any one corporation or labor organization in 38666

a calendar year. 38667

(4) No state or county political party shall transfer any 38668
moneys in the party's restricted fund to any other state or county 38669
political party. 38670

(5) No state or county political party shall knowingly fail 38671
to file a statement required under section 3517.1012 of the 38672
Revised Code. 38673

(Y) The administrator of workers' compensation and the 38674
employees of the bureau of workers' compensation shall not conduct 38675
any business with or award any contract, other than one awarded by 38676
competitive bidding, for the purchase of goods costing more than 38677
five hundred dollars or services costing more than five hundred 38678
dollars to any individual, partnership, association, including, 38679
without limitation, a professional association organized under 38680
Chapter 1785. of the Revised Code, estate, or trust, if the 38681
individual has made, or the individual's spouse has made, or any 38682
partner, shareholder, administrator, executor, or trustee, or the 38683
spouses of any of those individuals has made, as an individual, 38684
within the two previous calendar years, one or more contributions 38685
totaling in excess of one thousand dollars to the campaign 38686
committee of the governor or lieutenant governor or to the 38687
campaign committee of any candidate for the office of governor or 38688
lieutenant governor. 38689

(Z) The administrator of workers' compensation and the 38690
employees of the bureau of workers' compensation shall not conduct 38691
business with or award any contract, other than one awarded by 38692
competitive bidding, for the purchase of goods costing more than 38693
five hundred dollars or services costing more than five hundred 38694
dollars to a corporation or business trust, except a professional 38695
association organized under Chapter 1785. of the Revised Code, if 38696
an owner of more than twenty per cent of the corporation or 38697
business trust, or the spouse of the owner, has made, as an 38698

individual, within the two previous calendar years, taking into 38699
consideration only owners for all of such period, one or more 38700
contributions totaling in excess of one thousand dollars to the 38701
campaign committee of the governor or lieutenant governor or to 38702
the campaign committee of any candidate for the office of governor 38703
or lieutenant governor. 38704

Sec. 3517.151. (A) On and after January 1, 1996, complaints 38705
with respect to acts or failures to act under the sections listed 38706
in division (A) of section 3517.153 of the Revised Code shall be 38707
filed with the Ohio elections commission created under section 38708
3517.152 of the Revised Code. 38709

(B)(1) If a complaint filed with the Ohio elections 38710
commission created under section 3517.152 of the Revised Code 38711
alleges an act or failure to act that occurred before August 24, 38712
1995, and the commission imposes a fine, sections 3517.99 and 38713
3517.991 of the Revised Code, and not sections 3517.992 and 38714
3517.993 of the Revised Code, shall apply. 38715

(2) If a complaint filed with the Ohio elections commission 38716
created under section 3517.152 of the Revised Code alleges an act 38717
or failure to act that is a violation of section 3517.13 of the 38718
Revised Code, former divisions (A) to (R) of that section apply to 38719
the act or failure to act if it occurred before August 24, 1995, 38720
former divisions (A) to (U) of that section apply to the act or 38721
failure to act if it occurs on or after August 24, 1995, but 38722
before July 13, 1998, former divisions (A) to (V) of that section 38723
apply to the act or failure to act if it occurs on or after July 38724
13, 1998, but before December 22, 1999, former divisions (A) to 38725
(W) of that section apply to the act or failure to act if it 38726
occurs on or after December 22, 1999, but before ~~the effective~~ 38727
~~date of this amendment~~ March 31, 2005, and former divisions (A) to 38728
(X) of that section apply to the act or failure to act if it 38729

occurs on or after ~~the effective date of this amendment~~ March 31, 38730
2005, and divisions (A) to (Z) of that section apply to the act or 38731
failure to act if it occurs on or after the effective date of this 38732
amendment. 38733

(C) The Ohio elections commission created under section 38734
3517.14 of the Revised Code is abolished at the close of business 38735
on December 31, 1995. 38736

Sec. 3701.023. (A) The department of health shall review 38737
applications for eligibility for the program for medically 38738
handicapped children that are submitted to the department by city 38739
and general health districts and physician providers approved in 38740
accordance with division (C) of this section. The department shall 38741
determine whether the applicants meet the medical and financial 38742
eligibility requirements established by the public health council 38743
pursuant to division (A)(1) of section 3701.021 of the Revised 38744
Code, and by the department in the manual of operational 38745
procedures and guidelines for the program for medically 38746
handicapped children developed pursuant to division (B) of that 38747
section. Referrals of potentially eligible children for the 38748
program may be submitted to the department on behalf of the child 38749
by parents, guardians, public health nurses, or any other 38750
interested person. The department of health may designate other 38751
agencies to refer applicants to the department of health. 38752

(B) In accordance with the procedures established in rules 38753
adopted under division (A)(4) of section 3701.021 of the Revised 38754
Code, the department of health shall authorize a provider or 38755
providers to provide to any Ohio resident under twenty-one years 38756
of age, without charge to the resident or the resident's family 38757
and without restriction as to the economic status of the resident 38758
or the resident's family, diagnostic services necessary to 38759
determine whether the resident ~~suffers from~~ has a medically 38760

handicapping or potentially medically handicapping condition. 38761

(C) The department of health shall review the applications of 38762
health professionals, hospitals, medical equipment suppliers, and 38763
other individuals, groups, or agencies that apply to become 38764
providers. The department shall enter into a written agreement 38765
with each applicant who is determined, pursuant to the 38766
requirements set forth in rules adopted under division (A)(2) of 38767
section 3701.021 of the Revised Code, to be eligible to be a 38768
provider in accordance with the provider agreement required by the 38769
medical assistance program established under section 5111.01 of 38770
the Revised Code. No provider shall charge a medically handicapped 38771
child or the child's parent or guardian for services authorized by 38772
the department under division (B) or (D) of this section. 38773

The department, in accordance with rules adopted under 38774
division (A)(3) of section 3701.021 of the Revised Code, may 38775
disqualify any provider from further participation in the program 38776
for violating any requirement set forth in rules adopted under 38777
division (A)(2) of that section. The disqualification shall not 38778
take effect until a written notice, specifying the requirement 38779
violated and describing the nature of the violation, has been 38780
delivered to the provider and the department has afforded the 38781
provider an opportunity to appeal the disqualification under 38782
division (H) of this section. 38783

(D) The department of health shall evaluate applications from 38784
city and general health districts and approved physician providers 38785
for authorization to provide treatment services, service 38786
coordination, and related goods to children determined to be 38787
eligible for the program for medically handicapped children 38788
pursuant to division (A) of this section. The department shall 38789
authorize necessary treatment services, service coordination, and 38790
related goods for each eligible child in accordance with an 38791
individual plan of treatment for the child. As an alternative, the 38792

department may authorize payment of health insurance premiums on 38793
behalf of eligible children when the department determines, in 38794
accordance with criteria set forth in rules adopted under division 38795
(A)(9) of section 3701.021 of the Revised Code, that payment of 38796
the premiums is cost-effective. 38797

(E) The department of health shall pay, from appropriations 38798
to the department, any necessary expenses, including but not 38799
limited to, expenses for diagnosis, treatment, service 38800
coordination, supportive services, transportation, and accessories 38801
and their upkeep, provided to medically handicapped children, 38802
provided that the provision of the goods or services is authorized 38803
by the department under division (B) or (D) of this section. Money 38804
appropriated to the department of health may also be expended for 38805
reasonable administrative costs incurred by the program. The 38806
department of health also may purchase liability insurance 38807
covering the provision of services under the program for medically 38808
handicapped children by physicians and other health care 38809
professionals. 38810

Payments made to providers by the department of health 38811
pursuant to this division for inpatient hospital care, outpatient 38812
care, and all other medical assistance furnished ~~by hospitals~~ to 38813
eligible recipients ~~shall be in accordance with methods~~ 38814
~~established by rules of the public health council. Until such~~ 38815
~~rules are adopted, the department of health shall make payments to~~ 38816
~~hospitals in accordance with reasonable cost principles for~~ 38817
~~reimbursement under the medicare program established under Title~~ 38818
~~XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42~~ 38819
~~U.S.C.A. 1395, as amended. Payments to providers for goods or~~ 38820
~~services other than inpatient or outpatient hospital care shall be~~ 38821
made in accordance with rules adopted by the public health council 38822
pursuant to division (A) of section 3701.021 of the Revised Code. 38823

The departments of health and job and family services shall 38824

jointly implement procedures to ensure that duplicate payments are 38825
not made under the program for medically handicapped children and 38826
the medical assistance program established under section 5111.01 38827
of the Revised Code and to identify and recover duplicate 38828
payments. 38829

(F)(1) At the time of applying for participation in the 38830
program for medically handicapped children, a medically 38831
handicapped child or the child's parent or guardian shall disclose 38832
the identity of any third party against whom the child or the 38833
child's parent or guardian has or may have a right of recovery for 38834
goods and services provided under division (B) or (D) of this 38835
section. ~~Except as provided in division (F)(2) of this section,~~ 38836
~~the~~ The department of health shall require a medically handicapped 38837
child who receives services from the program or the child's parent 38838
or guardian to apply for all third-party benefits for which the 38839
child may be eligible and require the child, parent, or guardian 38840
to apply all third-party benefits received to the amount 38841
determined under division (E) of this section as the amount 38842
payable for goods and services authorized under division (B) or 38843
(D) of this section. The department is the payer of last resort 38844
and shall pay for authorized goods or services, up to the amount 38845
determined under division (E) of this section for the authorized 38846
goods or services, only to the extent that payment for the 38847
authorized goods or services is not made through third-party 38848
benefits. When a third party fails to act on an application or 38849
claim for benefits by a medically handicapped child or the child's 38850
parent or guardian, the department shall pay for the goods or 38851
services only after ninety days have elapsed since the date the 38852
child, parents, or guardians made an application or claim for all 38853
third-party benefits, ~~except as provided in division (F)(2) of~~ 38854
~~this section.~~ Third-party benefits received shall be applied to 38855
the amount determined under division (E) of this section. 38856
Third-party payments for goods and services not authorized under 38857

division (B) or (D) of this section shall not be applied to 38858
payment amounts determined under division (E) of this section. 38859
Payment made by the department shall be considered payment in full 38860
of the amount determined under division (E) of this section. 38861
Medicaid payments for persons eligible for the medical assistance 38862
program established under section 5111.01 of the Revised Code 38863
shall be considered payment in full of the amount determined under 38864
division (E) of this section. 38865

~~(2) A medically handicapped child or the parent or guardian 38866
of such a child is not required to apply for assistance under the 38867
medical assistance program established under section 5111.01 of 38868
the Revised Code as a condition for eligibility under the program 38869
for medically handicapped children if applying for or receiving 38870
assistance under the medical assistance program violates a 38871
religious belief of the child, parent, or guardian and a tenet of 38872
the child's, parent's, or guardian's religion. 38873~~

(G) The department of health shall administer a program to 38874
provide services to Ohio residents who are twenty-one or more 38875
years of age who ~~are suffering from~~ have cystic fibrosis and who 38876
meet the eligibility requirements established by the rules of the 38877
public health council pursuant to division (A)(7) of section 38878
3701.021 of the Revised Code, subject to all provisions of this 38879
section, but not subject to section 3701.024 of the Revised Code. 38880

(H) The department of health shall provide for appeals, in 38881
accordance with rules adopted under section 3701.021 of the 38882
Revised Code, of denials of applications for the program for 38883
medically handicapped children under division (A) or (D) of this 38884
section, disqualification of providers, or amounts paid under 38885
division (E) of this section. Appeals under this division are not 38886
subject to Chapter 119. of the Revised Code. 38887

The department may designate ombudspersons to assist 38888
medically handicapped children or their parents or guardians, upon 38889

the request of the children, parents, or guardians, in filing 38890
appeals under this division and to serve as children's, parents', 38891
or guardians' advocates in matters pertaining to the 38892
administration of the program for medically handicapped children 38893
and eligibility for program services. The ombudspersons shall 38894
receive no compensation but shall be reimbursed by the department, 38895
in accordance with rules of the office of budget and management, 38896
for their actual and necessary travel expenses incurred in the 38897
performance of their duties. 38898

(I) The department of health, and city and general health 38899
districts providing service coordination pursuant to division 38900
(A)(2) of section 3701.024 of the Revised Code, shall provide 38901
service coordination in accordance with the standards set forth in 38902
the rules adopted under section 3701.021 of the Revised Code, 38903
without charge, and without restriction as to economic status. 38904

Sec. 3701.073. (A) The department of health is hereby 38905
designated as the state agency responsible for administering the 38906
medicare rural hospital flexibility program, as established in 42 38907
U.S.C. 1395i-4, as amended. 38908

(B) The director of health shall designate as a critical 38909
access hospital a hospital registered as an acute care hospital 38910
with the department under section 3701.07 of the Revised Code if 38911
the hospital meets the following requirements: 38912

(1) Has not more than twenty-five acute care and swing beds 38913
in use at any time for the furnishing of extended care or acute 38914
care inpatient services; 38915

(2) Has a length of stay not more than ninety-six hours per 38916
patient, on an annual average basis; 38917

(3) Provides inpatient, outpatient, emergency, laboratory, 38918
radiology, and twenty-four hour emergency care services; 38919

(4) Has network agreements in place for patient referral and transfer, a communication system for telemetry systems, electronic sharing of patient data, provision for emergency and non-emergency transportation, and assures credentialing and quality assurance; 38920
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(5) Was certified as a critical access hospital by the centers for medicare and medicaid services between January 1, 2001, and December 31, 2005, or is located in a rural area as identified below: 38924
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(a) An area within an Ohio metropolitan area designated as a rural area by the United States department of health and human services, office of rural health policy, in accordance with 42 C.F.R. 412.103 regarding rural urban commuting area codes four through ten in effect on the effective date of this section; 38928
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(b) A non-metropolitan county as designated in United States office of management and budget bulletin no. 93-17, June 30, 1993, and its attachments; 38933
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(c) A rural zip code within a metropolitan county as designated in United States office of management and budget bulletin no. 93-17, June 30, 1993, and its attachments. 38936
38937
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Sec. 3701.146. (A) In taking actions regarding tuberculosis, the director of health has all of the following duties and powers: 38939
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~~(1) The director shall make payments to boards of county commissioners in accordance with section 339.77 of the Revised Code.~~ 38941
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~~(2)~~ The director shall maintain registries of hospitals, clinics, physicians, or other care providers to whom the director shall refer persons who make inquiries to the department of health regarding possible exposure to tuberculosis. 38944
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~~(3)~~(2) The director shall engage in tuberculosis surveillance activities, including the collection and analysis of 38948
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epidemiological information relative to the frequency of 38950
tuberculosis infection, demographic and geographic distribution of 38951
tuberculosis cases, and trends pertaining to tuberculosis. 38952

~~(4)~~(3) The director shall maintain a tuberculosis registry to 38953
record the incidence of tuberculosis in this state. 38954

~~(5)~~(4) The director may appoint physicians to serve as 38955
tuberculosis consultants for geographic regions of the state 38956
specified by the director. Each tuberculosis consultant shall act 38957
in accordance with rules the director establishes and shall be 38958
responsible for advising and assisting physicians and other health 38959
care practitioners who participate in tuberculosis control 38960
activities and for reviewing medical records pertaining to the 38961
treatment provided to individuals with tuberculosis. 38962

(B)(1) The public health council shall adopt rules 38963
establishing standards for the following: 38964

(a) Performing tuberculosis screenings; 38965

(b) Performing examinations of individuals who have been 38966
exposed to tuberculosis and individuals who are suspected of 38967
having tuberculosis; 38968

(c) Providing treatment to individuals with tuberculosis; 38969

(d) Preventing individuals with communicable tuberculosis 38970
from infecting other individuals; 38971

(e) Performing laboratory tests for tuberculosis and studies 38972
of the resistance of tuberculosis to one or more drugs; 38973

(f) Selecting laboratories that provide in a timely fashion 38974
the results of a laboratory test for tuberculosis. The standards 38975
shall include a requirement that first consideration be given to 38976
laboratories located in this state. 38977

(2) Rules adopted pursuant to this section shall be adopted 38978
in accordance with Chapter 119. of the Revised Code and may be 38979

consistent with any recommendations or guidelines on tuberculosis 38980
issued by the United States centers for disease control and 38981
prevention or by the American thoracic society. The rules shall 38982
apply to county or district tuberculosis control units, physicians 38983
who examine and treat individuals for tuberculosis, and 38984
laboratories that perform tests for tuberculosis. 38985

Sec. 3701.65. (A) There is hereby created in the state 38986
treasury the "choose life" fund. The fund shall consist of the 38987
contributions that are paid to the registrar of motor vehicles by 38988
applicants who voluntarily elect to obtain "choose life" license 38989
plates pursuant to section 4503.91 of the Revised Code and any 38990
money returned to the fund under division (E)(1)(d) of this 38991
section. All investment earnings of the fund shall be credited to 38992
the fund. 38993

(B)(1) At least annually, the director of health shall 38994
distribute the money in the fund to any private, nonprofit 38995
organization that is eligible to receive funds under this section 38996
and that applies for funding under division (C) of this section. 38997

(2) The director shall distribute the funds based on the 38998
county in which the organization applying for funding is located 38999
and in proportion to the number of "choose life" license plates 39000
issued during the preceding year to vehicles registered in each 39001
county. Within each county, eligible organizations that apply for 39002
funding shall share equally in the funds available for 39003
distribution to organizations located within that county. 39004

(C) Any organization seeking funds under this section 39005
annually shall apply for distribution of the funds. The director 39006
shall develop an application form and may determine the schedule 39007
and procedures that an organization shall follow when annually 39008
applying for funds. The application shall inform the applicant of 39009
the conditions for receiving and using funds under division (E) of 39010

this section. The application shall require evidence that the organization meets all of the following requirements:

- (1) Is a private, nonprofit organization;
- (2) Is committed to counseling pregnant women about the option of adoption;
- (3) Provides services within the state to pregnant women who are planning to place their children for adoption, including counseling and meeting the material needs of the women;
- (4) Does not charge women for any services received;
- (5) Is not involved or associated with any abortion activities, including counseling for or referrals to abortion clinics, providing medical abortion-related procedures, or pro-abortion advertising;
- (6) Does not discriminate in its provision of any services on the basis of race, religion, color, age, marital status, national origin, handicap, gender, or age.

(D) The director shall not distribute funds to an organization that does not provide verifiable evidence of the requirements specified in the application under division (C) of this section and shall not provide additional funds to any organization that fails to comply with division (E) of this section in regard to its previous receipt of funds under this section.

(E)(1) An organization receiving funds under this section shall do all of the following:

- (a) Use not more than sixty per cent of the funds distributed to it for the material needs of pregnant women who are planning to place their children for adoption or for infants awaiting placement with adoptive parents, including clothing, housing, medical care, food, utilities, and transportation;

(b) Use not more than forty per cent of the funds distributed 39041
to it for counseling, training, or advertising; 39042

(c) Not use any of the funds distributed to it for 39043
administrative expenses, legal expenses, or capital expenditures; 39044

(d) Annually return to the fund created under division (A) of 39045
this section any unused money that exceeds ten per cent of the 39046
money distributed to the organization. 39047

(2) The organization annually shall submit to the director an 39048
audited financial statement verifying its compliance with division 39049
(E)(1) of this section. 39050

(F) The director, in accordance with Chapter 119. of the 39051
Revised Code, shall adopt rules to implement this section. 39052

It is not the intent of the general assembly that the 39053
department create a new position within the department to 39054
implement and administer this section. It is the intent of the 39055
general assembly that the implementation and administration of 39056
this section be accomplished by existing department personnel. 39057

Sec. 3702.141. (A) As used in this section: 39058

(1) "~~existing~~ Existing health care facility" ~~has~~ means a 39059
health care facility that is licensed or otherwise approved to 39060
practice in this state, in accordance with applicable law, is 39061
staffed and equipped to provide health care services, and actively 39062
provides health services or has not been actively providing health 39063
services for less than twelve consecutive months. 39064

(2) "Health care facility" and "health service" have the same 39065
~~meaning~~ meanings as in section 3702.51 of the Revised Code. 39066

(B) Section 3702.14 of the Revised Code shall not be 39067
construed to require any existing health care facility that is 39068
conducting an activity specified in section 3702.11 of the Revised 39069
Code, which activity was initiated on or before March 20, 1997, to 39070

alter, upgrade, or otherwise improve the structure or fixtures of 39071
the facility in order to comply with any rule adopted under 39072
section 3702.11 of the Revised Code relating to that activity, 39073
unless one of the following applies: 39074

(1) The facility initiates a construction, renovation, or 39075
reconstruction project that involves a capital expenditure of at 39076
least fifty thousand dollars, not including expenditures for 39077
equipment or staffing or operational costs, and that directly 39078
involves the area in which the existing service is conducted. 39079

(2) The facility initiates another activity specified in 39080
section 3702.11 of the Revised Code. 39081

(3) The facility initiates a service level designation change 39082
for obstetric and newborn care. 39083

(4) The facility proposes to add a cardiac catheterization 39084
laboratory to an existing cardiac catheterization service. 39085

(5) The facility proposes to add an open-heart operating room 39086
to an existing open-heart surgery service. 39087

(6) The director of health determines, by clear and 39088
convincing evidence, that failure to comply with the rule would 39089
create an imminent risk to the health and welfare of any patient. 39090

(C) If division (B)(4) or (5) of this section applies, any 39091
alteration, upgrade, or other improvement required shall apply 39092
only to the proposed addition to the existing service if the cost 39093
of the addition is less than the capital expenditure threshold set 39094
forth in division (B)(1) of this section. 39095

(D) No person or government entity shall divide or otherwise 39096
segment a construction, renovation, or reconstruction project in 39097
order to evade application of the capital expenditure threshold 39098
set forth in division (B)(1) of this section. 39099

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the 39100

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|---|----------------------------------|
| Revised Code: | 39101 |
| (A) "Applicant" means any person that submits an application for a certificate of need and who is designated in the application as the applicant. | 39102 39103 39104 |
| (B) "Person" means any individual, corporation, business trust, estate, firm, partnership, association, joint stock company, insurance company, government unit, or other entity. | 39105 39106 39107 |
| (C) "Certificate of need" means a written approval granted by the director of health to an applicant to authorize conducting a reviewable activity. | 39108 39109 39110 |
| (D) "Health service area" means a geographic region designated by the director of health under section 3702.58 of the Revised Code. | 39111 39112 39113 |
| (E) "Health service" means a clinically related service, such as a diagnostic, treatment, rehabilitative, or preventive service. | 39114 39115 |
| (F) "Health service agency" means an agency designated to serve a health service area in accordance with section 3702.58 of the Revised Code. | 39116 39117 39118 |
| (G) "Health care facility" means: | 39119 |
| (1) A hospital registered under section 3701.07 of the Revised Code; | 39120 39121 |
| (2) A nursing home licensed under section 3721.02 of the Revised Code, or by a political subdivision certified under section 3721.09 of the Revised Code; | 39122 39123 39124 |
| (3) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended; | 39125 39126 39127 39128 |
| (4) A freestanding dialysis center; | 39129 |

- (5) A freestanding inpatient rehabilitation facility; 39130
- (6) An ambulatory surgical facility; 39131
- (7) A freestanding cardiac catheterization facility; 39132
- (8) A freestanding birthing center; 39133
- (9) A freestanding or mobile diagnostic imaging center; 39134
- (10) A freestanding radiation therapy center. 39135

A health care facility does not include the offices of 39136
private physicians and dentists whether for individual or group 39137
practice, residential facilities licensed under section 5123.19 of 39138
the Revised Code, ~~or habilitation centers certified by the~~ 39139
~~director of mental retardation and developmental disabilities~~ 39140
~~under section 5123.041 of the Revised Code,~~ or an institution for 39141
the sick that is operated exclusively for patients who use 39142
spiritual means for healing and for whom the acceptance of medical 39143
care is inconsistent with their religious beliefs, accredited by a 39144
national accrediting organization, exempt from federal income 39145
taxation under section 501 of the Internal Revenue Code of 1986, 39146
100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing 39147
twenty-four hour nursing care pursuant to the exemption in 39148
division (E) of section 4723.32 of the Revised Code from the 39149
licensing requirements of Chapter 4723. of the Revised Code. 39150

(H) "Medical equipment" means a single unit of medical 39151
equipment or a single system of components with related functions 39152
that is used to provide health services. 39153

(I) "Third-party payer" means a health insuring corporation 39154
licensed under Chapter 1751. of the Revised Code, a health 39155
maintenance organization as defined in division (K) of this 39156
section, an insurance company that issues sickness and accident 39157
insurance in conformity with Chapter 3923. of the Revised Code, a 39158
state-financed health insurance program under Chapter 3701., 39159

4123., or 5111. of the Revised Code, or any self-insurance plan. 39160

(J) "Government unit" means the state and any county, 39161
municipal corporation, township, or other political subdivision of 39162
the state, or any department, division, board, or other agency of 39163
the state or a political subdivision. 39164

(K) "Health maintenance organization" means a public or 39165
private organization organized under the law of any state that is 39166
qualified under section 1310(d) of Title XIII of the "Public 39167
Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9. 39168

(L) "Existing health care facility" means ~~a~~ either of the 39169
following: 39170

(1) A health care facility that is licensed or otherwise 39171
approved authorized to practice operate in this state, in 39172
accordance with applicable law, is staffed and equipped to provide 39173
health care services, and is actively provides providing health 39174
services ~~or has not been actively providing health services for~~ 39175
~~less than twelve consecutive months;~~ 39176

(2) A health care facility that is licensed or has beds 39177
registered under section 3701.07 of the Revised Code as skilled 39178
nursing beds or long-term care beds and has provided services for 39179
at least three hundred sixty-five consecutive days within the 39180
twenty-four months immediately preceding the date a certificate of 39181
need application is filed with the director of health. 39182

(M) "State" means the state of Ohio, including, but not 39183
limited to, the general assembly, the supreme court, the offices 39184
of all elected state officers, and all departments, boards, 39185
offices, commissions, agencies, institutions, and other 39186
instrumentalities of the state of Ohio. "State" does not include 39187
political subdivisions. 39188

(N) "Political subdivision" means a municipal corporation, 39189
township, county, school district, and all other bodies corporate 39190

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| and politic responsible for governmental activities only in | 39191 |
| geographic areas smaller than that of the state to which the | 39192 |
| sovereign immunity of the state attaches. | 39193 |
| (0) "Affected person" means: | 39194 |
| (1) An applicant for a certificate of need, including an | 39195 |
| applicant whose application was reviewed comparatively with the | 39196 |
| application in question; | 39197 |
| (2) The person that requested the reviewability ruling in | 39198 |
| question; | 39199 |
| (3) Any person that resides or regularly uses health care | 39200 |
| facilities within the geographic area served or to be served by | 39201 |
| the health care services that would be provided under the | 39202 |
| certificate of need or reviewability ruling in question; | 39203 |
| (4) Any health care facility that is located in the health | 39204 |
| service area where the health care services would be provided | 39205 |
| under the certificate of need or reviewability ruling in question; | 39206 |
| (5) Third-party payers that reimburse health care facilities | 39207 |
| for services in the health service area where the health care | 39208 |
| services would be provided under the certificate of need or | 39209 |
| reviewability ruling in question; | 39210 |
| (6) Any other person who testified at a public hearing held | 39211 |
| under division (B) of section 3702.52 of the Revised Code or | 39212 |
| submitted written comments in the course of review of the | 39213 |
| certificate of need application in question. | 39214 |
| (P) "Osteopathic hospital" means a hospital registered under | 39215 |
| section 3701.07 of the Revised Code that advocates osteopathic | 39216 |
| principles and the practice and perpetuation of osteopathic | 39217 |
| medicine by doing any of the following: | 39218 |
| (1) Maintaining a department or service of osteopathic | 39219 |
| medicine or a committee on the utilization of osteopathic | 39220 |

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| principles and methods, under the supervision of an osteopathic physician; | 39221 39222 |
| (2) Maintaining an active medical staff, the majority of which is comprised of osteopathic physicians; | 39223 39224 |
| (3) Maintaining a medical staff executive committee that has osteopathic physicians as a majority of its members. | 39225 39226 |
| (Q) "Ambulatory surgical facility" has the same meaning as in section 3702.30 of the Revised Code. | 39227 39228 |
| (R) Except as otherwise provided in division (T) of this section, and until the termination date specified in section 3702.511 of the Revised Code, "reviewable activity" means any of the following: | 39229 39230 39231 39232 |
| (1) The addition by any person of any of the following health services, regardless of the amount of operating costs or capital expenditures: | 39233 39234 39235 |
| (a) A heart, heart-lung, lung, liver, kidney, bowel, pancreas, or bone marrow transplantation service, a stem cell harvesting and reinfusion service, or a service for transplantation of any other organ unless transplantation of the organ is designated by public health council rule not to be a reviewable activity; | 39236 39237 39238 39239 39240 39241 |
| (b) A cardiac catheterization service; | 39242 |
| (c) An open-heart surgery service; | 39243 |
| (d) Any new, experimental medical technology that is designated by rule of the public health council. | 39244 39245 |
| (2) The acceptance of high-risk patients, as defined in rules adopted under section 3702.57 of the Revised Code, by any cardiac catheterization service that was initiated without a certificate of need pursuant to division (R)(3)(b) of the version of this section in effect immediately prior to April 20, 1995; | 39246 39247 39248 39249 39250 |

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| (3)(a) The establishment, development, or construction of a new health care facility other than a new long-term care facility or a new hospital; | 39251 39252 39253 |
| (b) The establishment, development, or construction of a new hospital or the relocation of an existing hospital; | 39254 39255 |
| (c) The relocation of hospital beds, other than long-term care, perinatal, or pediatric intensive care beds, into or out of a rural area. | 39256 39257 39258 |
| (4)(a) The replacement of an existing hospital; | 39259 |
| (b) The replacement of an existing hospital obstetric or newborn care unit or freestanding birthing center. | 39260 39261 |
| (5)(a) The renovation of a hospital that involves a capital expenditure, obligated on or after the effective date of this amendment <u>June 30, 1995</u> , of five million dollars or more, not including expenditures for equipment, staffing, or operational costs. For purposes of division (R)(5)(a) of this section, a capital expenditure is obligated: | 39262 39263 39264 39265 39266 39267 |
| (i) When a contract enforceable under Ohio law is entered into for the construction, acquisition, lease, or financing of a capital asset; | 39268 39269 39270 |
| (ii) When the governing body of a hospital takes formal action to commit its own funds for a construction project undertaken by the hospital as its own contractor; | 39271 39272 39273 |
| (iii) In the case of donated property, on the date the gift is completed under applicable Ohio law. | 39274 39275 |
| (b) The renovation of a hospital obstetric or newborn care unit or freestanding birthing center that involves a capital expenditure of five million dollars or more, not including expenditures for equipment, staffing, or operational costs. | 39276 39277 39278 39279 |
| (6) Any change in the health care services, bed capacity, or | 39280 |

site, or any other failure to conduct the reviewable activity in 39281
substantial accordance with the approved application for which a 39282
certificate of need was granted, if the change is made prior to 39283
the date the activity for which the certificate was issued ceases 39284
to be a reviewable activity; 39285

(7) Any of the following changes in perinatal bed capacity or 39286
pediatric intensive care bed capacity: 39287

(a) An increase in bed capacity; 39288

(b) A change in service or service-level designation of 39289
newborn care beds or obstetric beds in a hospital or freestanding 39290
birthing center, other than a change of service that is provided 39291
within the service-level designation of newborn care or obstetric 39292
beds as registered by the department of health; 39293

(c) A relocation of perinatal or pediatric intensive care 39294
beds from one physical facility or site to another, excluding the 39295
relocation of beds within a hospital or freestanding birthing 39296
center or the relocation of beds among buildings of a hospital or 39297
freestanding birthing center at the same site. 39298

(8) The expenditure of more than one hundred ten per cent of 39299
the maximum expenditure specified in a certificate of need; 39300

(9) Any transfer of a certificate of need issued prior to 39301
April 20, 1995, from the person to whom it was issued to another 39302
person before the project that constitutes a reviewable activity 39303
is completed, any agreement that contemplates the transfer of a 39304
certificate of need issued prior to that date upon completion of 39305
the project, and any transfer of the controlling interest in an 39306
entity that holds a certificate of need issued prior to that date. 39307
However, the transfer of a certificate of need issued prior to 39308
that date or agreement to transfer such a certificate of need from 39309
the person to whom the certificate of need was issued to an 39310
affiliated or related person does not constitute a reviewable 39311

transfer of a certificate of need for the purposes of this 39312
division, unless the transfer results in a change in the person 39313
that holds the ultimate controlling interest in the certificate of 39314
need. 39315

(10)(a) The acquisition by any person of any of the following 39316
medical equipment, regardless of the amount of operating costs or 39317
capital expenditure: 39318

(i) A cobalt radiation therapy unit; 39319

(ii) A linear accelerator; 39320

(iii) A gamma knife unit. 39321

(b) The acquisition by any person of medical equipment with a 39322
cost of two million dollars or more. The cost of acquiring medical 39323
equipment includes the sum of the following: 39324

(i) The greater of its fair market value or the cost of its 39325
lease or purchase; 39326

(ii) The cost of installation and any other activities 39327
essential to the acquisition of the equipment and its placement 39328
into service. 39329

(11) The addition of another cardiac catheterization 39330
laboratory to an existing cardiac catheterization service. 39331

(S) Except as provided in division (T) of this section, 39332
"reviewable activity" also means any of the following activities, 39333
none of which are subject to a termination date: 39334

(1) The establishment, development, or construction of a new 39335
long-term care facility; 39336

(2) The replacement of an existing long-term care facility; 39337

(3) The renovation of a long-term care facility that involves 39338
a capital expenditure of two million dollars or more, not 39339
including expenditures for equipment, staffing, or operational 39340

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| costs; | 39341 |
| (4) Any of the following changes in long-term care bed capacity: | 39342 |
| (a) An increase in bed capacity; | 39343 |
| (b) A relocation of beds from one physical facility or site to another, excluding the relocation of beds within a long-term care facility or among buildings of a long-term care facility at the same site; | 39344 |
| (c) A recategorization of hospital beds registered under section 3701.07 of the Revised Code from another registration category to skilled nursing beds or long-term care beds. | 39345 |
| (5) Any change in the health services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need concerning long-term care beds was granted, if the change is made within five years after the implementation of the reviewable activity for which the certificate was granted; | 39346 |
| (6) The expenditure of more than one hundred ten per cent of the maximum expenditure specified in a certificate of need concerning long-term care beds; | 39347 |
| (7) Any transfer of a certificate of need that concerns long-term care beds and was issued prior to April 20, 1995, from the person to whom it was issued to another person before the project that constitutes a reviewable activity is completed, any agreement that contemplates the transfer of such a certificate of need upon completion of the project, and any transfer of the controlling interest in an entity that holds such a certificate of need. However, the transfer of a certificate of need that concerns long-term care beds and was issued prior to April 20, 1995, or agreement to transfer such a certificate of need from the person to whom the certificate was issued to an affiliated or related | 39348 |
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person does not constitute a reviewable transfer of a certificate 39372
of need for purposes of this division, unless the transfer results 39373
in a change in the person that holds the ultimate controlling 39374
interest in the certificate of need. 39375

(T) "Reviewable activity" does not include any of the 39376
following activities: 39377

(1) Acquisition of computer hardware or software; 39378

(2) Acquisition of a telephone system; 39379

(3) Construction or acquisition of parking facilities; 39380

(4) Correction of cited deficiencies that are in violation of 39381
federal, state, or local fire, building, or safety laws and rules 39382
and that constitute an imminent threat to public health or safety; 39383

(5) Acquisition of an existing health care facility that does 39384
not involve a change in the number of the beds, by service, or in 39385
the number or type of health services; 39386

(6) Correction of cited deficiencies identified by 39387
accreditation surveys of the joint commission on accreditation of 39388
healthcare organizations or of the American osteopathic 39389
association; 39390

(7) Acquisition of medical equipment to replace the same or 39391
similar equipment for which a certificate of need has been issued 39392
if the replaced equipment is removed from service; 39393

(8) Mergers, consolidations, or other corporate 39394
reorganizations of health care facilities that do not involve a 39395
change in the number of beds, by service, or in the number or type 39396
of health services; 39397

(9) Construction, repair, or renovation of bathroom 39398
facilities; 39399

(10) Construction of laundry facilities, waste disposal 39400
facilities, dietary department projects, heating and air 39401

conditioning projects, administrative offices, and portions of 39402
medical office buildings used exclusively for physician services; 39403

(11) Acquisition of medical equipment to conduct research 39404
required by the United States food and drug administration or 39405
clinical trials sponsored by the national institute of health. Use 39406
of medical equipment that was acquired without a certificate of 39407
need under division (T)(11) of this section and for which 39408
premarket approval has been granted by the United States food and 39409
drug administration to provide services for which patients or 39410
reimbursement entities will be charged shall be a reviewable 39411
activity. 39412

(12) Removal of asbestos from a health care facility. 39413

Only that portion of a project that meets the requirements of 39414
division (T) of this section is not a reviewable activity. 39415

(U) "Small rural hospital" means a hospital that is located 39416
within a rural area, has fewer than one hundred beds, and to which 39417
fewer than four thousand persons were admitted during the most 39418
recent calendar year. 39419

(V) "Children's hospital" means any of the following: 39420

(1) A hospital registered under section 3701.07 of the 39421
Revised Code that provides general pediatric medical and surgical 39422
care, and in which at least seventy-five per cent of annual 39423
inpatient discharges for the preceding two calendar years were 39424
individuals less than eighteen years of age; 39425

(2) A distinct portion of a hospital registered under section 39426
3701.07 of the Revised Code that provides general pediatric 39427
medical and surgical care, has a total of at least one hundred 39428
fifty registered pediatric special care and pediatric acute care 39429
beds, and in which at least seventy-five per cent of annual 39430
inpatient discharges for the preceding two calendar years were 39431
individuals less than eighteen years of age; 39432

(3) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division (V)(1) of this section. 39433
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(W) "Long-term care facility" means any of the following: 39437

(1) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code; 39438
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(2) The portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act"; 39441
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(3) The portion of any hospital that contains beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds. 39445
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(X) "Long-term care bed" means a bed in a long-term care facility. 39448
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(Y) "Perinatal bed" means a bed in a hospital that is registered under section 3701.07 of the Revised Code as a newborn care bed or obstetric bed, or a bed in a freestanding birthing center. 39450
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(Z) "Freestanding birthing center" means any facility in which deliveries routinely occur, regardless of whether the facility is located on the campus of another health care facility, and which is not licensed under Chapter 3711. of the Revised Code as a level one, two, or three maternity unit or a limited maternity unit. 39454
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(AA)(1) "Reviewability ruling" means a ruling issued by the director of health under division (A) of section 3702.52 of the Revised Code as to whether a particular proposed project is or is 39460
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not a reviewable activity. 39463

(2) "Nonreviewability ruling" means a ruling issued under 39464
that division that a particular proposed project is not a 39465
reviewable activity. 39466

(BB)(1) "Metropolitan statistical area" means an area of this 39467
state designated a metropolitan statistical area or primary 39468
metropolitan statistical area in United States office of 39469
management and budget bulletin No. 93-17, June 30, 1993, and its 39470
attachments. 39471

(2) "Rural area" means any area of this state not located 39472
within a metropolitan statistical area. 39473

Sec. 3702.68. (A) Notwithstanding sections 3702.51 to 3702.62 39474
of the Revised Code, this section applies to the review of 39475
certificate of need applications during the period beginning July 39476
1, 1993, and ending June 30, ~~2005~~ 2007. 39477

As used in this section, "existing health care facility" has 39478
the same meaning as in section 3702.51 of the Revised Code. 39479

(B)(1) Except as provided in division (B)(2) of this section, 39480
the director of health shall neither grant nor deny any 39481
application for a certificate of need submitted prior to July 1, 39482
1993, if the application was for any of the following and the 39483
director had not issued a written decision concerning the 39484
application prior to that date: 39485

(a) Approval of beds in a new health care facility or an 39486
increase of beds in an existing health care facility, if the beds 39487
are proposed to be licensed as nursing home beds under Chapter 39488
3721. of the Revised Code; 39489

(b) Approval of beds in a new county home or new county 39490
nursing home as defined in section 5155.31 of the Revised Code, or 39491
an increase of beds in an existing county home or existing county 39492

nursing home, if the beds are proposed to be certified as skilled 39493
nursing facility beds under Title XVIII or nursing facility beds 39494
under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 39495
42 U.S.C.A. 301, as amended; 39496

(c) Recategorization of hospital beds as described in section 39497
3702.522 of the Revised Code, an increase of hospital beds 39498
registered pursuant to section 3701.07 of the Revised Code as 39499
long-term care beds or skilled nursing facility beds, or a 39500
recategorization of hospital beds that would result in an increase 39501
of beds registered pursuant to that section as long-term care beds 39502
or skilled nursing facility beds. 39503

On July 1, 1993, the director shall return each such 39504
application to the applicant and, notwithstanding section 3702.52 39505
of the Revised Code regarding the uses of the certificate of need 39506
fund, shall refund to the applicant the application fee paid under 39507
that section. Applications returned under division (B)(1) of this 39508
section may be resubmitted in accordance with section 3702.52 of 39509
the Revised Code no sooner than July 1, ~~2005~~ 2007. 39510

(2) The director shall continue to review and shall issue a 39511
decision regarding any application submitted prior to July 1, 39512
1993, to increase beds for either of the purposes described in 39513
division (B)(1)(a) or (b) of this section if the proposed increase 39514
in beds is attributable solely to a replacement or relocation of 39515
existing beds within the same county. The director shall authorize 39516
under such an application no additional beds beyond those being 39517
replaced or relocated. 39518

(C)(1) Except as provided in division (C)(2) of this section, 39519
the director, during the period beginning July 1, 1993, and ending 39520
June 30, ~~2005~~ 2007, shall not accept for review under section 39521
3702.52 of the Revised Code any application for a certificate of 39522
need for any of the purposes described in divisions (B)(1)(a) to 39523
(c) of this section. 39524

(2)(a) The director shall accept for review any application 39525
for either of the purposes described in division (B)(1)(a) or (b) 39526
of this section if the proposed increase in beds is attributable 39527
solely to a replacement or relocation of existing beds from an 39528
existing health care facility within the same county. The director 39529
shall authorize under such an application no additional beds 39530
beyond those being replaced or relocated. ~~The~~ 39531

The director shall not approve an application for a 39532
certificate of need for addition of long-term care beds to an 39533
existing health care facility by relocation of beds or for the 39534
development of a new health care facility by relocation of beds 39535
unless all of the following conditions are met: 39536

(i) The existing health care facility to which the beds are 39537
being relocated has no life safety code waivers, no state fire 39538
code violations, and no state building code violations; 39539

(ii) During the sixty month period preceding the filing of 39540
the application, no notice of proposed revocation of the 39541
facility's license was issued under section 3721.03 of the Revised 39542
Code to the operator of the existing facility to which the beds 39543
are being relocated or to any health care facility owned or 39544
operated by the applicant or any principal participant in the same 39545
corporation or other business; 39546

(iii) Neither the existing health care facility to which the 39547
beds are being relocated nor any health care facility owned or 39548
operated by the applicant or any principal participant in the same 39549
corporation or other business has had a long-standing pattern of 39550
violations of this chapter or deficiencies that caused one or more 39551
residents physical, emotional, mental, or psychosocial harm. 39552

(b) The director also shall accept for review any application 39553
~~that seeks certificate of need approval for existing the~~ 39554
~~conversion of infirmary beds located in an~~ to long-term care beds 39555

if the infirmary that is meets all of the following conditions: 39556

(i) Is operated exclusively by a religious order, ~~provides;~~ 39557

(ii) Provides care exclusively to members of religious orders 39558
who take vows of celibacy and live by virtue of their vows within 39559
the orders as if related, ~~and was;~~ 39560

(iii) Was providing care exclusively to members of such a 39561
religious order on January 1, 1994. 39562

(D) The director shall issue a decision regarding any case 39563
remanded by a court as the result of a decision issued by the 39564
director prior to July 1, 1993, to grant, deny, or withdraw a 39565
certificate of need for any of the purposes described in divisions 39566
(B)(1)(a) to (c) of this section. 39567

(E) The director shall not project the need for beds listed 39568
in division (B)(1) of this section for the period beginning July 39569
1, 1993, and ending June 30, ~~2005~~ 2007. 39570

This section is an interim section effective until July 1, 39571
~~2005~~ 2007. 39572

Sec. 3702.71. As used in sections 3702.71 to 3702.81 of the 39573
Revised Code: 39574

(A) "Primary care physician" means an individual who is 39575
authorized under Chapter 4731. of the Revised Code to practice 39576
medicine and surgery or osteopathic medicine and surgery and is 39577
board certified or board eligible in a primary care specialty. 39578

(B) "Primary care service" means professional comprehensive 39579
personal health services, which may include health education and 39580
disease prevention, treatment of uncomplicated health problems, 39581
diagnosis of chronic health problems, ~~and~~ overall management of 39582
health care services for an individual or a family, and the 39583
services of a psychiatrist. "Primary care service" also includes 39584
providing the initial contact for health care services and making 39585

referrals for secondary and tertiary care and for continuity of health care services. 39586
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(C) "Primary care specialty" means general internal medicine, pediatrics, obstetrics and gynecology, psychiatry, or family practice. 39588
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Sec. 3702.74. (A) A primary care physician who has signed a letter of intent under section 3702.73 of the Revised Code, the director of health, and the Ohio board of regents may enter into a contract for the physician's participation in the physician loan repayment program. A lending institution may also be a party to the contract. 39591
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(B) The contract shall include all of the following obligations: 39597
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(1) The primary care physician agrees to provide primary care services in the health resource shortage area identified in the letter of intent for at least two years or one year per twenty thousand dollars of repayment agreed to under division (B)(3) of this section, whichever is greater; 39599
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(2) When providing primary care services in the health resource shortage area, the primary care physician agrees to do all of the following: 39604
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(a) Provide primary care services for a minimum of forty hours per week; 39607
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(b) Provide primary care services without regard to a patient's ability to pay; 39609
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(c) Meet the conditions prescribed by the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the department of job and family services for participation in the medical assistance program established under Chapter 5111. of the Revised Code and enter into a contract with the department to 39611
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provide primary care services to recipients of the medical 39616
assistance program+ 39617

~~(d) Meet the conditions established by the department of job 39618
and family services for participation in the disability medical 39619
assistance program established under Chapter 5115. of the Revised 39620
Code and enter into a contract with the department to provide 39621
primary care services to recipients of disability medical 39622
assistance. 39623~~

(3) The Ohio board of regents agrees, as provided in section 39624
3702.75 of the Revised Code, to repay, so long as the primary care 39625
physician performs the service obligation agreed to under division 39626
(B)(1) of this section, all or part of the principal and interest 39627
of a government or other educational loan taken by the primary 39628
care physician for expenses described in section 3702.75 of the 39629
Revised Code; 39630

(4) The primary care physician agrees to pay the board the 39631
following as damages if the physician fails to complete the 39632
service obligation agreed to under division (B)(1) of this 39633
section: 39634

(a) If the failure occurs during the first two years of the 39635
service obligation, three times the total amount the board has 39636
agreed to repay under division (B)(3) of this section; 39637

(b) If the failure occurs after the first two years of the 39638
service obligation, three times the amount the board is still 39639
obligated to repay under division (B)(3) of this section. 39640

(C) The contract may include any other terms agreed upon by 39641
the parties, including an assignment to the Ohio board of regents 39642
of the physician's duty to pay the principal and interest of a 39643
government or other educational loan taken by the physician for 39644
expenses described in section 3702.75 of the Revised Code. If the 39645
board assumes the physician's duty to pay a loan, the contract 39646

shall set forth the total amount of principal and interest to be 39647
paid, an amortization schedule, and the amount of each payment to 39648
be made under the schedule. 39649

Sec. 3702.83. The department of health shall administer a 39650
program, to be known as the J-1 visa waiver program, for 39651
recruiting physicians who received graduate medical education or 39652
training in the United States but are not citizens of the United 39653
States to serve in areas of the state designated by the United 39654
States secretary of health and human services as health 39655
professional shortage areas under the "Public Health Service Act," 39656
88 Stat. 682 (1944), 42 U.S.C. 254(e), as amended. Under the 39657
program, the department of health shall accept and review 39658
applications for placement of persons seeking to remain in the 39659
United States pursuant to the "Immigration and Nationality Act," 39660
66 Stat. 163 (1952), 8 U.S.C. 1182(J)(1) and 1184(l), as amended, 39661
by obtaining a waiver of the federal requirement that they return 39662
to their home countries for a minimum of two years after 39663
completing the graduate medical education or training for which 39664
they were admitted to the United States. The department shall 39665
administer the program in accordance with the "Immigration and 39666
Nationality Act" and the regulations adopted under it. 39667

For each application accepted for review under this section, 39668
the department shall charge a fee of three thousand five hundred 39669
seventy-one dollars. The fee is nonrefundable. All fees collected 39670
shall be deposited into the state treasury to the credit of 39671
general operations fund created in section 3701.83 of the Revised 39672
Code. 39673

Sec. 3703.01. (A) The division of industrial compliance in 39674
the department of commerce shall: 39675

(1) Inspect all nonresidential buildings within the meaning 39676

of section 3781.06 of the Revised Code; 39677

(2) Condemn all unsanitary or defective plumbing that is 39678
found in connection with those places; 39679

(3) Order changes in plumbing necessary to insure the safety 39680
of the public health. 39681

(B)(1) The division of industrial compliance and boards of 39682
health of city and general health districts shall not inspect 39683
plumbing or collect fees for inspecting plumbing in particular 39684
types of buildings in any municipal corporation that has been 39685
certified by the board of building standards under section 3781.10 39686
of the Revised Code to exercise enforcement authority for plumbing 39687
in such types of buildings. 39688

(2) The division shall not inspect plumbing or collect fees 39689
for inspecting plumbing in particular types of buildings in any 39690
health district that has employed one or more approved plumbing 39691
inspectors to enforce Chapters 3781. and 3791. of the Revised Code 39692
and the rules adopted pursuant to those chapters relating to 39693
plumbing in such types of buildings. 39694

(3) A municipal corporation does not have jurisdiction to 39695
inspect plumbing or collect fees for the inspection of plumbing in 39696
types of buildings for which it has not been certified by the 39697
board of building standards under section 3781.10 of the Revised 39698
Code to exercise enforcement authority. 39699

(4) A board of health of a health district does not have 39700
jurisdiction to inspect plumbing or collect fees for the 39701
inspection of plumbing in types of buildings for which it does not 39702
have an approved plumbing inspector. 39703

(C) The superintendent of industrial compliance shall adopt 39704
rules prescribing minimum qualifications based on education, 39705
training, experience, or demonstrated ability, which the ~~director~~ 39706
superintendent shall use in approving certifying or recertifying 39707

plumbing inspectors to do plumbing inspections for health 39708
districts and for continuing education of plumbing inspectors. 39709
Such minimum qualifications shall be related to the types of 39710
buildings for which a person seeks approval. 39711

(D) The superintendent may enter into reciprocal 39712
registration, licensure, or certification agreements with other 39713
states and other agencies of this state relative to plumbing 39714
inspectors if both of the following apply: 39715

(1) The requirements for registration, licensure, or 39716
certification of plumbing inspectors under the laws of the other 39717
state or laws administered by the other agency are substantially 39718
equal to the requirements the superintendent adopts under division 39719
(C) of this section for certifying plumbing inspectors. 39720

(2) The other state or agency extends similar reciprocity to 39721
persons certified under this chapter. 39722

(E) The superintendent may select and contract with one or 39723
more persons to do all of the following regarding examinations for 39724
certification of plumbing inspectors: 39725

(1) Prepare, administer, score, and maintain the 39726
confidentiality of the examination; 39727

(2) Maintain responsibility for all expenses required to 39728
comply with division (E)(1) of this section; 39729

(3) Charge each applicant a fee for administering the 39730
examination in an amount the superintendent authorizes; 39731

(4) Design the examination for certification of plumbing 39732
inspectors to determine an applicant's competence to inspect 39733
plumbing. 39734

(F) Standards and methods prescribed in local plumbing 39735
regulations shall not be less than those prescribed in Chapters 39736
3781. and 3791. of the Revised Code and the rules adopted pursuant 39737

to those chapters. 39738

~~(E)~~(G) Notwithstanding any other provision of this section, 39739
the division shall make a plumbing inspection of any building or 39740
other place that there is reason to believe is in a condition to 39741
be a menace to the public health. 39742

Sec. 3703.03. In the administration of sections 3703.01 to 39743
3703.09 of the Revised Code, the division of industrial compliance 39744
~~in the department of commerce~~ shall enforce rules governing 39745
plumbing adopted by the board of building standards under 39746
authority of sections 3781.10 and 3781.11 of the Revised Code, and 39747
register those persons engaged in or at the plumbing business. 39748

Plans and specifications for all plumbing to be installed in 39749
or for buildings coming within such sections shall be submitted to 39750
and approved by the division before the contract for plumbing is 39751
let. 39752

Sec. 3703.04. The ~~director~~ superintendent of ~~commerce~~ 39753
industrial compliance shall appoint such number of plumbing 39754
inspectors as is required. The inspectors shall be practical 39755
plumbers with at least seven years' experience, and skilled and 39756
well-trained in matters pertaining to sanitary regulations 39757
concerning plumbing work. 39758

~~No plumbing inspector employed by the department and assigned 39759
to the enforcement of this chapter shall be engaged or interested 39760
in the plumbing business or the sale of any plumbing supplies, nor 39761
shall the inspector act as agent, directly or indirectly, for any 39762
person so engaged.~~ 39763

Sec. 3703.05. Plumbing inspectors employed by the ~~department~~ 39764
division of commerce industrial compliance assigned to the 39765
enforcement of sections 3703.01 to 3703.09 of the Revised Code, 39766

may, between sunrise and sunset, enter any building where there is 39767
good and sufficient reason to believe that the sanitary condition 39768
of the premises endangers the public health, for the purpose of 39769
making an inspection to ascertain the condition of the premises. 39770

Sec. 3703.06. When any building is found to be in a sanitary 39771
condition or when changes which are ordered, under authority of 39772
this chapter, in the plumbing, drainage, or ventilation have been 39773
made, and after a thorough inspection and approval by the ~~division~~ 39774
superintendent of industrial compliance ~~in the department of~~ 39775
~~commerce~~, the ~~division~~ superintendent shall issue a certificate 39776
~~signed by the superintendent of the division of industrial~~ 39777
~~compliance~~, which ~~must~~ shall be posted in a conspicuous place for 39778
the benefit of the public at large. Upon notification by the 39779
superintendent, the certificate shall be revoked for any violation 39780
of those sections. 39781

Sec. 3703.07. No plumbing work shall be done in any building 39782
or place coming within the jurisdiction of the ~~department~~ division 39783
of ~~commerce~~ industrial compliance, except in cases of repairs or 39784
leaks in existing plumbing, until a permit has been issued by the 39785
~~department~~ division. 39786

Before granting such permit, an application shall be made by 39787
the owner of the property or by the person, firm, or corporation 39788
which is to do the work. The application shall be made on a form 39789
prepared by the ~~department~~ division for the purpose, and each 39790
application shall be accompanied by a fee of twenty-seven dollars, 39791
and an additional fee of seven dollars for each trap, vented 39792
fixture, appliance, or device. Each application also shall be 39793
accompanied by a plan approval fee of eighteen dollars for work 39794
containing one through twenty fixtures; thirty-six dollars for 39795
work containing twenty-one through forty fixtures; and fifty-four 39796
dollars for work containing forty-one or more fixtures. 39797

Whenever a reinspection is made necessary by the failure of 39798
the applicant or plumbing contractor to have the work ready for 39799
inspection when so reported, or by reason of faulty or improper 39800
installation, the person shall pay a fee of forty-five dollars for 39801
each reinspection. 39802

All fees collected pursuant to this section shall be paid 39803
into the state treasury to the credit of the industrial compliance 39804
operating fund created in section 121.084 of the Revised Code. 39805

The ~~director~~ superintendent of ~~commerce~~ industrial 39806
compliance, by rule adopted in accordance with Chapter 119. of the 39807
Revised Code, may increase the fees required by this section and 39808
may establish fees to pay the costs of the division to fulfill its 39809
duties established by this chapter, including, but not limited to, 39810
fees for administering a program for continuing education for, and 39811
certifying and recertifying plumbing inspectors. The fees shall 39812
bear some reasonable relationship to the cost of administering and 39813
enforcing the provisions of this chapter. 39814

Sec. 3703.08. Any owner, agent, or manager, of a building in 39815
which an inspection is made by the ~~department~~ division of ~~commerce~~ 39816
industrial compliance, a board of health of a health district, or 39817
a certified department of building inspection of a municipal 39818
corporation, shall have the entire system of drainage and 39819
ventilation repaired, as the ~~department of commerce~~ division, 39820
board of health, or department of building inspection directs by 39821
its order. After due notice to repair such work is given, the 39822
owner, agent, or manager shall notify the public authority that 39823
issued the order when the work is ready for its inspection. No 39824
person shall fail to have the work ready for inspection at the 39825
time specified in the notice. 39826

Sec. 3703.10. All prosecutions and proceedings by the 39827

~~department~~ division of ~~commerce~~ industrial compliance for the 39828
violation of sections 3703.01 to 3703.09 of the Revised Code, or 39829
for the violation of any of the orders or rules of the ~~department~~ 39830
division under those sections, shall be instituted by the ~~director~~ 39831
superintendent of ~~commerce~~ industrial compliance. All fines or 39832
judgments collected by the ~~department~~ division shall be paid into 39833
the state treasury to the credit of the industrial compliance 39834
operating fund created by section 121.084 of the Revised Code. 39835

The ~~director~~ superintendent, the board of health of a general 39836
or city health district, or any person charged with enforcing the 39837
rules of the ~~department~~ division adopted under sections 3703.01 to 39838
3703.09 of the Revised Code may petition the court of common pleas 39839
for injunctive or other appropriate relief requiring any person 39840
violating a rule adopted or order issued by the ~~director~~ 39841
superintendent under those sections to comply with the rule or 39842
order. The court of common pleas of the county in which the 39843
offense is alleged to be occurring may grant injunctive or other 39844
appropriate relief. 39845

The superintendent may do all of the following: 39846

(A) Deny an applicant certification as a plumbing inspector; 39847

(B) Suspend or revoke the certification of a plumbing 39848
inspector; 39849

(C) Examine any certified plumbing inspector under oath; 39850

(D) Examine the records and books of any certified plumbing 39851
inspector if the superintendent finds the material to be examined 39852
relevant to a determination described in division (A), (B), or (C) 39853
of this section. 39854

Sec. 3703.99. Whoever violates sections 3703.01 to 3703.09 of 39855
the Revised Code, or any rule the ~~department~~ division of ~~commerce~~ 39856
industrial compliance is required to enforce under such sections, 39857

shall be fined not less than ten nor more than one hundred dollars 39858
or imprisoned for not less than ten nor more than ninety days, or 39859
both. No person shall be imprisoned under this section for the 39860
first offense, and the prosecution always shall be as for a first 39861
offense unless the affidavit upon which the prosecution is 39862
instituted contains the allegation that the offense is a second or 39863
repeated offense. 39864

Sec. 3704.035. There is hereby created in the state treasury 39865
the clean air fund. Except as otherwise provided in division (K) 39866
of section 3745.11 of the Revised Code, all moneys collected under 39867
divisions (C), (D), (F), (G), (H), (I), and (J) of that section 39868
and under section 3745.111 of the Revised Code, and any gifts, 39869
grants, or contributions received by the director of environmental 39870
protection for the purposes of the fund, shall be credited to the 39871
fund. The director shall expend moneys from the fund exclusively 39872
to pay the cost of administering and enforcing the laws of this 39873
state pertaining to the prevention, control, and abatement of air 39874
pollution and rules adopted and terms and conditions of permits, 39875
variances, and orders issued under those laws, except that the 39876
director shall not expend moneys credited to the fund for the 39877
administration and enforcement of motor vehicle inspection and 39878
maintenance programs and requirements under sections 3704.14, 39879
3704.141, 3704.16, 3704.161, and 3704.162, ~~and 3704.17~~ of the 39880
Revised Code. 39881

Specifically, the director shall expend all moneys credited 39882
to the fund from fees assessed under section 3745.11 of the 39883
Revised Code pursuant to the Title V permit program established 39884
under section 3704.036 of the Revised Code, and from any gifts, 39885
grants, or contributions received for the purposes of that 39886
program, solely to administer and enforce that program pursuant to 39887
the federal Clean Air Act, this chapter, and rules adopted under 39888
it, except as costs relating to enforcement are limited by the 39889

federal Clean Air Act. The director shall establish separate and 39890
distinct accounting for all such moneys. 39891

The director shall report biennially to the general assembly 39892
the amounts of fees and other moneys credited to the fund under 39893
this section and the amounts expended from it for each of the 39894
various air pollution control programs. 39895

Sec. 3704.14. (A) The director of environmental protection 39896
shall continue to implement an enhanced motor vehicle inspection 39897
and maintenance program for a period of two years beginning on 39898
January 1, 2006, and ending on December 31, 2007, in counties in 39899
which a motor vehicle inspection and maintenance program is 39900
federally mandated. The program shall be substantially similar to 39901
the enhanced program implemented in those counties under a 39902
contract that is scheduled to expire on December 31, 2005. The 39903
program, at a minimum, shall do all of the following: 39904

(1) Comply with the federal Clean Air Act; 39905

(2) Provide for the extension of a contract for a period of 39906
two years, beginning on January 1, 2006, and ending on December 39907
31, 2007, with the contractor who conducted the enhanced motor 39908
vehicle inspection and maintenance program in those federally 39909
mandated counties pursuant to a contract entered into under former 39910
section 3704.14 of the Revised Code as that section existed prior 39911
to its repeal and reenactment by Am. Sub. H.B. 66 of the 126th 39912
General Assembly; 39913

(3) Provide for the issuance of inspection certificates; 39914

(4) Provide for a new car exemption for motor vehicles four 39915
years old or newer and provide that a new motor vehicle is exempt 39916
for four years regardless of whether legal title to the motor 39917
vehicle is transferred during that period. 39918

(B) The director shall not implement a motor vehicle 39919

inspection and maintenance program in any county other than a 39920
county in which a motor vehicle inspection and maintenance program 39921
is federally mandated. 39922

(C) The director shall adopt rules in accordance with Chapter 39923
119. of the Revised Code that the director determines are 39924
necessary to implement this section. The director may continue to 39925
implement and enforce rules pertaining to the enhanced motor 39926
vehicle inspection and maintenance program previously implemented 39927
under former section 3704.14 of the Revised Code as that section 39928
existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of 39929
the 126th general assembly, provided that the rules do not 39930
conflict with this section. 39931

(D) There is hereby created in the state treasury the motor 39932
vehicle inspection and maintenance fund, which shall consist of 39933
money received by the director from any fees for inspections that 39934
are established in rules adopted under this section. The director 39935
shall use money in the fund solely for the implementation, 39936
supervision, administration, operation, and enforcement of the 39937
enhanced motor vehicle inspection and maintenance program 39938
established under this section. 39939

(E) The enhanced motor vehicle inspection and maintenance 39940
program established under this section expires on December 31, 39941
2007, and shall not be continued beyond that date unless otherwise 39942
federally mandated. 39943

Sec. 3704.143. (A) As used in this section, "contract" means 39944
a contract entered into by the state under former section 3704.14 39945
of the Revised Code, as that section existed prior to its repeal 39946
and reenactment by Am. Sub. H.B. 66 of the 126th General Assembly, 39947
with a private contractor for the purpose of conducting emissions 39948
inspections under a motor vehicle inspection and maintenance 39949
program. 39950

(B) ~~Notwithstanding division (D)(5) of~~ Except as authorized 39951
in section 3704.14 of the Revised Code, the director of 39952
~~administrative services or as that section was reenacted by Am.~~ 39953
Sub. H.B. 66 of the 126th General Assembly, the director of 39954
environmental protection, ~~as applicable,~~ shall not renew any 39955
contract that is in existence on September 5, 2001. Further, 39956
except as authorized in that section, the director ~~of~~ 39957
~~administrative services or the director of environmental~~ 39958
~~protection, as applicable,~~ shall not enter into a new contract 39959
upon the expiration or termination of any contract that is in 39960
existence on September 5, 2001, or enter into any new contract for 39961
the implementation of a motor vehicle inspection and maintenance 39962
program in a county in which such a program is not operating on 39963
that date. 39964

(C) ~~Notwithstanding~~ Except as authorized in section 3704.14 39965
of the Revised Code ~~or any other section of the Revised Code that~~ 39966
~~requires emissions inspections to be conducted or proof of such~~ 39967
~~inspections to be provided,~~ as that section was reenacted by Am. 39968
Sub. H.B. 66 of the 126th General Assembly, upon the expiration or 39969
termination of all contracts that are in existence on September 5, 39970
2001, the director of environmental protection shall terminate all 39971
motor vehicle inspection and maintenance programs in this state 39972
and shall not implement a new motor vehicle inspection and 39973
maintenance program unless ~~this section is repealed and~~ such a 39974
program is authorized by the general assembly. 39975

(D) ~~Notwithstanding section 3704.14 of the Revised Code or~~ 39976
~~any other section of the Revised Code that requires emissions~~ 39977
~~inspections to be conducted or proof of such inspections to be~~ 39978
~~provided, if~~ If the general assembly authorizes any program for 39979
the inspection of motor vehicle emissions under division (C) of 39980
this section after all contracts for a motor vehicle inspection 39981
and maintenance program that are in existence on September 5, 39982

2001, terminate or expire, a motor vehicle, the legal title to 39983
which has never been transferred by a manufacturer, distributor, 39984
or dealer to an ultimate purchaser as defined in section 4517.01 39985
of the Revised Code, shall be exempt from any emissions 39986
inspections that are required under such a program for a period of 39987
~~five~~ not less than four years commencing on the date when the 39988
first certificate of title to the vehicle was issued on behalf of 39989
the ultimate purchaser under Chapter 4503. of the Revised Code. A 39990
motor vehicle that is exempt from any emissions inspections ~~for a~~ 39991
~~period of five years~~ under this division shall remain exempt 39992
during that ~~five-year~~ period regardless of whether legal title to 39993
the motor vehicle is transferred during that period. 39994

Sec. 3704.144. Gifts, grants, and contributions for the 39995
purpose of adding pollution control equipment to diesel-powered 39996
school buses, including contributions that are made pursuant to 39997
the settlement of an administrative action or civil action that is 39998
brought at the request of the director of environmental protection 39999
pursuant to Chapter 3704., 3714., 3734., 6109., or 6111. of the 40000
Revised Code, shall be credited to the clean diesel school bus 40001
fund, which is hereby created in the state treasury. The director 40002
shall use money credited to the fund to make grants to school 40003
districts in the state for the purpose of adding pollution control 40004
equipment to diesel-powered school buses and to pay the 40005
environmental protection agency's costs incurred in administering 40006
this section. In addition, the director may use money credited to 40007
the fund to make grants to school districts for the purpose of 40008
maintaining pollution control equipment that is installed on 40009
diesel-powered school buses and to pay the additional cost 40010
incurred by a school district for using ultra-low sulfur diesel 40011
fuel instead of diesel fuel for the operation of diesel-powered 40012
school buses. 40013

In making grants under this section, the director shall give 40014

priority to school districts that are located in a county that is 40015
designated as nonattainment by the United States environmental 40016
protection agency for the fine particulate national ambient air 40017
quality standard under the federal Clean Air Act. In addition, the 40018
director may give a higher priority to a school district that 40019
employs additional measures that reduce air pollution from the 40020
district's school bus fleet. 40021

The director shall adopt rules establishing procedures and 40022
requirements that are necessary to implement this section, 40023
including procedures and requirements governing applications for 40024
grants. 40025

Sec. 3704.99. (A) Whoever recklessly violates division (A), 40026
(B), (C), (D), (E), (F), (G), or (I) of section 3704.05 or 40027
division (B)(5) of section 3704.16 of the Revised Code shall be 40028
fined not more than twenty-five thousand dollars or imprisoned not 40029
more than one year, or both, for each violation. Each day the 40030
violation continues after a conviction for a violation is a 40031
separate offense. 40032

(B) Whoever knowingly violates division (H), (J), or (K) of 40033
section 3704.05 of the Revised Code shall be fined not more than 40034
ten thousand dollars for each day of each such violation. 40035

(C) Whoever violates section 3704.15 ~~or division (B)(1) or~~ 40036
~~(2) or (C)(1) or (2) of section 3704.17~~ of the Revised Code is 40037
guilty of a misdemeanor of the first degree. 40038

(D) Whoever violates division (B)(2) or knowingly violates 40039
division (C)(1) of section 3704.16 of the Revised Code is guilty 40040
of a minor misdemeanor. 40041

(E) Whoever violates division (B)(1) or (3) or knowingly 40042
violates division (C)(2) or (3) of section 3704.16 of the Revised 40043
Code shall be fined not less than five hundred nor more than 40044

twenty-five hundred dollars for each day of each violation. 40045

(F) Whoever recklessly violates division (B)(4) of section 40046
3704.16 of the Revised Code shall be fined not more than 40047
twenty-five thousand dollars or imprisoned not more than one year, 40048
or both, for each violation. Each day the violation continues 40049
after a conviction for a violation is a separate offense. 40050

(G) The sentencing court, in addition to the penalty provided 40051
in divisions (D), (E), and (F) of this section, shall order the 40052
offender to restore within thirty days any emission control system 40053
that was tampered with in connection with the violation or to 40054
provide proof that the motor vehicle whose emission control system 40055
was tampered with has been dismantled or destroyed. The court may 40056
extend that deadline for good cause shown. If the offender does 40057
not take the corrective action ordered under this division, each 40058
day that the violation continues is a separate offense. Violation 40059
of a court order entered under this division is punishable as 40060
contempt under Chapter 2705. of the Revised Code. 40061

Sec. 3705.24. (A)(1) The public health council shall, in 40062
accordance with section 111.15 of the Revised Code, adopt rules 40063
prescribing fees for the following services provided by the state 40064
office of vital statistics: 40065

(a) Except as provided in division (A)(4) of this section: 40066

(i) A certified copy of a vital record or a certification of 40067
birth; 40068

(ii) A search by the office of vital statistics of its files 40069
and records pursuant to a request for information, regardless of 40070
whether a copy of a record is provided; 40071

(iii) A copy of a record provided pursuant to a request; 40072

(b) Replacement of a birth certificate following an adoption, 40073
legitimation, paternity determination or acknowledgement, or court 40074

| | |
|--|---|
| order; | 40075 |
| (c) Filing of a delayed registration of a vital record; | 40076 |
| (d) Amendment of a vital record that is requested later than one year after the filing date of the vital record; | 40077 40078 |
| (e) Any other documents or services for which the public health council considers the charging of a fee appropriate. | 40079 40080 |
| (2) Fees prescribed under division (A)(1)(a) of this section shall not be less than seven dollars. | 40081 40082 |
| (3) Fees prescribed under division (A)(1) of this section shall be collected in addition to any fee <u>fees</u> required by section <u>sections</u> 3109.14 and 3705.242 of the Revised Code. | 40083 40084 40085 |
| (4) Fees prescribed under division (A) of this section shall not apply to certifications issued under division (H) of this section or copies provided under section 3705.241 of the Revised Code. | 40086 40087 40088 40089 |
| (B) In addition to the fees prescribed under division (A) of this section or section 3709.09 of the Revised Code, the office of vital statistics or the board of health of a city or general health district shall charge a five-dollar fee for each certified copy of a vital record and each certification of birth. This fee shall be deposited in the general operations fund created under section 3701.83 of the Revised Code and be used solely toward the modernization and automation of the system of vital records in this state. A board of health shall forward all fees collected under this division to the department of health not later than thirty days after the end of each calendar quarter. | 40090 40091 40092 40093 40094 40095 40096 40097 40098 40099 40100 |
| (C) Except as otherwise provided in division (H) of this section, and except as provided in section 3705.241 of the Revised Code, fees collected by the director of health under sections 3705.01 to 3705.29 of the Revised Code shall be paid into the | 40101 40102 40103 40104 |

state treasury to the credit of the general operations fund 40105
created by section 3701.83 of the Revised Code. Except as provided 40106
in division (B) of this section, money generated by the fees shall 40107
be used only for administration and enforcement of this chapter 40108
and the rules adopted under it. Amounts submitted to the 40109
department of health for copies of vital records or services in 40110
excess of the fees imposed by this section shall be dealt with as 40111
follows: 40112

(1) An overpayment of two dollars or less shall be retained 40113
by the department and deposited in the state treasury to the 40114
credit of the general operations fund created by section 3701.83 40115
of the Revised Code. 40116

(2) An overpayment in excess of two dollars shall be returned 40117
to the person who made the overpayment. 40118

(D) If a local registrar is a salaried employee of a city or 40119
a general health district, any fees the local registrar receives 40120
pursuant to section 3705.23 of the Revised Code shall be paid into 40121
the general fund of the city or the health fund of the general 40122
health district. 40123

Each local registrar of vital statistics, or each health 40124
district where the local registrar is a salaried employee of the 40125
district, shall be entitled to a fee for each birth, fetal death, 40126
death, or military service certificate properly and completely 40127
made out and registered with the local registrar or district and 40128
correctly copied and forwarded to the office of vital statistics 40129
in accordance with the population of the primary registration 40130
district at the last federal census. The fee for each birth, fetal 40131
death, death, or military service certificate shall be: 40132

(1) In primary registration districts of over two hundred 40133
fifty thousand, twenty cents; 40134

(2) In primary registration districts of over one hundred 40135

twenty-five thousand and less than two hundred fifty thousand, 40136
sixty cents; 40137

(3) In primary registration districts of over fifty thousand 40138
and less than one hundred twenty-five thousand, eighty cents; 40139

(4) In primary registration districts of less than fifty 40140
thousand, one dollar. 40141

(E) The director of health shall annually certify to the 40142
county treasurers of the several counties the number of birth, 40143
fetal death, death, and military service certificates registered 40144
from their respective counties with the names of the local 40145
registrars and the amounts due each registrar and health district 40146
at the rates fixed in this section. Such amounts shall be paid by 40147
the treasurer of the county in which the registration districts 40148
are located. No fees shall be charged or collected by registrars 40149
except as provided by this chapter and section 3109.14 of the 40150
Revised Code. 40151

(F) A probate judge shall be paid a fee of fifteen cents for 40152
each certified abstract of marriage prepared and forwarded by the 40153
probate judge to the department of health pursuant to section 40154
3705.21 of the Revised Code. The fee shall be in addition to the 40155
fee paid for a marriage license and shall be paid by the 40156
applicants for the license. 40157

(G) The clerk of a court of common pleas shall be paid a fee 40158
of one dollar for each certificate of divorce, dissolution, and 40159
annulment of marriage prepared and forwarded by the clerk to the 40160
department pursuant to section 3705.21 of the Revised Code. The 40161
fee for the certified abstract of divorce, dissolution, or 40162
annulment of marriage shall be added to the court costs allowed in 40163
these cases. 40164

(H) The fee for an heirloom certification of birth issued 40165
pursuant to division (B)(2) of section 3705.23 of the Revised Code 40166

shall be an amount prescribed by rule by the director of health 40167
plus any fee required by section 3109.14 of the Revised Code. In 40168
setting the amount of the fee, the director shall establish a 40169
surcharge in addition to an amount necessary to offset the expense 40170
of processing heirloom certifications of birth. The fee prescribed 40171
by the director of health pursuant to this division shall be 40172
deposited into the state treasury to the credit of the heirloom 40173
certification of birth fund which is hereby created. Money 40174
credited to the fund shall be used by the office of vital 40175
statistics to offset the expense of processing heirloom 40176
certifications of birth. However, the money collected for the 40177
surcharge, subject to the approval of the controlling board, shall 40178
be used for the purposes specified by the family and children 40179
first council pursuant to section 121.37 of the Revised Code. 40180

Sec. 3705.242. (A)(1) The director of health, a person 40181
authorized by the director, a local commissioner of health, or a 40182
local registrar of vital statistics shall charge and collect a fee 40183
of one dollar and fifty cents for each certified copy of a birth 40184
record, each certification of birth, and each copy of a death 40185
record. The fee is in addition to the fee imposed by section 40186
3705.24 or any other section of the Revised Code. A local 40187
commissioner of health or local registrar of vital statistics may 40188
retain an amount of each additional fee collected, not to exceed 40189
three per cent of the amount of the additional fee, to be used for 40190
costs directly related to the collection of the fee and the 40191
forwarding of the fee to the treasurer of state. 40192

(2) On the filing of a divorce decree under section 3105.10 40193
or a decree of dissolution under section 3105.65 of the Revised 40194
Code, a court of common pleas shall charge and collect a fee of 40195
five dollars and fifty cents. The fee is in addition to any other 40196
court costs or fees. The county clerk of courts may retain an 40197
amount of each additional fee collected, not to exceed three per 40198

cent of the amount of the additional fee, to be used for costs 40199
directly related to the collection of the fee and the forwarding 40200
of the fee to the treasurer of state. 40201

(B) The additional fees collected, but not retained, under 40202
this section during each month shall be forwarded not later than 40203
the tenth day of the immediately following month to the treasurer 40204
of state, who shall deposit the fees in the state treasury to the 40205
credit of the family violence prevention fund, which is hereby 40206
created. A person or government entity that fails to forward the 40207
fees in a timely manner, as determined by the treasurer of state, 40208
shall forward to the treasurer of state, in addition to the fees, 40209
a penalty equal to ten per cent of the fees. 40210

The treasurer of state shall invest the moneys in the fund. 40211
All earnings resulting from investment of the fund shall be 40212
credited to the fund, except that actual administration costs 40213
incurred by the treasurer of state in administering the fund may 40214
be deducted from the earnings resulting from investments. The 40215
amount that may be deducted shall not exceed three per cent of the 40216
total amount of fees credited to the fund in each fiscal year. The 40217
balance of the investment earnings shall be credited to the fund. 40218

(C) The director of public safety shall use money credited to 40219
the fund to provide grants to family violence shelters in Ohio. 40220

Sec. 3712.03. (A) In accordance with Chapter 119. of the 40221
Revised Code, the public health council shall adopt, and may amend 40222
and rescind, rules: 40223

(1) Providing for the licensing of persons or public agencies 40224
providing hospice care programs within this state by the 40225
department of health and for the suspension and revocation of 40226
licenses; 40227

(2) Establishing a license fee and license renewal fee not to 40228

exceed three hundred dollars. The fees shall cover the three-year 40229
period during which an existing license is valid as provided in 40230
division (B) of section 3712.04 of the Revised Code. 40231

(3) Establishing an inspection fee not to exceed one thousand 40232
seven hundred fifty dollars; 40233

(4) Establishing requirements for hospice care program 40234
facilities and services; 40235

~~(4)~~(5) Providing for a waiver of the requirement for the 40236
provision of physical, occupational, or speech or language therapy 40237
contained in division (A)(2) of section 3712.01 of the Revised 40238
Code when the requirement would create a hardship because such 40239
therapy is not readily available in the geographic area served by 40240
the provider of a hospice care program; 40241

~~(5)~~(6) Providing for the granting of licenses to provide 40242
hospice care programs to persons and public agencies that are 40243
accredited or certified to provide such programs by an entity 40244
whose standards for accreditation or certification equal or exceed 40245
those provided for licensure under this chapter and rules adopted 40246
under it; and 40247

~~(6)~~(7) Establishing interpretive guidelines for each rule. 40248

(B) Subject to the approval of the controlling board, the 40249
public health council may establish fees in excess of the amounts 40250
provided by sections 3712.01 and 3712.03 to 3712.06 of the Revised 40251
Code, provided that the fees do not exceed those amounts by 40252
greater than fifty per cent. 40253

(C) The department of health shall: 40254

(1) Grant, suspend, and revoke licenses for hospice care 40255
programs in accordance with this chapter and rules adopted under 40256
it; 40257

(2) Make such inspections as are necessary to determine 40258

whether hospice care program facilities and services meet the 40259
requirements of this chapter and rules adopted under it; and 40260

(3) Implement and enforce this chapter and rules adopted 40261
under it. 40262

Sec. 3714.07. (A)(1) For the purpose of assisting boards of 40263
health and the environmental protection agency in administering 40264
and enforcing this chapter and rules adopted under it, there is 40265
hereby levied on the disposal of construction and demolition 40266
debris at a construction and demolition debris facility that is 40267
licensed under this chapter or at a solid waste facility that is 40268
licensed under Chapter 3734. of the Revised Code a fee of thirty 40269
cents per cubic yard or sixty cents per ton, as applicable. 40270

(2) The owner or operator of a construction and demolition 40271
debris facility or a solid waste facility shall determine if cubic 40272
yards or tons will be used as the unit of measurement. In 40273
estimating the fee based on cubic yards, the owner or operator 40274
shall utilize either the maximum cubic yard capacity of the 40275
container, or the hauling volume of the vehicle, that transports 40276
the construction and demolition debris to the facility or the 40277
cubic yards actually logged for disposal by the owner or operator 40278
in accordance with rules adopted under section 3714.02 of the 40279
Revised Code. If basing the fee on tonnage, the owner or operator 40280
shall use certified scales to determine the tonnage of 40281
construction and demolition debris that is transported to the 40282
facility for disposal. 40283

(3) The owner or operator of a construction and demolition 40284
debris facility or a solid waste facility shall collect the fee 40285
levied under division (A) of this section as a trustee for the 40286
health district having jurisdiction over the facility, if that 40287
district is on the approved list under section 3714.09 of the 40288
Revised Code, or for the state. The owner or operator shall 40289

prepare and file with the appropriate board of health or the 40290
director of environmental protection monthly returns indicating 40291
the total volume or weight, as applicable, of construction and 40292
demolition debris received for disposal at the facility and the 40293
total amount of money required to be collected on the construction 40294
and demolition debris disposed of during that month. Not later 40295
than thirty days after the last day of the month to which the 40296
return applies, the owner or operator shall mail to the board of 40297
health or the director the return for that month together with the 40298
money required to be collected on the construction and demolition 40299
debris disposed of during that month. The owner or operator may 40300
request, in writing, an extension of not more than thirty days 40301
after the last day of the month to which the return applies. A 40302
request for extension may be denied. If the owner or operator 40303
submits the money late, the owner or operator shall pay a penalty 40304
of ten per cent of the amount of the money due for each month that 40305
it is late. 40306

(4) Of the money that is collected from a construction and 40307
demolition debris facility or a solid waste facility on a per 40308
cubic yard or per ton basis under this section, a board of health 40309
shall transmit three cents per cubic yard or six cents per ton, as 40310
applicable, to the director not later than forty-five days after 40311
the receipt of the money. The money retained by a board of health 40312
under this section shall be paid into a special fund, which is 40313
hereby created in each health district, and used solely to 40314
administer and enforce this chapter and rules adopted under it. 40315

The director shall transmit all money received from the 40316
boards of health of health districts under this section and all 40317
money from the disposal fee collected by the director under this 40318
section to the treasurer of state to be credited to the 40319
construction and demolition debris facility oversight fund, which 40320
is hereby created in the state treasury. The fund shall be 40321

administered by the director, and money credited to the fund shall 40322
be used exclusively for the administration and enforcement of this 40323
chapter and rules adopted under it. 40324

(B) The board of health of a health district or the director 40325
may enter into an agreement with the owner or operator of a 40326
construction and demolition debris facility or a solid waste 40327
facility for the quarterly payment of the money collected from the 40328
disposal fee. The board of health shall notify the director of any 40329
such agreement. Not later than forty-five days after receipt of 40330
the quarterly payment, the board of health shall transmit the 40331
amount established in division (A)~~(5)~~(4) of this section to the 40332
director. The money retained by the board of health shall be 40333
deposited in the special fund of the district as required under 40334
that division. Upon receipt of the money from a board of health, 40335
the director shall transmit the money to the treasurer of state to 40336
be credited to the construction and demolition debris facility 40337
oversight fund. 40338

(C) If a construction and demolition debris facility or a 40339
solid waste facility is located within the territorial boundaries 40340
of a municipal corporation or the unincorporated area of a 40341
township, the municipal corporation or township may appropriate up 40342
to four cents per cubic yard or up to eight cents per ton of the 40343
disposal fee required to be paid by the facility under division 40344
(A) of this section for the same purposes that a municipal 40345
corporation or township may levy a fee under division (C) of 40346
section 3734.57 of the Revised Code. 40347

The legislative authority of the municipal corporation or 40348
township may appropriate the money from the fee by enacting an 40349
ordinance or adopting a resolution establishing the amount of the 40350
fee to be appropriated. Upon doing so, the legislative authority 40351
shall mail a certified copy of the ordinance or resolution to the 40352
board of health of the health district in which the construction 40353

and demolition debris facility or the solid waste facility is 40354
located or, if the facility is located in a health district that 40355
is not on the approved list under section 3714.09 of the Revised 40356
Code, to the director. Upon receipt of the copy of the ordinance 40357
or resolution and not later than forty-five days after receipt of 40358
money collected from the fee, the board or the director, as 40359
applicable, shall transmit to the treasurer or other appropriate 40360
officer of the municipal corporation or clerk of the township that 40361
portion of the money collected from the disposal fee by the owner 40362
or operator of the facility that is required by the ordinance or 40363
resolution to be paid to that municipal corporation or township. 40364

Money received by the treasurer or other appropriate officer 40365
of a municipal corporation under this division shall be paid into 40366
the general fund of the municipal corporation. Money received by 40367
the clerk of a township under this division shall be paid into the 40368
general fund of the township. The treasurer or other officer of 40369
the municipal corporation or the clerk of the township, as 40370
appropriate, shall maintain separate records of the money received 40371
under this division. 40372

The legislative authority of a municipal corporation or 40373
township may cease collecting money under this division by 40374
repealing the ordinance or resolution that was enacted or adopted 40375
under this division. 40376

(D) The board of county commissioners of a county in which a 40377
construction and demolition debris facility or a solid waste 40378
facility is located may appropriate up to three cents per cubic 40379
yard or up to six cents per ton of the disposal fee required to be 40380
paid by the facility under division (A) of this section for the 40381
same purposes that a solid waste management district may levy a 40382
fee under division (B) of section 3734.57 of the Revised Code. 40383

The board of county commissioners may appropriate the money 40384
from the fee by adopting a resolution establishing the amount of 40385

the fee to be appropriated. Upon doing so, the board of county
commissioners shall mail a certified copy of the resolution to the
board of health of the health district in which the construction
and demolition debris facility or the solid waste facility is
located or, if the facility is located in a health district that
is not on the approved list under section 3714.09 of the Revised
Code, to the director. Upon receipt of the copy of the resolution
and not later than forty-five days after receipt of money
collected from the fee, the board of health or the director, as
applicable, shall transmit to the treasurer of the county that
portion of the money collected from the disposal fee by the owner
or operator of the facility that is required by the resolution to
be paid to that county.

Money received by a county treasurer under this division
shall be paid into the general fund of the county. The county
treasurer shall maintain separate records of the money received
under this division.

A board of county commissioners may cease collecting money
under this division by repealing the resolution that was adopted
under this division.

(E)(1) This section does not apply to the disposal of
construction and demolition debris at a solid waste facility that
is licensed under Chapter 3734. of the Revised Code if there is no
construction and demolition debris facility licensed under this
chapter within ~~forty~~ thirty-five miles of the solid waste facility
as determined by a facility's property boundaries.

(2) This section does not apply to the disposal of
construction and demolition debris at a solid waste facility that
is licensed under Chapter 3734. of the Revised Code if the owner
or operator of the facility chooses to collect fees on the
disposal of the construction and demolition debris that are
identical to the fees that are collected under Chapters 343. and

3734. of the Revised Code on the disposal of solid wastes at that facility. 40418
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(3) This section does not apply to the disposal of source separated materials that are exclusively composed of reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone at a construction and demolition debris facility that is licensed under this chapter when either of the following applies: 40420
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(a) The materials are placed within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, are not placed within the unloading zone of the facility, and are used as a fire prevention measure in accordance with rules adopted by the director under section 3714.02 of the Revised Code. 40426
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(b) The materials are not placed within the unloading zone of the facility or within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, but are used as fill material, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in legitimate fill operations for construction purposes at the facility or to bring the facility up to a consistent grade. 40433
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Sec. 3714.073. (A) In addition to the fee levied under division (A)(1) of section 3714.07 of the Revised Code, beginning July 1, 2005, there is hereby levied on the disposal of construction and demolition debris at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code the following fees: 40441
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(1) A fee of twelve and one-half cents per cubic yard or 40448

twenty-five cents per ton, as applicable, the proceeds of which 40449
shall be deposited in the state treasury to the credit of the soil 40450
and water conservation district assistance fund created in section 40451
1515.14 of the Revised Code; 40452

(2) A fee of thirty seven and one-half cents per cubic yard 40453
or seventy-five cents per ton, as applicable, the proceeds of 40454
which shall be deposited in the state treasury to the credit of 40455
the recycling and litter prevention fund created in section 40456
1502.02 of the Revised Code. 40457

(B) The owner or operator of a construction and demolition 40458
debris facility or a solid waste facility, as a trustee of the 40459
state, shall collect the fees levied under this section and remit 40460
the money from the fees in the manner that is established in 40461
divisions (A)(2) and (3) of section 3714.07 of the Revised Code 40462
for the fee that is levied under division (A)(1) of that section. 40463

(C) The money that is collected from a construction and 40464
demolition debris facility or a solid waste facility and remitted 40465
to a board of health or the director of environmental protection, 40466
as applicable, pursuant to this section shall be transmitted by 40467
the board or director to the treasurer of state to be credited to 40468
the soil and water conservation district assistance fund or the 40469
recycling and litter prevention fund, as applicable. 40470

(D) This section does not apply to the disposal of 40471
construction and demolition debris at a solid waste facility that 40472
is licensed under Chapter 3734. of the Revised Code if the owner 40473
or operator of the facility chooses to collect fees on the 40474
disposal of the construction and demolition debris that are 40475
identical to the fees that are collected under Chapters 343. and 40476
3734. of the Revised Code on the disposal of solid wastes at that 40477
facility. 40478

(E) This section does not apply to the disposal of source 40479

separated materials that are exclusively composed of reinforced or 40480
nonreinforced concrete, asphalt, clay tile, building or paving 40481
brick, or building or paving stone at a construction and 40482
demolition debris facility that is licensed under this chapter 40483
when either of the following applies: 40484

(1) The materials are placed within the limits of 40485
construction and demolition debris placement at the facility as 40486
specified in the license issued to the facility under section 40487
3714.06 of the Revised Code, are not placed within the unloading 40488
zone of the facility, and are used as a fire prevention measure in 40489
accordance with rules adopted by the director under section 40490
3714.02 of the Revised Code. 40491

(2) The materials are not placed within the unloading zone of 40492
the facility or within the limits of construction and demolition 40493
debris placement at the facility as specified in the license 40494
issued to the facility under section 3714.06 of the Revised Code, 40495
but are used as fill material, either alone or in conjunction with 40496
clean soil, sand, gravel, or other clean aggregates, in legitimate 40497
fill operations for construction purposes at the facility or to 40498
bring the facility up to a consistent grade. 40499

Sec. 3715.04. (A) As used in this section: 40500

(1) "Certificate of health and freesale" means a document 40501
issued by the director of agriculture that certifies to states and 40502
countries receiving products that the products have been produced 40503
and warehoused in this state under sanitary conditions at a food 40504
processing establishment or at a place of business of a 40505
manufacturer of over-the-counter drugs or cosmetics, as 40506
applicable, that has been inspected by the department of 40507
agriculture. Other names of documents that are synonymous with 40508
"certificate of health and freesale" include, but are not limited 40509
to, "sanitary certificate of health and freesale"; "certificate of 40510

origin"; "certificate of freesale"; "certificate of health and 40511
origin"; "certificate of freesale, sanitary and purity"; and 40512
"certificate of freesale, health and origin." 40513

(2) "Food processing establishment" has the same meaning as 40514
in section 3715.021 of the Revised Code. 40515

(B) Upon the request of a food processing establishment, 40516
manufacturer of over-the-counter drugs, or manufacturer of 40517
cosmetics, the director may issue a certificate of health and 40518
freesale after determining that conditions at the establishment or 40519
place of business of the manufacturer, as applicable, have been 40520
found to be sanitary through an inspection conducted pursuant to 40521
this chapter. For each certificate issued, the director shall 40522
charge the establishment or manufacturer a fee in the amount of 40523
twenty dollars. The director shall deposit all fees collected 40524
under this section to the credit of the food safety fund created 40525
in section 915.24 of the Revised Code. 40526

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 40527
3721.99 of the Revised Code: 40528

(1)(a) "Home" means an institution, residence, or facility 40529
that provides, for a period of more than twenty-four hours, 40530
whether for a consideration or not, accommodations to three or 40531
more unrelated individuals who are dependent upon the services of 40532
others, including a nursing home, residential care facility, home 40533
for the aging, and a veterans' home operated under Chapter 5907. 40534
of the Revised Code. 40535

(b) "Home" also means both of the following: 40536

(i) Any facility that a person, as defined in section 3702.51 40537
of the Revised Code, proposes for certification as a skilled 40538
nursing facility or nursing facility under Title XVIII or XIX of 40539
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 40540

as amended, and for which a certificate of need, other than a 40541
certificate to recategorize hospital beds as described in section 40542
3702.522 of the Revised Code or division (R)(7)(d) of the version 40543
of section 3702.51 of the Revised Code in effect immediately prior 40544
to April 20, 1995, has been granted to the person under sections 40545
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 40546

(ii) A county home or district home that is or has been 40547
licensed as a residential care facility. 40548

(c) "Home" does not mean any of the following: 40549

(i) Except as provided in division (A)(1)(b) of this section, 40550
a public hospital or hospital as defined in section 3701.01 or 40551
5122.01 of the Revised Code; 40552

(ii) A residential facility for mentally ill persons as 40553
defined under section 5119.22 of the Revised Code; 40554

(iii) A residential facility as defined in section 5123.19 of 40555
the Revised Code; 40556

(iv) ~~A habilitation center as defined in section 5123.041 of~~ 40557
~~the Revised Code;~~ 40558

~~(v)~~ A community alternative home as defined in section 40559
3724.01 of the Revised Code; 40560

~~(vi)~~(v) An adult care facility as defined in section 3722.01 40561
of the Revised Code; 40562

~~(vii)~~(vi) An alcohol or drug addiction program as defined in 40563
section 3793.01 of the Revised Code; 40564

~~(viii)~~(vii) A facility licensed to provide methadone 40565
treatment under section 3793.11 of the Revised Code; 40566

~~(ix)~~(viii) A facility providing services under contract with 40567
the department of mental retardation and developmental 40568
disabilities under section 5123.18 of the Revised Code; 40569

~~(x)~~(ix) A facility operated by a hospice care program 40570
licensed under section 3712.04 of the Revised Code that is used 40571
exclusively for care of hospice patients; 40572

~~(xi)~~(x) A facility, infirmary, or other entity that is 40573
operated by a religious order, provides care exclusively to 40574
members of religious orders who take vows of celibacy and live by 40575
virtue of their vows within the orders as if related, and does not 40576
participate in the medicare program established under Title XVIII 40577
of the "Social Security Act" or the medical assistance program 40578
established under Chapter 5111. of the Revised Code and Title XIX 40579
of the "Social Security Act," if on January 1, 1994, the facility, 40580
infirmary, or entity was providing care exclusively to members of 40581
the religious order; 40582

~~(xii)~~(xi) A county home or district home that has never been 40583
licensed as a residential care facility. 40584

(2) "Unrelated individual" means one who is not related to 40585
the owner or operator of a home or to the spouse of the owner or 40586
operator as a parent, grandparent, child, grandchild, brother, 40587
sister, niece, nephew, aunt, uncle, or as the child of an aunt or 40588
uncle. 40589

(3) "Mental impairment" does not mean mental illness as 40590
defined in section 5122.01 of the Revised Code or mental 40591
retardation as defined in section 5123.01 of the Revised Code. 40592

(4) "Skilled nursing care" means procedures that require 40593
technical skills and knowledge beyond those the untrained person 40594
possesses and that are commonly employed in providing for the 40595
physical, mental, and emotional needs of the ill or otherwise 40596
incapacitated. "Skilled nursing care" includes, but is not limited 40597
to, the following: 40598

(a) Irrigations, catheterizations, application of dressings, 40599
and supervision of special diets; 40600

(b) Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment; 40601
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(c) Special procedures contributing to rehabilitation; 40604

(d) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication; 40605
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(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration. 40608
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(5)(a) "Personal care services" means services including, but not limited to, the following: 40611
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(i) Assisting residents with activities of daily living; 40613

(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code; 40614
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(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under section 3721.04 of the Revised Code. 40617
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(b) "Personal care services" does not include "skilled nursing care" as defined in division (A)(4) of this section. A facility need not provide more than one of the services listed in division (A)(5)(a) of this section to be considered to be providing personal care services. 40621
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(6) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and 40626
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skilled nursing care. 40631

(7) "Residential care facility" means a home that provides 40632
either of the following: 40633

(a) Accommodations for seventeen or more unrelated 40634
individuals and supervision and personal care services for three 40635
or more of those individuals who are dependent on the services of 40636
others by reason of age or physical or mental impairment; 40637

(b) Accommodations for three or more unrelated individuals, 40638
supervision and personal care services for at least three of those 40639
individuals who are dependent on the services of others by reason 40640
of age or physical or mental impairment, and, to at least one of 40641
those individuals, any of the skilled nursing care authorized by 40642
section 3721.011 of the Revised Code. 40643

(8) "Home for the aging" means a home that provides services 40644
as a residential care facility and a nursing home, except that the 40645
home provides its services only to individuals who are dependent 40646
on the services of others by reason of both age and physical or 40647
mental impairment. 40648

The part or unit of a home for the aging that provides 40649
services only as a residential care facility is licensed as a 40650
residential care facility. The part or unit that may provide 40651
skilled nursing care beyond the extent authorized by section 40652
3721.011 of the Revised Code is licensed as a nursing home. 40653

(9) "County home" and "district home" mean a county home or 40654
district home operated under Chapter 5155. of the Revised Code. 40655

(B) The public health council may further classify homes. For 40656
the purposes of this chapter, any residence, institution, hotel, 40657
congregate housing project, or similar facility that meets the 40658
definition of a home under this section is such a home regardless 40659
of how the facility holds itself out to the public. 40660

(C) For purposes of this chapter, personal care services or 40661
skilled nursing care shall be considered to be provided by a 40662
facility if they are provided by a person employed by or 40663
associated with the facility or by another person pursuant to an 40664
agreement to which neither the resident who receives the services 40665
nor the resident's sponsor is a party. 40666

(D) Nothing in division (A)(4) of this section shall be 40667
construed to permit skilled nursing care to be imposed on an 40668
individual who does not require skilled nursing care. 40669

Nothing in division (A)(5) of this section shall be construed 40670
to permit personal care services to be imposed on an individual 40671
who is capable of performing the activity in question without 40672
assistance. 40673

(E) Division (A)(1)(c)~~(xi)~~(x) of this section does not 40674
prohibit a facility, infirmary, or other entity described in that 40675
division from seeking licensure under sections 3721.01 to 3721.09 40676
of the Revised Code or certification under Title XVIII or XIX of 40677
the "Social Security Act." However, such a facility, infirmary, or 40678
entity that applies for licensure or certification must meet the 40679
requirements of those sections or titles and the rules adopted 40680
under them and obtain a certificate of need from the director of 40681
health under section 3702.52 of the Revised Code. 40682

(F) Nothing in this chapter, or rules adopted pursuant to it, 40683
shall be construed as authorizing the supervision, regulation, or 40684
control of the spiritual care or treatment of residents or 40685
patients in any home who rely upon treatment by prayer or 40686
spiritual means in accordance with the creed or tenets of any 40687
recognized church or religious denomination. 40688

Sec. 3721.011. (A) In addition to providing accommodations, 40689
supervision, and personal care services to its residents, a 40690
residential care facility may provide skilled nursing care as 40691

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| follows: | 40692 |
| (1) Supervision of special diets; | 40693 |
| (2) Application of dressings, in accordance with rules adopted under section 3721.04 of the Revised Code; | 40694 40695 |
| (3) Providing for the administration of medication to residents, to the extent authorized under division (B)(1) of this section; | 40696 40697 40698 |
| (4) Other skilled nursing care provided on a part-time, intermittent basis pursuant to division (C) of this section. | 40699 40700 |
| A residential care facility may not admit or retain an individual requiring skilled nursing care that is not authorized by this section. A residential care facility may not provide skilled nursing care beyond the limits established by this section. | 40701 40702 40703 40704 40705 |
| (B)(1) A residential care facility may admit or retain an individual requiring medication, including biologicals, only if the individual's personal physician has determined in writing that the individual is capable of self-administering the medication or the facility provides for the medication to be administered to the individual by a home health agency certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended; a hospice care program licensed under Chapter 3712. of the Revised Code; or a member of the staff of the residential care facility who is qualified to perform medication administration. Medication may be administered in a residential care facility only by the following persons authorized by law to administer medication: | 40706 40707 40708 40709 40710 40711 40712 40713 40714 40715 40716 40717 40718 |
| (a) A registered nurse licensed under Chapter 4723. of the Revised Code; | 40719 40720 |
| (b) A licensed practical nurse licensed under Chapter 4723. | 40721 |

of the Revised Code who holds proof of successful completion of a 40722
course in medication administration approved by the board of 40723
nursing and who administers the medication only at the direction 40724
of a registered nurse or a physician authorized under Chapter 40725
4731. of the Revised Code to practice medicine and surgery or 40726
osteopathic medicine and surgery; 40727

(c) A medication aide certified under Chapter 4723. of the 40728
Revised Code; 40729

(d) A physician authorized under Chapter 4731. of the Revised 40730
Code to practice medicine and surgery or osteopathic medicine and 40731
surgery. 40732

(2) In assisting a resident with self-administration of 40733
medication, any member of the staff of a residential care facility 40734
may do the following: 40735

(a) Remind a resident when to take medication and watch to 40736
ensure that the resident follows the directions on the container; 40737

(b) Assist a resident by taking the medication from the 40738
locked area where it is stored, in accordance with rules adopted 40739
pursuant to section 3721.04 of the Revised Code, and handing it to 40740
the resident. If the resident is physically unable to open the 40741
container, a staff member may open the container for the resident. 40742

(c) Assist a physically impaired but mentally alert resident, 40743
such as a resident with arthritis, cerebral palsy, or Parkinson's 40744
disease, in removing oral or topical medication from containers 40745
and in consuming or applying the medication, upon request by or 40746
with the consent of the resident. If a resident is physically 40747
unable to place a dose of medicine to the resident's mouth without 40748
spilling it, a staff member may place the dose in a container and 40749
place the container to the mouth of the resident. 40750

(C) A residential care facility may admit or retain 40751
individuals who require skilled nursing care beyond the 40752

supervision of special diets, application of dressings, or 40753
administration of medication, only if the care will be provided on 40754
a part-time, intermittent basis for not more than a total of one 40755
hundred twenty days in any twelve-month period. In accordance with 40756
Chapter 119. of the Revised Code, the public health council shall 40757
adopt rules specifying what constitutes the need for skilled 40758
nursing care on a part-time, intermittent basis. The council shall 40759
adopt rules that are consistent with rules pertaining to home 40760
health care adopted by the director of job and family services for 40761
the medical assistance program established under Chapter 5111. of 40762
the Revised Code. Skilled nursing care provided pursuant to this 40763
division may be provided by a home health agency certified under 40764
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 40765
U.S.C.A. 301, as amended, a hospice care program licensed under 40766
Chapter 3712. of the Revised Code, or a member of the staff of a 40767
residential care facility who is qualified to perform skilled 40768
nursing care. 40769

A residential care facility that provides skilled nursing 40770
care pursuant to this division shall do both of the following: 40771

(1) Evaluate each resident receiving the skilled nursing care 40772
at least once every seven days to determine whether the resident 40773
should be transferred to a nursing home; 40774

(2) Meet the skilled nursing care needs of each resident 40775
receiving the care. 40776

(D) Notwithstanding any other provision of this chapter, a 40777
residential care facility in which residents receive skilled 40778
nursing care pursuant to this section is not a nursing home. 40779

Sec. 3721.02. (A) The director of health shall license homes 40780
and establish procedures to be followed in inspecting and 40781
licensing homes. The director may inspect a home at any time. Each 40782
home shall be inspected by the director at least once prior to the 40783

issuance of a license and at least once every fifteen months 40784
thereafter. The state fire marshal or a township, municipal, or 40785
other legally constituted fire department approved by the marshal 40786
shall also inspect a home prior to issuance of a license, at least 40787
once every fifteen months thereafter, and at any other time 40788
requested by the director. A home does not have to be inspected 40789
prior to issuance of a license by the director, state fire 40790
marshal, or a fire department if ownership of the home is assigned 40791
or transferred to a different person and the home was licensed 40792
under this chapter immediately prior to the assignment or 40793
transfer. The director may enter at any time, for the purposes of 40794
investigation, any institution, residence, facility, or other 40795
structure that has been reported to the director or that the 40796
director has reasonable cause to believe is operating as a nursing 40797
home, residential care facility, or home for the aging without a 40798
valid license required by section 3721.05 of the Revised Code or, 40799
in the case of a county home or district home, is operating 40800
despite the revocation of its residential care facility license. 40801
The director may delegate the director's authority and duties 40802
under this chapter to any division, bureau, agency, or official of 40803
the department of health. 40804

(B) A single facility may be licensed both as a nursing home 40805
pursuant to this chapter and as an adult care facility pursuant to 40806
Chapter 3722. of the Revised Code if the director determines that 40807
the part or unit to be licensed as a nursing home can be 40808
maintained separate and discrete from the part or unit to be 40809
licensed as an adult care facility. 40810

(C) In determining the number of residents in a home for the 40811
purpose of licensing, the director shall consider all the 40812
individuals for whom the home provides accommodations as one group 40813
unless one of the following is the case: 40814

(1) The home is a home for the aging, in which case all the 40815

individuals in the part or unit licensed as a nursing home shall 40816
be considered as one group, and all the individuals in the part or 40817
unit licensed as a rest home shall be considered as another group. 40818

(2) The home is both a nursing home and an adult care 40819
facility. In that case, all the individuals in the part or unit 40820
licensed as a nursing home shall be considered as one group, and 40821
all the individuals in the part or unit licensed as an adult care 40822
facility shall be considered as another group. 40823

(3) The home maintains, in addition to a nursing home or 40824
residential care facility, a separate and discrete part or unit 40825
that provides accommodations to individuals who do not require or 40826
receive skilled nursing care and do not receive personal care 40827
services from the home, in which case the individuals in the 40828
separate and discrete part or unit shall not be considered in 40829
determining the number of residents in the home if the separate 40830
and discrete part or unit is in compliance with the Ohio basic 40831
building code established by the board of building standards under 40832
Chapters 3781. and 3791. of the Revised Code and the home permits 40833
the director, on request, to inspect the separate and discrete 40834
part or unit and speak with the individuals residing there, if 40835
they consent, to determine whether the separate and discrete part 40836
or unit meets the requirements of this division. 40837

(D) The director of health shall charge an application fee 40838
and an annual renewal licensing and inspection fee of one hundred 40839
~~five~~ seventy dollars for each fifty persons or part thereof of a 40840
home's licensed capacity. All fees collected by the director for 40841
the issuance or renewal of licenses shall be deposited into the 40842
state treasury to the credit of the general operations fund 40843
created in section 3701.83 of the Revised Code for use only in 40844
administering and enforcing this chapter and rules adopted under 40845
it. 40846

(E)(1) Except as otherwise provided in this section, the 40847

results of an inspection or investigation of a home that is 40848
conducted under this section, including any statement of 40849
deficiencies and all findings and deficiencies cited in the 40850
statement on the basis of the inspection or investigation, shall 40851
be used solely to determine the home's compliance with this 40852
chapter or another chapter of the Revised Code in any action or 40853
proceeding other than an action commenced under division (I) of 40854
section 3721.17 of the Revised Code. Those results of an 40855
inspection or investigation, that statement of deficiencies, and 40856
the findings and deficiencies cited in that statement shall not be 40857
used in any court or in any action or proceeding that is pending 40858
in any court and are not admissible in evidence in any action or 40859
proceeding unless that action or proceeding is an appeal of an 40860
action by the department of health under this chapter or is an 40861
action by any department or agency of the state to enforce this 40862
chapter or another chapter of the Revised Code. 40863

(2) Nothing in division (E)(1) of this section prohibits the 40864
results of an inspection or investigation conducted under this 40865
section from being used in a criminal investigation or 40866
prosecution. 40867

Sec. 3721.03. The (A) As used in this section, "person" has 40868
the same meaning as in section 1.59 of the Revised Code. 40869

(B) The director of health shall enforce the provisions of 40870
sections 3721.01 to ~~3721.09~~ 3721.13 and 3721.99 of the Revised 40871
Code and may issue orders to secure compliance with the provisions 40872
of these sections and the rules adopted under them. The director 40873
may hold hearings, issue subpoenas, compel testimony, and make 40874
adjudications. ~~In~~ 40875

The director may issue an order revoking a license in the 40876
event the director finds, upon hearing or opportunity afforded 40877
~~therefor~~ pursuant to Chapter 119. of the Revised Code, that any of 40878

~~the following apply to a person, firm, partnership, association,
corporation, county home, or district home licensed under section
3721.07 of the Revised Code is in violation of:~~

~~(1) Has violated any of the provisions of Chapter 3721. of
the Revised Code or rules adopted by the public health council
under it; is in violation of~~

~~(2) Has violated any order issued by the director; is~~

~~(3) Is not, or any of its principals are not suitable,
morally or financially to operate such an institution; or is~~

~~(4) Is not furnishing humane, kind, and adequate treatment
and care, the director may issue an order revoking the license
previously issued by the director;~~

~~(5) Has had a long-standing pattern of violations of this
chapter or the rules adopted under it that has caused physical,
emotional, mental, or psychosocial harm to one or more residents.
Upon~~

~~Upon the issuance of any order of revocation, the person
whose license is revoked, or the county home or district home that
has its license revoked, may appeal in accordance with Chapter
119. of the Revised Code.~~

~~The state fire marshal shall enforce all statutes and rules
pertaining to fire safety in homes and shall adopt rules
pertaining to fire safety in homes as the marshal determines
necessary. The rules adopted by the marshal shall be in addition
to those fire safety rules that the board of building standards
and the public health council are empowered to adopt and shall be
adopted prior to December 31, 1972. In the event of a dispute
between the marshal and another officer having responsibilities
under sections 3721.01 to 3721.09 of the Revised Code with respect
to the interpretation or application of a specific fire safety
statute or rule, the interpretation of the marshal shall prevail.~~

~~If the ownership of a home is assigned or transferred to a different person, the new owner is responsible and liable for compliance with any notice of proposed action or order issued under this section in accordance with Chapter 119. of the Revised Code prior to the effective date of the assignment or transfer (C) Once the director notifies a person, county home, or district home licensed to operate a home that the license may be revoked or issues any order under this section, the person, county home, or district home shall not assign or transfer to another person or entity the right to operate the home. This prohibition shall remain in effect until proceedings under Chapter 119. of the Revised Code concerning the order or license revocation have been concluded or the director notifies the person, county home, or district home that the prohibition has been lifted.~~

If a license is revoked under this section, the former license holder shall not assign or transfer or consent to assignment or transfer of the right to operate the home. Any attempted assignment or transfer to another person or entity is void.

On revocation of a license, the former licensee shall take all necessary steps to cease operation of the home.

The director of health shall not accept a certificate of need application under section 3702.52 of the Revised Code regarding a home if the license to operate the home has been revoked under this section.

Sec. 3721.032. The state fire marshal shall enforce all statutes and rules pertaining to fire safety in homes and shall adopt rules pertaining to fire safety in homes as the marshal determines necessary. The rules adopted by the marshal shall be in addition to those fire safety rules that the board of building standards and the public health council are empowered to adopt. In

the event of a dispute between the marshal and another officer 40941
having responsibilities under sections 3721.01 to 3721.09 of the 40942
Revised Code with respect to the interpretation or application of 40943
a specific fire safety statute or rule, the interpretation of the 40944
marshal shall prevail. 40945

Sec. 3721.07. Every person desiring to operate a home and the 40946
superintendent or administrator of each county home or district 40947
home for which a license as a residential care facility is sought 40948
shall apply for a license to the director of health. The director 40949
shall issue a license for the home, if after investigation of the 40950
applicant and, if required by section 3721.02 of the Revised Code, 40951
inspection of the home, the following requirements or conditions 40952
are satisfied or complied with: 40953

(A) The applicant has not been convicted of a felony or a 40954
crime involving moral turpitude; 40955

(B) The applicant is not violating any of the rules made by 40956
the public health council or any order issued by the director of 40957
health; 40958

(C) The applicant has not had a license to operate the home 40959
revoked pursuant to section 3721.03 of the Revised Code because of 40960
any act or omission that jeopardized a resident's health, welfare, 40961
or safety nor has the applicant had a long-standing pattern of 40962
violations of this chapter or rules adopted under it that caused 40963
physical, emotional, mental, or psychosocial harm to one or more 40964
residents. 40965

(D) The buildings in which the home is housed have been 40966
approved by the state fire marshal or a township, municipal, or 40967
other legally constituted fire department approved by the marshal. 40968
In the approval of a home such agencies shall apply standards 40969
prescribed by the board of building standards, and by the state 40970

fire marshal, and by section 3721.071 of the Revised Code. 40971

~~(D)~~(E) The applicant, if it is an individual, or the 40972
principal participants, if it is an association or a corporation, 40973
is or are suitable financially and morally to operate a home; 40974

~~(E)~~(F) The applicant is equipped to furnish humane, kind, and 40975
adequate treatment and care; 40976

~~(F)~~(G) The home does not maintain or contain: 40977

(1) Facilities for the performance of major surgical 40978
procedures; 40979

(2) Facilities for providing therapeutic radiation; 40980

(3) An emergency ward; 40981

(4) A clinical laboratory unless it is under the supervision 40982
of a clinical pathologist who is a licensed physician in this 40983
state; 40984

(5) Facilities for radiological examinations unless such 40985
examinations are performed only by a person licensed to practice 40986
medicine, surgery, or dentistry in this state. 40987

~~(G)~~(H) The home does not accept or treat outpatients, except 40988
upon the written orders of a physician licensed in this state, 40989
maternity cases, boarding children, and does not house transient 40990
guests, other than participants in an adult day-care program, for 40991
twenty-four hours or less; 40992

~~(H)~~(I) The home is in compliance with sections 3721.28 and 40993
3721.29 of the Revised Code. 40994

When the director issues a license, the license shall remain 40995
in effect until revoked by the director or voided at the request 40996
of the applicant; provided, there shall be an annual renewal fee 40997
payable during the month of January of each calendar year. Any 40998
licensed home that does not pay its renewal fee in January shall 40999
pay, beginning the first day of February, a late fee of one 41000

hundred dollars for each week or part thereof that the renewal fee 41001
is not paid. If either the renewal fee or the late fee is not paid 41002
by the fifteenth day of February, the director may, in accordance 41003
with Chapter 119. of the Revised Code, revoke the home's license. 41004

If, under division (B)(5) of section 3721.03 of the Revised 41005
Code, the license of a person has been revoked or the license of a 41006
county home or district home to operate as a residential care 41007
facility has been revoked, the director of health shall not issue 41008
a license to the person or home at any time. A person whose 41009
license is revoked, and a county home or district home that has 41010
its license as a residential care facility revoked other than 41011
under division (B)(5) of section 3721.03 of the Revised Code, for 41012
any reason other than nonpayment of the license renewal fee or 41013
late fees ~~may shall~~ not apply for be issued a new license under 41014
this chapter until a period of one year following the date of 41015
revocation has elapsed. 41016

Any applicant who is denied a license may appeal in 41017
accordance with Chapter 119. of the Revised Code. 41018

Sec. 3721.121. (A) As used in this section: 41019

(1) "Adult day-care program" means a program operated 41020
pursuant to rules adopted by the public health council under 41021
section 3721.04 of the Revised Code and provided by and on the 41022
same site as homes licensed under this chapter. 41023

(2) "Applicant" means a person who is under final 41024
consideration for employment with a home or adult day-care program 41025
in a full-time, part-time, or temporary position that involves 41026
providing direct care to an older adult. "Applicant" does not 41027
include a person who provides direct care as a volunteer without 41028
receiving or expecting to receive any form of remuneration other 41029
than reimbursement for actual expenses. 41030

(3) "Criminal records check" and "older adult" have the same meanings as in section 109.572 of the Revised Code. 41031
41032

(4) "Home" means a home as defined in section 3721.10 of the Revised Code. 41033
41034

(B)(1) Except as provided in division (I) of this section, 41035
the chief administrator of a home or adult day-care program shall 41036
request that the superintendent of the bureau of criminal 41037
identification and investigation conduct a criminal records check 41038
with respect to each applicant. If an applicant for whom a 41039
criminal records check request is required under this division 41040
does not present proof of having been a resident of this state for 41041
the five-year period immediately prior to the date the criminal 41042
records check is requested or provide evidence that within that 41043
five-year period the superintendent has requested information 41044
about the applicant from the federal bureau of investigation in a 41045
criminal records check, the chief administrator shall request that 41046
the superintendent obtain information from the federal bureau of 41047
investigation as part of the criminal records check of the 41048
applicant. Even if an applicant for whom a criminal records check 41049
request is required under this division presents proof of having 41050
been a resident of this state for the five-year period, the chief 41051
administrator may request that the superintendent include 41052
information from the federal bureau of investigation in the 41053
criminal records check. 41054

(2) A person required by division (B)(1) of this section to 41055
request a criminal records check shall do both of the following: 41056

(a) Provide to each applicant for whom a criminal records 41057
check request is required under that division a copy of the form 41058
prescribed pursuant to division (C)(1) of section 109.572 of the 41059
Revised Code and a standard fingerprint impression sheet 41060
prescribed pursuant to division (C)(2) of that section, and obtain 41061
the completed form and impression sheet from the applicant; 41062

(b) Forward the completed form and impression sheet to the 41063
superintendent of the bureau of criminal identification and 41064
investigation. 41065

(3) An applicant provided the form and fingerprint impression 41066
sheet under division (B)(2)(a) of this section who fails to 41067
complete the form or provide fingerprint impressions shall not be 41068
employed in any position for which a criminal records check is 41069
required by this section. 41070

(C)(1) Except as provided in rules adopted by the director of 41071
health in accordance with division (F) of this section and subject 41072
to division (C)(2) of this section, no home or adult day-care 41073
program shall employ a person in a position that involves 41074
providing direct care to an older adult if the person has been 41075
convicted of or pleaded guilty to any of the following: 41076

(a) A violation of section 2903.01, 2903.02, 2903.03, 41077
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 41078
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 41079
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 41080
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 41081
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 41082
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 41083
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 41084
2925.22, 2925.23, or 3716.11 of the Revised Code. 41085

(b) A violation of an existing or former law of this state, 41086
any other state, or the United States that is substantially 41087
equivalent to any of the offenses listed in division (C)(1)(a) of 41088
this section. 41089

(2)(a) A home or an adult day-care program may employ 41090
conditionally an applicant for whom a criminal records check 41091
request is required under division (B) of this section prior to 41092
obtaining the results of a criminal records check regarding the 41093

individual, provided that the home or program shall request a 41094
criminal records check regarding the individual in accordance with 41095
division (B)(1) of this section not later than five business days 41096
after the individual begins conditional employment. In the 41097
circumstances described in division (I)(2) of this section, a home 41098
or adult day-care program may employ conditionally an applicant 41099
who has been referred to the home or adult day-care program by an 41100
employment service that supplies full-time, part-time, or 41101
temporary staff for positions involving the direct care of older 41102
adults and for whom, pursuant to that division, a criminal records 41103
check is not required under division (B) of this section. 41104

(b) A home or adult day-care program that employs an 41105
individual conditionally under authority of division (C)(2)(a) of 41106
this section shall terminate the individual's employment if the 41107
results of the criminal records check requested under division (B) 41108
of this section or described in division (I)(2) of this section, 41109
other than the results of any request for information from the 41110
federal bureau of investigation, are not obtained within the 41111
period ending thirty days after the date the request is made. 41112
Regardless of when the results of the criminal records check are 41113
obtained, if the results indicate that the individual has been 41114
convicted of or pleaded guilty to any of the offenses listed or 41115
described in division (C)(1) of this section, the home or program 41116
shall terminate the individual's employment unless the home or 41117
program chooses to employ the individual pursuant to division (F) 41118
of this section. Termination of employment under this division 41119
shall be considered just cause for discharge for purposes of 41120
division (D)(2) of section 4141.29 of the Revised Code if the 41121
individual makes any attempt to deceive the home or program about 41122
the individual's criminal record. 41123

(D)(1) Each home or adult day-care program shall pay to the 41124
bureau of criminal identification and investigation the fee 41125

prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.

(2) A home or adult day-care program may charge an applicant a fee not exceeding the amount the home or program pays under division (D)(1) of this section. A home or program may collect a fee only if both of the following apply:

(a) The home or program notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment;

(b) The medical assistance program established under Chapter 5111. of the Revised Code does not reimburse the home or program the fee it pays under division (D)(1) of this section.

(E) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The chief administrator of the home or program requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or operated by the same entity that owns or operates the home or program;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of

the applicant; 41156

(5) Any person to whom the report is provided pursuant to, 41157
and in accordance with, division (I)(1) or (2) of this section; 41158

(6) The board of nursing for purposes of accepting and 41159
processing an application for a medication aide certificate issued 41160
under Chapter 4723. of the Revised Code. 41161

(F) In accordance with section 3721.11 of the Revised Code, 41162
the director of health shall adopt rules to implement this 41163
section. The rules shall specify circumstances under which a home 41164
or adult day-care program may employ a person who has been 41165
convicted of or pleaded guilty to an offense listed or described 41166
in division (C)(1) of this section but meets personal character 41167
standards set by the director. 41168

(G) The chief administrator of a home or adult day-care 41169
program shall inform each individual, at the time of initial 41170
application for a position that involves providing direct care to 41171
an older adult, that the individual is required to provide a set 41172
of fingerprint impressions and that a criminal records check is 41173
required to be conducted if the individual comes under final 41174
consideration for employment. 41175

(H) In a tort or other civil action for damages that is 41176
brought as the result of an injury, death, or loss to person or 41177
property caused by an individual who a home or adult day-care 41178
program employs in a position that involves providing direct care 41179
to older adults, all of the following shall apply: 41180

(1) If the home or program employed the individual in good 41181
faith and reasonable reliance on the report of a criminal records 41182
check requested under this section, the home or program shall not 41183
be found negligent solely because of its reliance on the report, 41184
even if the information in the report is determined later to have 41185
been incomplete or inaccurate; 41186

(2) If the home or program employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the home or program shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the home or program in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the home or program shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

(I)(1) The chief administrator of a home or adult day-care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and both of the following apply:

(a) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the home or adult day-care program chooses to employ the individual pursuant to division (F) of this section.

(2) The chief administrator of a home or adult day-care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as described in this division, if the applicant has been referred to the home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the home or ~~adult-care~~ adult day-care program. If a home or adult day-care program employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the home or adult day-care program, and division (C)(2)(b) of this section applies regarding the conditional employment.

Sec. 3721.15. (A) Authorization from a resident or a sponsor with a power of attorney for a home to manage the resident's financial affairs shall be in writing and shall be attested to by

a witness who is not connected in any manner whatsoever with the 41251
home or its administrator. The home shall maintain accounts 41252
pursuant to division (A)(27) of section 3721.13 of the Revised 41253
Code. Upon the resident's transfer, discharge, or death, the 41254
account shall be closed and a final accounting made. All remaining 41255
funds shall be returned to the resident or resident's sponsor, 41256
except in the case of death, when all remaining funds shall be 41257
transferred or used in accordance with section ~~5111.112~~ 5111.113 41258
of the Revised Code. 41259

(B) A home that manages a resident's financial affairs shall 41260
deposit the resident's funds in excess of one hundred dollars, and 41261
may deposit the resident's funds that are one hundred dollars or 41262
less, in an interest-bearing account separate from any of the 41263
home's operating accounts. Interest earned on the resident's funds 41264
shall be credited to the resident's account. A resident's funds 41265
that are one hundred dollars or less and have not been deposited 41266
in an interest-bearing account may be deposited in a 41267
noninterest-bearing account or petty cash fund. 41268

(C) Each resident whose financial affairs are managed by a 41269
home shall be promptly notified by the home when the total of the 41270
amount of funds in the resident's accounts and the petty cash fund 41271
plus other nonexempt resources reaches two hundred dollars less 41272
than the maximum amount permitted a recipient of medicaid. The 41273
notice shall include an explanation of the potential effect on the 41274
resident's eligibility for medicaid if the amount in the 41275
resident's accounts and the petty cash fund, plus the value of 41276
other nonexempt resources, exceeds the maximum assets a medicaid 41277
recipient may retain. 41278

(D) Each home that manages the financial affairs of residents 41279
shall purchase a surety bond or otherwise provide assurance 41280
satisfactory to the director of health, or, in the case of a home 41281
that participates in the medicaid program, to the director of job 41282

and family services, to assure the security of all residents' 41283
funds managed by the home. 41284

Sec. 3721.19. (A) As used in this section: 41285

(1) "Home" and "residential care facility" have the same 41286
meanings as in section 3721.01 of the Revised Code; 41287

(2) "Sponsor" and "residents' rights advocate" have the same 41288
meanings as in section 3721.10 of the Revised Code. 41289

A home licensed under this chapter that is not a party to a 41290
provider agreement, as defined in section 5111.20 of the Revised 41291
Code, shall provide each prospective resident, before admission, 41292
with the following information, orally and in a separate written 41293
notice on which is printed in a conspicuous manner: "This home is 41294
not a participant in the medical assistance program administered 41295
by the Ohio department of job and family services. Consequently, 41296
you may be discharged from this home if you are unable to pay for 41297
the services provided by this home." 41298

If the prospective resident has a sponsor whose identity is 41299
made known to the home, the home shall also inform the sponsor, 41300
before admission of the resident, of the home's status relative to 41301
the medical assistance program. Written acknowledgement of the 41302
receipt of the information shall be provided by the resident and, 41303
if the prospective resident has a sponsor who has been identified 41304
to the home, by the sponsor. The written acknowledgement shall be 41305
made part of the resident's record by the home. 41306

No home shall terminate its status as a provider under the 41307
~~medical assistance~~ medicaid program unless it has complied with 41308
section 5111.66 of the Revised Code and, at least ninety days 41309
prior to such termination, provided written notice to the 41310
~~department of job and family services and~~ residents of the home 41311
and their sponsors of such action. This requirement shall not 41312

apply in cases where the department of job and family services 41313
terminates a home's provider agreement or provider status. 41314

(B) A home licensed under this chapter as a residential care 41315
facility shall provide notice to each prospective resident or the 41316
individual's sponsor of the services offered by the facility and 41317
the types of skilled nursing care that the facility may provide. A 41318
residential care facility that, pursuant to section 3721.012 of 41319
the Revised Code, has a policy of entering into risk agreements 41320
with residents or their sponsors shall provide each prospective 41321
resident or the individual's sponsor a written explanation of the 41322
policy and the provisions that may be contained in a risk 41323
agreement. At the time the information is provided, the facility 41324
shall obtain a statement signed by the individual receiving the 41325
information acknowledging that the individual received the 41326
information. The facility shall maintain on file the individual's 41327
signed statement. 41328

(C) A resident has a cause of action against a home for 41329
breach of any duty imposed by this section. The action may be 41330
commenced by the resident, or on the resident's behalf by the 41331
resident's sponsor or a residents' rights advocate, by the filing 41332
of a civil action in the court of common pleas of the county in 41333
which the home is located, or in the court of common pleas of 41334
Franklin county. 41335

If the court finds that a breach of any duty imposed by this 41336
section has occurred, the court shall enjoin the home from 41337
discharging the resident from the home until arrangements 41338
satisfactory to the court are made for the orderly transfer of the 41339
resident to another mode of health care including, but not limited 41340
to, another home, and may award the resident and a person or 41341
public agency that brings an action on behalf of a resident 41342
reasonable attorney's fees. If a home discharges a resident to 41343
whom or to whose sponsor information concerning its status 41344

relative to the medical assistance program was not provided as 41345
required under this section, the court shall grant any appropriate 41346
relief including, but not limited to, actual damages, reasonable 41347
attorney's fees, and costs. 41348

Sec. 3721.21. As used in sections 3721.21 to 3721.34 of the 41349
Revised Code: 41350

(A) "Long-term care facility" means either of the following: 41351

(1) A nursing home as defined in section 3721.01 of the 41352
Revised Code, other than a nursing home or part of a nursing home 41353
certified as an intermediate care facility for the mentally 41354
retarded under Title XIX of the "Social Security Act," 49 Stat. 41355
620 (1935), 42 U.S.C.A. 301, as amended; 41356

(2) A facility or part of a facility that is certified as a 41357
skilled nursing facility or a nursing facility under Title XVIII 41358
or XIX of the "Social Security Act." 41359

(B) "Residential care facility" has the same meaning as in 41360
section 3721.01 of the Revised Code. 41361

(C) "Abuse" means knowingly causing physical harm or 41362
recklessly causing serious physical harm to a resident by physical 41363
contact with the resident or by use of physical or chemical 41364
restraint, medication, or isolation as punishment, for staff 41365
convenience, excessively, as a substitute for treatment, or in 41366
amounts that preclude habilitation and treatment. 41367

(D) "Neglect" means recklessly failing to provide a resident 41368
with any treatment, care, goods, or service necessary to maintain 41369
the health or safety of the resident when the failure results in 41370
serious physical harm to the resident. "Neglect" does not include 41371
allowing a resident, at the resident's option, to receive only 41372
treatment by spiritual means through prayer in accordance with the 41373
tenets of a recognized religious denomination. 41374

(E) "Misappropriation" means depriving, defrauding, or 41375
otherwise obtaining the real or personal property of a resident by 41376
any means prohibited by the Revised Code, including violations of 41377
Chapter 2911. or 2913. of the Revised Code. 41378

(F) "Resident" includes a resident, patient, former resident 41379
or patient, or deceased resident or patient of a long-term care 41380
facility or a residential care facility. 41381

(G) "Physical restraint" has the same meaning as in section 41382
3721.10 of the Revised Code. 41383

(H) "Chemical restraint" has the same meaning as in section 41384
3721.10 of the Revised Code. 41385

(I) "Nursing and nursing-related services" means the personal 41386
care services and other services not constituting skilled nursing 41387
care that are specified in rules the public health council shall 41388
adopt in accordance with Chapter 119. of the Revised Code. 41389

(J) "Personal care services" has the same meaning as in 41390
section 3721.01 of the Revised Code. 41391

(K)(1) Except as provided in division (K)(2) of this section, 41392
"Nurse nurse aide" means an individual, ~~other than a licensed~~ 41393
~~health professional practicing within the scope of the~~ 41394
~~professional's license,~~ who provides nursing and nursing-related 41395
services to residents in a long-term care facility, either as a 41396
member of the staff of the facility for monetary compensation or 41397
as a volunteer without monetary compensation. 41398

(2) "Nurse aide" does not include either of the following: 41399

(a) A licensed health professional practicing within the 41400
scope of the professional's license; 41401

(b) An individual providing nursing and nursing-related 41402
services in a religious nonmedical health care institution, if the 41403
individual has been trained in the principles of nonmedical care 41404

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|--|-------|
| <u>and is recognized by the institution as being competent in the</u> | 41405 |
| <u>administration of care within the religious tenets practiced by</u> | 41406 |
| <u>the residents of the institution.</u> | 41407 |
| (L) "Licensed health professional" means all of the | 41408 |
| following: | 41409 |
| (1) An occupational therapist or occupational therapy | 41410 |
| assistant licensed under Chapter 4755. of the Revised Code; | 41411 |
| (2) A physical therapist or physical therapy assistant | 41412 |
| licensed under Chapter 4755. of the Revised Code; | 41413 |
| (3) A physician authorized under Chapter 4731. of the Revised | 41414 |
| Code to practice medicine and surgery, osteopathic medicine and | 41415 |
| surgery, or podiatry; | 41416 |
| (4) A physician assistant authorized under Chapter 4730. of | 41417 |
| the Revised Code to practice as a physician assistant; | 41418 |
| (5) A registered nurse or licensed practical nurse licensed | 41419 |
| under Chapter 4723. of the Revised Code; | 41420 |
| (6) A social worker or independent social worker licensed | 41421 |
| under Chapter 4757. of the Revised Code or a social work assistant | 41422 |
| registered under that chapter; | 41423 |
| (7) A speech-language pathologist or audiologist licensed | 41424 |
| under Chapter 4753. of the Revised Code; | 41425 |
| (8) A dentist or dental hygienist licensed under Chapter | 41426 |
| 4715. of the Revised Code; | 41427 |
| (9) An optometrist licensed under Chapter 4725. of the | 41428 |
| Revised Code; | 41429 |
| (10) A pharmacist licensed under Chapter 4729. of the Revised | 41430 |
| Code; | 41431 |
| (11) A psychologist licensed under Chapter 4732. of the | 41432 |
| Revised Code; | 41433 |

(12) A chiropractor licensed under Chapter 4734. of the Revised Code; 41434
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(13) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code; 41436
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(14) A professional counselor or professional clinical counselor licensed under Chapter 4757. of the Revised Code. 41438
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(M) "Religious nonmedical health care institution" means an institution that meets or exceeds the conditions to receive payment under the medicare program established under Title XVIII of the "Social Security Act" for inpatient hospital services or post-hospital extended care services furnished to an individual in a religious nonmedical health care institution, as defined in section 1861(ss)(1) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395x(ss)(1), as amended. 41440
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(N) "Competency evaluation program" means a program through which the competency of a nurse aide to provide nursing and nursing-related services is evaluated. 41448
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~~(N)~~(O) "Training and competency evaluation program" means a program of nurse aide training and evaluation of competency to provide nursing and nursing-related services. 41451
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Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the Revised Code: 41454
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(A) "Hospital" has the same meaning as in section 3727.01 of the Revised Code. 41456
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(B) "Inpatient days" means all days during which a resident of a nursing facility, regardless of payment source, occupies a bed in the nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered inpatient days proportionate to the 41458
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percentage of the facility's per resident per day rate paid for 41464
those days. 41465

(C) "Medicaid" has the same meaning as in section 5111.01 of 41466
the Revised Code. 41467

(D) "Medicaid day" means all days during which a resident who 41468
is a medicaid recipient occupies a bed in a nursing facility that 41469
is included in the facility's certified capacity under Title XIX. 41470
Therapeutic or hospital leave days for which payment is made under 41471
section 5111.26 of the Revised Code are considered medicaid days 41472
proportionate to the percentage of the nursing facility's per 41473
resident per day rate for those days. 41474

(E) "Nursing facility" has the same meaning as in section 41475
5111.20 of the Revised Code. 41476

(F)(1) "Nursing home" means all of the following: 41477

(a) A nursing home licensed under section 3721.02 or 3721.09 41478
of the Revised Code, including any part of a home for the aging 41479
licensed as a nursing home; 41480

(b) A facility or part of a facility, other than a hospital, 41481
that is certified as a skilled nursing facility under Title XVIII 41482
of the ~~"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A.~~ 41483
~~301, as amended;~~ 41484

(c) A nursing facility ~~as defined in section 5111.20 of the~~ 41485
~~Revised Code,~~ other than a portion of a hospital certified as a 41486
nursing facility. 41487

(2) "Nursing home" does not include a any of the following: 41488

(a) A county home, county nursing home, or district home 41489
operated pursuant to Chapter 5155. of the Revised Code ~~or a;~~ 41490

(b) A nursing home maintained and operated by the Ohio 41491
veterans' home agency under section 5907.01 of the Revised Code; 41492

(c) A nursing home or part of a nursing home licensed under 41493

section 3721.02 or 3721.09 of the Revised Code that is certified 41494
as an intermediate care facility for the mentally retarded under 41495
Title XIX ~~of the "Social Security Act."~~ 41496

~~(B) "Hospital" has the same meaning as in section 3727.01 of 41497
the Revised Code. 41498~~

(G) "Title XIX" means Title XIX of the "Social Security Act," 41499
79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. 41500

(H) "Title XVIII" means Title XVIII of the "Social Security 41501
Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 41502

Sec. 3721.51. The department of job and family services shall 41503
do all of the following: 41504

(A) ~~For~~ Subject to division (C) of this section and for the 41505
purposes specified in ~~section~~ sections 3721.56 and 3721.561 of the 41506
Revised Code, determine an annual franchise permit fee on each 41507
nursing home in an amount equal to ~~three dollars and thirty cents~~ 41508
~~for fiscal year 2002, four~~ six dollars and ~~thirty~~ twenty-five 41509
cents for fiscal years ~~2003 through 2005,~~ 2006 and 2007 and one 41510
dollar for each fiscal year thereafter, multiplied by the product 41511
of the following: 41512

(1) The number of beds licensed as nursing home beds, plus 41513
any other beds certified as skilled nursing facility beds under 41514
Title XVIII or nursing facility beds under Title XIX ~~of the~~ 41515
~~"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as~~ 41516
~~amended, on July 1, 1993, and, for each subsequent year, the first~~ 41517
day of May of the calendar year in which the fee is determined 41518
pursuant to division (A) of section 3721.53 of the Revised Code; 41519

(2) ~~The number of days in fiscal year 1994 and, for each 41520
subsequent year, the~~ number of days in the fiscal year beginning 41521
on the first day of July of the calendar year in which the fee is 41522
determined pursuant to division (A) of section 3721.53 of the 41523

Revised Code. 41524

(B) ~~For~~ Subject to division (C) of this section and for the 41525
purposes specified in ~~section~~ sections 3721.56 and 3721.561 of the 41526
Revised Code, determine an annual franchise permit fee on each 41527
hospital in an amount equal to ~~three dollars and thirty cents for~~ 41528
~~fiscal year 2002, four~~ six dollars and ~~thirty~~ twenty-five cents 41529
for fiscal years ~~2003 through 2005, 2006 and 2007~~ and one dollar 41530
for each fiscal year thereafter, multiplied by the product of the 41531
following: 41532

(1) The number of beds registered pursuant to section 3701.07 41533
of the Revised Code as skilled nursing facility beds or long-term 41534
care beds, plus any other beds licensed as nursing home beds under 41535
section 3721.02 or 3721.09 of the Revised Code, on ~~July 1, 1993,~~ 41536
~~and, for each subsequent year,~~ the first day of May of the 41537
calendar year in which the fee is determined pursuant to division 41538
(A) of section 3721.53 of the Revised Code; 41539

(2) ~~The number of days in fiscal year 1994 and, for each~~ 41540
~~subsequent year,~~ the number of days in the fiscal year beginning 41541
on the first day of July of the calendar year in which the fee is 41542
determined pursuant to division (A) of section 3721.53 of the 41543
Revised Code. 41544

(C) If the United States centers for medicare and medicaid 41545
services determines that the franchise permit fee established by 41546
sections 3721.50 to 3721.58 of the Revised Code ~~would be~~ is an 41547
impermissible health care related tax under section 1903(w) of the 41548
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 41549
amended, ~~the department of job and family services shall take all~~ 41550
necessary actions to cease implementation of ~~these~~ sections 41551
3721.50 to 3721.58 of the Revised Code in accordance with rules 41552
adopted under section 3721.58 of the Revised Code. 41553

Sec. 3721.52. (A) For the purpose of the fee under division 41554

(A) of section 3721.51 of the Revised Code, the department of health shall, ~~not later than August 1, 1993, and, for each subsequent year,~~ not later than the first day of each June, report to the department of job and family services the number of beds in each nursing home licensed on ~~July 1, 1993, and, for each subsequent year,~~ the preceding first day of May under section 3721.02 or 3721.09 of the Revised Code or certified on that date under Title XVIII or XIX ~~of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.~~

(B) For the purpose of the fee under division (B) of section 3721.51 of the Revised Code, the department of health shall, ~~not later than August 1, 1993, and, for each subsequent year,~~ not later than the first day of each June, report to the department of job and family services the number of beds in each hospital registered on ~~July 1, 1993, and, for each subsequent year,~~ the preceding first day of May pursuant to section 3701.07 of the Revised Code as skilled nursing facility or long-term care beds or licensed on that date under section 3721.02 or 3721.09 of the Revised Code as nursing home beds.

Sec. 3721.541. (A) In addition to assessing a penalty pursuant to section 3721.54 of the Revised Code, the department of job and family services may do either of the following if a nursing facility or hospital fails to pay the full amount of a franchise permit fee installment when due:

(1) Withhold an amount equal to the installment and penalty assessed under section 3721.54 of the Revised Code from a medicaid payment due the nursing facility or hospital until the nursing facility or hospital pays the installment and penalty;

(2) Terminate the nursing facility or hospital's medicaid provider agreement.

(B) The department may withhold a medicaid payment under

division (A)(1) of this section without providing notice to the 41586
nursing facility or hospital and without conducting an 41587
adjudication under Chapter 119. of the Revised Code. 41588

Sec. 3721.56. ~~(A) Thirty and three tenths~~ There is hereby 41589
created in the state treasury the home- and community-based 41590
services for the aged fund. Sixteen per cent of all payments and 41591
penalties paid by nursing homes and hospitals under sections 41592
3721.53 and 3721.54 of the Revised Code for fiscal ~~year 2002,~~ 41593
~~twenty three and twenty six hundredths~~ per cent of such payments 41594
~~and penalties paid for fiscal years 2003 through 2005~~ 2006 and 41595
2007, and all such payments and penalties paid for subsequent 41596
fiscal years, shall be deposited into the ~~"home and~~ 41597
~~community based services for the aged fund,"~~ which is hereby 41598
~~created in the state treasury.~~ The departments of job and family 41599
services and aging shall use the moneys in the fund to fund the 41600
following in accordance with rules adopted under section 3721.58 41601
of the Revised Code: 41602

~~(1)(A)~~ The medical assistance medicaid program established 41603
under Chapter 5111. of the Revised Code; 41604

~~(2)~~ The, including the PASSPORT program established under 41605
section 173.40 of the Revised Code; 41606

~~(3)(B)~~ The residential state supplement program established 41607
under section 173.35 of the Revised Code. 41608

~~(B) Sixty nine and seven tenths~~ per cent of all payments and 41609
~~penalties paid by nursing homes and hospitals under sections~~ 41610
~~3721.53 and 3721.54 of the Revised Code for fiscal year 2002, and~~ 41611
~~seventy six and seventy four hundredths~~ per cent of such payments 41612
~~and penalties paid for fiscal years 2003 through 2005,~~ shall be 41613
~~deposited into the nursing facility stabilization fund, which is~~ 41614
~~hereby created in the state treasury.~~ The department of job and 41615
family services shall use the money in the fund in the manner 41616

~~provided by Am. Sub. H.B. 94 and Am. Sub. S.B. 261 of the 124th
general assembly.~~ 41617
41618

Sec. 3721.561. (A) There is hereby created in the state 41619
treasury the nursing facility stabilization fund. All payments and 41620
penalties paid by nursing homes and hospitals under sections 41621
3721.53 and 3721.54 of the Revised Code that are not deposited 41622
into the home and community-based services for the aged fund shall 41623
be deposited into the fund. The department of job and family 41624
services shall use the money in the fund to make medicaid payments 41625
to nursing facilities. 41626

(B) Any money remaining in the nursing facility stabilization 41627
fund after payments specified in division (A) of this section are 41628
made shall be retained in the fund. Any interest or other 41629
investment proceeds earned on money in the fund shall be credited 41630
to the fund and used to make medicaid payments in accordance with 41631
division (A) of this section. 41632

Sec. 3721.58. The director of job and family services shall 41633
adopt rules in accordance with Chapter 119. of the Revised Code to 41634
do ~~both~~ all of the following: 41635

(A) Prescribe the actions the department of job and family 41636
services will take to cease implementation of sections 3721.50 41637
through 3721.57 of the Revised Code if the United States ~~health~~ 41638
~~care financing administration~~ centers for medicare and medicaid 41639
services determines that the franchise permit fee established by 41640
those sections is an impermissible health-care related tax under 41641
section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 41642
42 U.S.C. ~~1396(b)(w)~~ 1396b(w), as amended; 41643

(B) Establish the method of distributing moneys in the home 41644
and community-based services for the aged fund created under 41645
section 3721.56 of the Revised Code; 41646

(C) Establish any requirements or procedures the director 41647
considers necessary to implement sections 3721.50 to 3721.58 of 41648
the Revised Code. 41649

Sec. 3722.01. (A) As used in this chapter: 41650

(1) "Owner" means the person who owns the business of and who 41651
ultimately controls the operation of an adult care facility and to 41652
whom the manager, if different from the owner, is responsible. 41653

(2) "Manager" means the person responsible for the daily 41654
operation of an adult care facility. The manager and the owner of 41655
a facility may be the same person. 41656

(3) "Adult" means an individual eighteen years of age or 41657
older. 41658

(4) "Unrelated" means that an adult resident is not related 41659
to the owner or manager of an adult care facility or to the 41660
owner's or manager's spouse as a parent, grandparent, child, 41661
stepchild, grandchild, brother, sister, niece, nephew, aunt, or 41662
uncle, or as the child of an aunt or uncle. 41663

(5) "Skilled nursing care" means skilled nursing care as 41664
defined in section 3721.01 of the Revised Code. 41665

(6)(a) "Personal care services" means services including, but 41666
not limited to, the following: 41667

(i) Assisting residents with activities of daily living; 41668

(ii) Assisting residents with self-administration of 41669
medication, in accordance with rules adopted by the public health 41670
council pursuant to this chapter; 41671

(iii) Preparing special diets, other than complex therapeutic 41672
diets, for residents pursuant to the instructions of a physician 41673
or a licensed dietitian, in accordance with rules adopted by the 41674
public health council pursuant to this chapter. 41675

(b) "Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(6)(a) of this section to be considered to be providing personal care services.

(7) "Adult family home" means a residence or facility that provides accommodations to three to five unrelated adults and supervision and personal care services to at least three of those adults.

(8) "Adult group home" means a residence or facility that provides accommodations to six to sixteen unrelated adults and provides supervision and personal care services to at least three of the unrelated adults.

(9) "Adult care facility" means an adult family home or an adult group home. For the purposes of this chapter, any residence, facility, institution, hotel, congregate housing project, or similar facility that provides accommodations and supervision to three to sixteen unrelated adults, at least three of whom are provided personal care services, is an adult care facility regardless of how the facility holds itself out to the public. "Adult care facility" does not include:

(a) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

(b) A nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code;

(c) A community alternative home as defined in section 3724.01 of the Revised Code;

(d) An alcohol and drug addiction program as defined in section 3793.01 of the Revised Code;

| | |
|---|---|
| (e) A habilitation center as defined in section 5123.041 of the Revised Code; | 41706 41707 |
| (f) A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code; | 41708 41709 41710 |
| (g) <u>(f)</u> A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code; | 41711 41712 |
| (h) <u>(g)</u> A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of mental retardation and developmental disabilities; | 41713 41714 41715 |
| (i) <u>(h)</u> Any residence, institution, hotel, congregate housing project, or similar facility that provides personal care services to fewer than three residents or that provides, for any number of residents, only housing, housekeeping, laundry, meal preparation, social or recreational activities, maintenance, security, transportation, and similar services that are not personal care services or skilled nursing care; | 41716 41717 41718 41719 41720 41721 41722 |
| (j) <u>(i)</u> Any facility that receives funding for operating costs from the department of development under any program established to provide emergency shelter housing or transitional housing for the homeless; | 41723 41724 41725 41726 |
| (k) <u>(j)</u> A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code; | 41727 41728 41729 |
| (l) <u>(k)</u> A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C.A. 630, as amended, and used exclusively for the placement and care of veterans; | 41730 41731 41732 41733 |
| (m) <u>(l)</u> Until January 1, 1994, the portion of a facility in which care is provided exclusively to members of a religious order | 41734 41735 |

if the facility is owned by or part of a nonprofit institution of 41736
higher education authorized to award degrees by the Ohio board of 41737
regents under Chapter 1713. of the Revised Code. 41738

(10) "Residents' rights advocate" means: 41739

(a) An employee or representative of any state or local 41740
government entity that has a responsibility for residents of adult 41741
care facilities and has registered with the department of health 41742
under section 3701.07 of the Revised Code; 41743

(b) An employee or representative, other than a manager or 41744
employee of an adult care facility or nursing home, of any private 41745
nonprofit corporation or association that qualifies for tax-exempt 41746
status under section 501(a) of the "Internal Revenue Code of 41747
1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has 41748
registered with the department of health under section 3701.07 of 41749
the Revised Code, and whose purposes include educating and 41750
counseling residents, assisting residents in resolving problems 41751
and complaints concerning their care and treatment, and assisting 41752
them in securing adequate services. 41753

(11) "Sponsor" means an adult relative, friend, or guardian 41754
of a resident of an adult care facility who has an interest in or 41755
responsibility for the resident's welfare. 41756

(12) "Ombudsperson" means a "representative of the office of 41757
the state long-term care ombudsperson program" as defined in 41758
section 173.14 of the Revised Code. 41759

(13) "Mental health agency" means a community mental health 41760
agency, as defined in section 5119.22 of the Revised Code, under 41761
contract with a board of alcohol, drug addiction, and mental 41762
health services pursuant to division (A)(8)(a) of section 340.03 41763
of the Revised Code. 41764

(B) For purposes of this chapter, personal care services or 41765
skilled nursing care shall be considered to be provided by a 41766

facility if they are provided by a person employed by or 41767
associated with the facility or by another person pursuant to an 41768
agreement to which neither the resident who receives the services 41769
nor the resident's sponsor is a party. 41770

(C) Nothing in division (A)(6) of this section shall be 41771
construed to permit personal care services to be imposed upon a 41772
resident who is capable of performing the activity in question 41773
without assistance. 41774

Sec. 3722.02. A person seeking a license to operate an adult 41775
care facility shall submit to the director of health an 41776
application on a form prescribed by the director and the 41777
following: 41778

(A) In the case of an adult group home seeking licensure as 41779
an adult care facility, evidence that the home has been inspected 41780
and approved by a local certified building department or by the 41781
division of industrial compliance in the department of commerce as 41782
meeting the applicable requirements of sections 3781.06 to 3781.18 41783
and 3791.04 of the Revised Code and any rules adopted under those 41784
sections and evidence that the home has been inspected by the 41785
state fire marshal or fire prevention officer of a municipal, 41786
township, or other legally constituted fire department approved by 41787
the state fire marshal and found to be in compliance with rules 41788
adopted under section 3737.83 of the Revised Code regarding fire 41789
prevention and safety in adult group homes; 41790

(B) Valid approvals of the facility's water and sewage 41791
systems issued by the responsible governmental entity, if 41792
applicable; 41793

(C) A statement of ownership containing the following 41794
information: 41795

(1) If the owner is an individual, the owner's name, address, 41796

telephone number, business address, business telephone number, and 41797
occupation. If the owner is an association, corporation, or 41798
partnership, the business activity, address, and telephone number 41799
of the entity and the name of every person who has an ownership 41800
interest of five per cent or more in the entity. 41801

(2) If the owner does not own the building or if the owner 41802
owns only part of the building in which the facility is housed, 41803
the name of each person who has an ownership interest of five per 41804
cent or more in the building; 41805

(3) The address of any adult care facility and any facility 41806
described in divisions (A)(9)(a) to ~~(i)~~(h) of section 3722.01 of 41807
the Revised Code in which the owner has an ownership interest of 41808
five per cent or more; 41809

(4) The identity of the manager of the adult care facility, 41810
if different from the owner; 41811

(5) The name and address of any adult care facility and any 41812
facility described in divisions (A)(9)(a) to ~~(i)~~(h) of section 41813
3722.01 of the Revised Code with which either the owner or manager 41814
has been affiliated through ownership or employment in the five 41815
years prior to the date of the application; 41816

(6) The names and addresses of three persons not employed by 41817
or associated in business with the owner who will provide 41818
information about the character, reputation, and competence of the 41819
owner and the manager and the financial responsibility of the 41820
owner; 41821

(7) Information about any arrest of the owner or manager for, 41822
or adjudication or conviction of, a criminal offense related to 41823
the provision of care in an adult care facility or any facility 41824
described in divisions (A)(9)(a) to ~~(i)~~(h) of section 3722.01 of 41825
the Revised Code or the ability to operate a facility; 41826

(8) Any other information the director may require regarding 41827

the owner's ability to operate the facility. 41828

(D) If the facility is an adult group home, a balance sheet 41829
showing the assets and liabilities of the owner and a statement 41830
projecting revenues and expenses for the first twelve months of 41831
the facility's operation; 41832

(E) Proof of insurance in an amount and type determined in 41833
rules adopted by the public health council pursuant to this 41834
chapter to be adequate; 41835

(F) A nonrefundable license application fee in an amount 41836
established in rules adopted by the public health council pursuant 41837
to this chapter. 41838

Sec. 3722.04. (A)(1) The director of health shall inspect, 41839
license, and regulate adult care facilities. Except as otherwise 41840
provided in division (D) of this section, the director shall issue 41841
a license to an adult care facility that meets the requirements of 41842
section 3722.02 of the Revised Code and that the director 41843
determines to be in substantial compliance with the rules adopted 41844
by the public health council pursuant to this chapter. The 41845
director shall consider the past record of the owner and manager 41846
and any individuals who are principal participants in an entity 41847
that is the owner or manager in operating facilities providing 41848
care to adults. The director may, in accordance with Chapter 119. 41849
of the Revised Code, deny a license if the past record indicates 41850
that the owner or manager is not suitable to own or manage an 41851
adult care facility. 41852

The license shall contain the name and address of the 41853
facility for which it was issued, the date of expiration of the 41854
license, and the maximum number of residents that may be 41855
accommodated by the facility. A license for an adult care facility 41856
shall be valid for a period of two years after the date of 41857
issuance. No single facility may be licensed to operate as more 41858

than one adult care facility. 41859

(2) Notwithstanding division (A)(1) of this section and 41860
sections 3722.02 and 3722.041 of the Revised Code, the director 41861
may issue a temporary license if the requirements of divisions 41862
(C), (D), and (F) of section 3722.02 of the Revised Code have been 41863
met. A temporary license shall be valid for a period of ninety 41864
days and, except as otherwise provided in division (A)(3) of 41865
section 3722.05 of the Revised Code, may be renewed, without 41866
payment of an additional application fee, for an additional ninety 41867
days. 41868

(B) The director shall renew a license for a two-year period 41869
if the facility continues to be in compliance with the 41870
requirements of this chapter and in substantial compliance with 41871
the rules adopted under this chapter. The owner shall submit a 41872
nonrefundable license renewal application fee in an amount 41873
established in rules adopted by the public health council pursuant 41874
to this chapter. Before the license of an adult group home is 41875
renewed, if any alterations have been made to the buildings, a 41876
certificate of occupancy for the facility shall have been issued 41877
by the division of industrial compliance in the department of 41878
commerce or a local certified building department. The facility 41879
shall have water and sewage system approvals, if required by law, 41880
and, in the case of an adult group home, documentation of 41881
continued compliance with the rules adopted by the state fire 41882
marshal under division (F) of section 3737.83 of the Revised Code. 41883

(C) The director shall make at least one unannounced 41884
inspection of an adult care facility during each licensure period 41885
in addition to inspecting the facility to determine whether a 41886
license should be issued or renewed, and may make additional 41887
unannounced inspections as the director considers necessary. Other 41888
inspections may be made at any time that the director considers 41889
appropriate. The director shall take all reasonable actions to 41890

avoid giving notice of an inspection by the manner in which the 41891
inspection is scheduled or performed. Not later than sixty days 41892
after the date of an inspection of a facility, the director shall 41893
send a report of the inspection to the ombudsperson in whose 41894
region the facility is located. The state fire marshal or fire 41895
prevention officer of a municipal, township, or other legally 41896
constituted fire department approved by the state fire marshal 41897
shall inspect an adult group home seeking a license or renewal 41898
under this chapter as an adult care facility prior to issuance of 41899
a license or renewal, at least once annually thereafter, and at 41900
any other time at the request of the director, to determine 41901
compliance with the rules adopted under division (F) of section 41902
3737.83 of the Revised Code. 41903

(D) The director may waive any of the licensing requirements 41904
having to do with fire and safety requirements or building 41905
standards established by rule adopted by the public health council 41906
pursuant to this chapter upon written request of the facility. The 41907
director may grant a waiver if the director determines that the 41908
strict application of the licensing requirement would cause undue 41909
hardship to the facility and that granting the waiver would not 41910
jeopardize the health or safety of any resident. The director may 41911
provide a facility with an informal hearing concerning the denial 41912
of a waiver request, but the facility shall not be entitled to a 41913
hearing under Chapter 119. of the Revised Code unless the director 41914
takes an action that requires a hearing to be held under section 41915
3722.05 of the Revised Code. 41916

(E)(1) Not later than thirty days after ~~the issuance or~~ 41917
~~renewal of the license, other than a temporary license, of an~~ 41918
~~adult care facility under this section~~ each of the following, the 41919
owner of an adult care facility shall submit an inspection fee of 41920
~~ten~~ twenty dollars for each bed for which the facility is 41921
licensed: 41922

| | |
|--|-------|
| <u>(a) Issuance or renewal of a license, other than a temporary license;</u> | 41923 |
| | 41924 |
| <u>(b) The unannounced inspection required by division (C) of this section;</u> | 41925 |
| | 41926 |
| <u>(c) If, during an inspection conducted in addition to the two inspections required by division (C) of this section, the facility was found to be in violation of this chapter or the rules adopted under it, receipt by the facility of the report of that investigation. The</u> | 41927 |
| | 41928 |
| | 41929 |
| | 41930 |
| | 41931 |
| <u>(2) The director may revoke the license of any adult care facility that fails to submit the fee within the thirty-day period. All</u> | 41932 |
| | 41933 |
| | 41934 |
| <u>(3) All inspection fees received by the director, all civil penalties assessed under section 3722.08 of the Revised Code, all fines imposed under section 3722.99 of the Revised Code, and all license application and renewal application fees received under division (F) of section 3722.02 of the Revised Code or under division (B) of this section shall be deposited into the general operations fund created in section 3701.83 of the Revised Code and shall be used only to pay the costs of administering and enforcing the requirements of this chapter and rules adopted under it.</u> | 41935 |
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| <u>(F)(1) An owner shall inform the director in writing of any changes in the information contained in the statement of ownership made pursuant to division (C) of section 3722.02 of the Revised Code or in the identity of the manager, not later than ten days after the change occurs.</u> | 41944 |
| | 41945 |
| | 41946 |
| | 41947 |
| | 41948 |
| <u>(2) An owner who sells or transfers an adult care facility shall be responsible and liable for the following:</u> | 41949 |
| | 41950 |
| <u>(a) Any civil penalties imposed against the facility under section 3722.08 of the Revised Code for violations that occur before the date of transfer of ownership or during any period in</u> | 41951 |
| | 41952 |
| | 41953 |

which the seller or the seller's agent operates the facility; 41954

(b) Any outstanding liability to the state, unless the buyer 41955
or transferee has agreed, as a condition of the sale or transfer, 41956
to accept the outstanding liabilities and to guarantee their 41957
payment, except that if the buyer or transferee fails to meet 41958
these obligations the seller or transferor shall remain 41959
responsible for the outstanding liability. 41960

(G) The director shall annually publish a list of licensed 41961
adult care facilities, facilities whose licenses have been revoked 41962
or not renewed, any facilities under an order suspending 41963
admissions pursuant to section 3722.07 of the Revised Code, and 41964
any facilities that have been assessed a civil penalty pursuant to 41965
section 3722.08 of the Revised Code. The director shall furnish 41966
information concerning the status of licensure of any facility to 41967
any person upon request. The director shall annually send a copy 41968
of the list to the department of job and family services, to the 41969
department of mental health, and to the department of aging. 41970

Sec. 3734.01. As used in this chapter: 41971

(A) "Board of health" means the board of health of a city or 41972
general health district or the authority having the duties of a 41973
board of health in any city as authorized by section 3709.05 of 41974
the Revised Code. 41975

(B) "Director" means the director of environmental 41976
protection. 41977

(C) "Health district" means a city or general health district 41978
as created by or under authority of Chapter 3709. of the Revised 41979
Code. 41980

(D) "Agency" means the environmental protection agency. 41981

(E) "Solid wastes" means such unwanted residual solid or 41982
semisolid material as results from industrial, commercial, 41983

agricultural, and community operations, excluding earth or 41984
material from construction, mining, or demolition operations, or 41985
other waste materials of the type that normally would be included 41986
in demolition debris, nontoxic fly ash and bottom ash, including 41987
at least ash that results from the combustion of coal and ash that 41988
results from the combustion of coal in combination with scrap 41989
tires where scrap tires comprise not more than fifty per cent of 41990
heat input in any month, spent nontoxic foundry sand, nontoxic, 41991
nonhazardous, unwanted fired and unfired, glazed and unglazed, 41992
structural shale and clay products, and slag and other substances 41993
that are not harmful or inimical to public health, and includes, 41994
but is not limited to, garbage, scrap tires, combustible and 41995
noncombustible material, street dirt, and debris. "Solid wastes" 41996
does not include ~~any~~ either of the following: 41997

(1) Any material that is an infectious waste or a hazardous 41998
waste; 41999

(2) Spent petroleum refinery hydrotreating, hydrorefining, 42000
and hydrocracking catalysts that are used to produce 42001
ferrovanadium, iron nickel molybdenum, and calcium aluminate 42002
alloys for the steel, iron, and nickel industries unless the 42003
catalysts are disposed of at a solid waste facility licensed under 42004
this chapter or are accumulated speculatively. 42005

(F) "Disposal" means the discharge, deposit, injection, 42006
dumping, spilling, leaking, emitting, or placing of any solid 42007
wastes or hazardous waste into or on any land or ground or surface 42008
water or into the air, except if the disposition or placement 42009
constitutes storage or treatment or, if the solid wastes consist 42010
of scrap tires, the disposition or placement constitutes a 42011
beneficial use or occurs at a scrap tire recovery facility 42012
licensed under section 3734.81 of the Revised Code. 42013

(G) "Person" includes the state, any political subdivision 42014
and other state or local body, the United States and any agency or 42015

instrumentality thereof, and any legal entity defined as a person 42016
under section 1.59 of the Revised Code. 42017

(H) "Open burning" means the burning of solid wastes in an 42018
open area or burning of solid wastes in a type of chamber or 42019
vessel that is not approved or authorized in rules adopted by the 42020
director under section 3734.02 of the Revised Code or, if the 42021
solid wastes consist of scrap tires, in rules adopted under 42022
division (V) of this section or section 3734.73 of the Revised 42023
Code, or the burning of treated or untreated infectious wastes in 42024
an open area or in a type of chamber or vessel that is not 42025
approved in rules adopted by the director under section 3734.021 42026
of the Revised Code. 42027

(I) "Open dumping" means the depositing of solid wastes into 42028
a body or stream of water or onto the surface of the ground at a 42029
site that is not licensed as a solid waste facility under section 42030
3734.05 of the Revised Code or, if the solid wastes consist of 42031
scrap tires, as a scrap tire collection, storage, monocell, 42032
monofill, or recovery facility under section 3734.81 of the 42033
Revised Code; the depositing of solid wastes that consist of scrap 42034
tires onto the surface of the ground at a site or in a manner not 42035
specifically identified in divisions (C)(2) to (5), (7), or (10) 42036
of section 3734.85 of the Revised Code; the depositing of 42037
untreated infectious wastes into a body or stream of water or onto 42038
the surface of the ground; or the depositing of treated infectious 42039
wastes into a body or stream of water or onto the surface of the 42040
ground at a site that is not licensed as a solid waste facility 42041
under section 3734.05 of the Revised Code. 42042

(J) "Hazardous waste" means any waste or combination of 42043
wastes in solid, liquid, semisolid, or contained gaseous form that 42044
in the determination of the director, because of its quantity, 42045
concentration, or physical or chemical characteristics, may do 42046
either of the following: 42047

(1) Cause or significantly contribute to an increase in 42048
mortality or an increase in serious irreversible or incapacitating 42049
reversible illness; 42050

(2) Pose a substantial present or potential hazard to human 42051
health or safety or to the environment when improperly stored, 42052
treated, transported, disposed of, or otherwise managed. 42053

"Hazardous waste" includes any substance identified by 42054
regulation as hazardous waste under the "Resource Conservation and 42055
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 42056
amended, and does not include any substance that is subject to the 42057
"Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as 42058
amended. 42059

(K) "Treat" or "treatment," when used in connection with 42060
hazardous waste, means any method, technique, or process designed 42061
to change the physical, chemical, or biological characteristics or 42062
composition of any hazardous waste; to neutralize the waste; to 42063
recover energy or material resources from the waste; to render the 42064
waste nonhazardous or less hazardous, safer to transport, store, 42065
or dispose of, or amenable for recovery, storage, further 42066
treatment, or disposal; or to reduce the volume of the waste. When 42067
used in connection with infectious wastes, "treat" or "treatment" 42068
means any method, technique, or process designed to render the 42069
wastes noninfectious, including, without limitation, steam 42070
sterilization and incineration, or, in the instance of wastes 42071
identified in division (R)(7) of this section, to substantially 42072
reduce or eliminate the potential for the wastes to cause 42073
lacerations or puncture wounds. 42074

(L) "Manifest" means the form used for identifying the 42075
quantity, composition, origin, routing, and destination of 42076
hazardous waste during its transportation from the point of 42077
generation to the point of disposal, treatment, or storage. 42078

(M) "Storage," when used in connection with hazardous waste, 42079
means the holding of hazardous waste for a temporary period in 42080
such a manner that it remains retrievable and substantially 42081
unchanged physically and chemically and, at the end of the period, 42082
is treated; disposed of; stored elsewhere; or reused, recycled, or 42083
reclaimed in a beneficial manner. When used in connection with 42084
solid wastes that consist of scrap tires, "storage" means the 42085
holding of scrap tires for a temporary period in such a manner 42086
that they remain retrievable and, at the end of that period, are 42087
beneficially used; stored elsewhere; placed in a scrap tire 42088
monocell or monofill facility licensed under section 3734.81 of 42089
the Revised Code; processed at a scrap tire recovery facility 42090
licensed under that section or a solid waste incineration or 42091
energy recovery facility subject to regulation under this chapter; 42092
or transported to a scrap tire monocell, monofill, or recovery 42093
facility, any other solid waste facility authorized to dispose of 42094
scrap tires, or a facility that will beneficially use the scrap 42095
tires, that is located in another state and is operating in 42096
compliance with the laws of the state in which the facility is 42097
located. 42098

(N) "Facility" means any site, location, tract of land, 42099
installation, or building used for incineration, composting, 42100
sanitary landfilling, or other methods of disposal of solid wastes 42101
or, if the solid wastes consist of scrap tires, for the 42102
collection, storage, or processing of the solid wastes; for the 42103
transfer of solid wastes; for the treatment of infectious wastes; 42104
or for the storage, treatment, or disposal of hazardous waste. 42105

(O) "Closure" means the time at which a hazardous waste 42106
facility will no longer accept hazardous waste for treatment, 42107
storage, or disposal, the time at which a solid waste facility 42108
will no longer accept solid wastes for transfer or disposal or, if 42109
the solid wastes consist of scrap tires, for storage or 42110

processing, or the effective date of an order revoking the permit 42111
for a hazardous waste facility or the registration certificate, 42112
permit, or license for a solid waste facility, as applicable. 42113
"Closure" includes measures performed to protect public health or 42114
safety, to prevent air or water pollution, or to make the facility 42115
suitable for other uses, if any, including, but not limited to, 42116
the removal of processing residues resulting from solid wastes 42117
that consist of scrap tires; the establishment and maintenance of 42118
a suitable cover of soil and vegetation over cells in which 42119
hazardous waste or solid wastes are buried; minimization of 42120
erosion, the infiltration of surface water into such cells, the 42121
production of leachate, and the accumulation and runoff of 42122
contaminated surface water; the final construction of facilities 42123
for the collection and treatment of leachate and contaminated 42124
surface water runoff, except as otherwise provided in this 42125
division; the final construction of air and water quality 42126
monitoring facilities, except as otherwise provided in this 42127
division; the final construction of methane gas extraction and 42128
treatment systems; or the removal and proper disposal of hazardous 42129
waste or solid wastes from a facility when necessary to protect 42130
public health or safety or to abate or prevent air or water 42131
pollution. With regard to a solid waste facility that is a scrap 42132
tire facility, "closure" includes the final construction of 42133
facilities for the collection and treatment of leachate and 42134
contaminated surface water runoff and the final construction of 42135
air and water quality monitoring facilities only if those actions 42136
are determined to be necessary. 42137

(P) "Premises" means either of the following: 42138

(1) Geographically contiguous property owned by a generator; 42139

(2) Noncontiguous property that is owned by a generator and 42140
connected by a right-of-way that the generator controls and to 42141
which the public does not have access. Two or more pieces of 42142

property that are geographically contiguous and divided by public 42143
or private right-of-way or rights-of-way are a single premises. 42144

(Q) "Post-closure" means that period of time following 42145
closure during which a hazardous waste facility is required to be 42146
monitored and maintained under this chapter and rules adopted 42147
under it, including, without limitation, operation and maintenance 42148
of methane gas extraction and treatment systems, or the period of 42149
time after closure during which a scrap tire monocell or monofill 42150
facility licensed under section 3734.81 of the Revised Code is 42151
required to be monitored and maintained under this chapter and 42152
rules adopted under it. 42153

(R) "Infectious wastes" includes all of the following 42154
substances or categories of substances: 42155

(1) Cultures and stocks of infectious agents and associated 42156
biologicals, including, without limitation, specimen cultures, 42157
cultures and stocks of infectious agents, wastes from production 42158
of biologicals, and discarded live and attenuated vaccines; 42159

(2) Laboratory wastes that were, or are likely to have been, 42160
in contact with infectious agents that may present a substantial 42161
threat to public health if improperly managed; 42162

(3) Pathological wastes, including, without limitation, human 42163
and animal tissues, organs, and body parts, and body fluids and 42164
excreta that are contaminated with or are likely to be 42165
contaminated with infectious agents, removed or obtained during 42166
surgery or autopsy or for diagnostic evaluation, provided that, 42167
with regard to pathological wastes from animals, the animals have 42168
or are likely to have been exposed to a zoonotic or infectious 42169
agent; 42170

(4) Waste materials from the rooms of humans, or the 42171
enclosures of animals, that have been isolated because of 42172
diagnosed communicable disease that are likely to transmit 42173

infectious agents. Such waste materials from the rooms of humans 42174
do not include any wastes of patients who have been placed on 42175
blood and body fluid precautions under the universal precaution 42176
system established by the centers for disease control in the 42177
public health service of the United States department of health 42178
and human services, except to the extent specific wastes generated 42179
under the universal precautions system have been identified as 42180
infectious wastes by rules adopted under division (R)(8) of this 42181
section. 42182

(5) Human and animal blood specimens and blood products that 42183
are being disposed of, provided that, with regard to blood 42184
specimens and blood products from animals, the animals were or are 42185
likely to have been exposed to a zoonotic or infectious agent. 42186
"Blood products" does not include patient care waste such as 42187
bandages or disposable gowns that are lightly soiled with blood or 42188
other body fluids unless those wastes are soiled to the extent 42189
that the generator of the wastes determines that they should be 42190
managed as infectious wastes. 42191

(6) Contaminated carcasses, body parts, and bedding of 42192
animals that were intentionally exposed to infectious agents from 42193
zoonotic or human diseases during research, production of 42194
biologicals, or testing of pharmaceuticals, and carcasses and 42195
bedding of animals otherwise infected by zoonotic or infectious 42196
agents that may present a substantial threat to public health if 42197
improperly managed; 42198

(7) Sharp wastes used in the treatment, diagnosis, or 42199
inoculation of human beings or animals or that have, or are likely 42200
to have, come in contact with infectious agents in medical, 42201
research, or industrial laboratories, including, without 42202
limitation, hypodermic needles and syringes, scalpel blades, and 42203
glass articles that have been broken; 42204

(8) Any other waste materials generated in the diagnosis, 42205

treatment, or immunization of human beings or animals, in research 42206
pertaining thereto, or in the production or testing of 42207
biologicals, that the public health council created in section 42208
3701.33 of the Revised Code, by rules adopted in accordance with 42209
Chapter 119. of the Revised Code, identifies as infectious wastes 42210
after determining that the wastes present a substantial threat to 42211
human health when improperly managed because they are contaminated 42212
with, or are likely to be contaminated with, infectious agents. 42213

(S) "Infectious agent" means a type of microorganism, 42214
helminth, or virus that causes, or significantly contributes to 42215
the cause of, increased morbidity or mortality of human beings. 42216

(T) "Zoonotic agent" means a type of microorganism, helminth, 42217
or virus that causes disease in vertebrate animals and that is 42218
transmissible to human beings and causes or significantly 42219
contributes to the cause of increased morbidity or mortality of 42220
human beings. 42221

(U) "Solid waste transfer facility" means any site, location, 42222
tract of land, installation, or building that is used or intended 42223
to be used primarily for the purpose of transferring solid wastes 42224
that were generated off the premises of the facility from vehicles 42225
or containers into other vehicles for transportation to a solid 42226
waste disposal facility. "Solid waste transfer facility" does not 42227
include any facility that consists solely of portable containers 42228
that have an aggregate volume of fifty cubic yards or less nor any 42229
facility where legitimate recycling activities are conducted. 42230

(V) "Beneficially use" means to use a scrap tire in a manner 42231
that results in a commodity for sale or exchange or in any other 42232
manner authorized as a beneficial use in rules adopted by the 42233
director in accordance with Chapter 119. of the Revised Code. 42234

(W) "Commercial car," "commercial tractor," "farm machinery," 42235
"motor bus," "vehicles," "motor vehicle," and "semitrailer" have 42236

the same meanings as in section 4501.01 of the Revised Code. 42237

(X) "Construction equipment" means road rollers, traction 42238
engines, power shovels, power cranes, and other equipment used in 42239
construction work, or in mining or producing or processing 42240
aggregates, and not designed for or used in general highway 42241
transportation. 42242

(Y) "Motor vehicle salvage dealer" has the same meaning as in 42243
section 4738.01 of the Revised Code. 42244

(Z) "Scrap tire" means an unwanted or discarded tire. 42245

(AA) "Scrap tire collection facility" means any facility that 42246
meets all of the following qualifications: 42247

(1) The facility is used for the receipt and storage of whole 42248
scrap tires from the public prior to their transportation to a 42249
scrap tire storage, monocell, monofill, or recovery facility 42250
licensed under section 3734.81 of the Revised Code; a solid waste 42251
incineration or energy recovery facility subject to regulation 42252
under this chapter; a premises within the state where the scrap 42253
tires will be beneficially used; or a scrap tire storage, 42254
monocell, monofill, or recovery facility, any other solid waste 42255
disposal facility authorized to dispose of scrap tires, or a 42256
facility that will beneficially use the scrap tires, that is 42257
located in another state, and that is operating in compliance with 42258
the laws of the state in which the facility is located+_. 42259

(2) The facility exclusively stores scrap tires in portable 42260
containers+_. 42261

(3) The aggregate storage of the portable containers in which 42262
the scrap tires are stored does not exceed five thousand cubic 42263
feet. 42264

(BB) "Scrap tire monocell facility" means an individual site 42265
within a solid waste landfill that is used exclusively for the 42266

environmentally sound storage or disposal of whole scrap tires or 42267
scrap tires that have been shredded, chipped, or otherwise 42268
mechanically processed. 42269

(CC) "Scrap tire monofill facility" means an engineered 42270
facility used or intended to be used exclusively for the storage 42271
or disposal of scrap tires, including at least facilities for the 42272
submergence of whole scrap tires in a body of water. 42273

(DD) "Scrap tire recovery facility" means any facility, or 42274
portion thereof, for the processing of scrap tires for the purpose 42275
of extracting or producing usable products, materials, or energy 42276
from the scrap tires through a controlled combustion process, 42277
mechanical process, or chemical process. "Scrap tire recovery 42278
facility" includes any facility that uses the controlled 42279
combustion of scrap tires in a manufacturing process to produce 42280
process heat or steam or any facility that produces usable heat or 42281
electric power through the controlled combustion of scrap tires in 42282
combination with another fuel, but does not include any solid 42283
waste incineration or energy recovery facility that is designed, 42284
constructed, and used for the primary purpose of incinerating 42285
mixed municipal solid wastes and that burns scrap tires in 42286
conjunction with mixed municipal solid wastes, or any tire 42287
retreading business, tire manufacturing finishing center, or tire 42288
adjustment center having on the premises of the business a single, 42289
covered scrap tire storage area at which not more than four 42290
thousand scrap tires are stored. 42291

(EE) "Scrap tire storage facility" means any facility where 42292
whole scrap tires are stored prior to their transportation to a 42293
scrap tire monocell, monofill, or recovery facility licensed under 42294
section 3734.81 of the Revised Code; a solid waste incineration or 42295
energy recovery facility subject to regulation under this chapter; 42296
a premises within the state where the scrap tires will be 42297
beneficially used; or a scrap tire storage, monocell, monofill, or 42298

recovery facility, any other solid waste disposal facility 42299
authorized to dispose of scrap tires, or a facility that will 42300
beneficially use the scrap tires, that is located in another 42301
state, and that is operating in compliance with the laws of the 42302
state in which the facility is located. 42303

(FF) "Used oil" means any oil that has been refined from 42304
crude oil, or any synthetic oil, that has been used and, as a 42305
result of that use, is contaminated by physical or chemical 42306
impurities. "Used oil" includes only those substances identified 42307
as used oil by the United States environmental protection agency 42308
under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 42309
U.S.C.A. 6901a, as amended. 42310

(GG) "Accumulated speculatively" has the same meaning as in 42311
rules adopted by the director under section 3734.12 of the Revised 42312
Code. 42313

Sec. 3734.20. (A) If the director of environmental protection 42314
has reason to believe that hazardous waste was treated, stored, or 42315
disposed of at any location within the state, ~~he~~ the director may 42316
conduct such investigations and make such inquiries, including 42317
obtaining samples and examining and copying records, as are 42318
reasonable or necessary to determine if conditions at a hazardous 42319
waste facility, solid waste facility, or other location where the 42320
director has reason to believe hazardous waste was treated, 42321
stored, or disposed of constitute a substantial threat to public 42322
health or safety or are causing or contributing to or threatening 42323
to cause or contribute to air or water pollution or soil 42324
contamination. The director or the director's authorized 42325
representative may apply for, and any judge of a court of common 42326
pleas shall issue, an appropriate search warrant necessary to 42327
achieve the purposes of this section within the court's 42328
territorial jurisdiction. The director may expend moneys from the 42329

hazardous waste clean-up fund created in section 3734.28 of the 42330
Revised Code or the environmental protection remediation fund 42331
created in section 3734.281 of the Revised Code for conducting 42332
investigations under this section. 42333

(B) If the director determines that conditions at a hazardous 42334
waste facility, solid waste facility, or other location where 42335
hazardous waste was treated, stored, or disposed of constitute a 42336
substantial threat to public health or safety or are causing or 42337
contributing to or threatening to cause or contribute to air or 42338
water pollution or soil contamination, the director shall initiate 42339
appropriate action under this chapter or Chapter 3704. or 6111. of 42340
the Revised Code or seek any other appropriate legal or equitable 42341
remedies to abate the pollution or contamination or to protect 42342
public health or safety. 42343

If an order of the director to abate or prevent air or water 42344
pollution or soil contamination or to remedy a threat to public 42345
health or safety caused by conditions at such a facility issued 42346
pursuant to this chapter or Chapter 3704. or 6111. of the Revised 42347
Code is not wholly complied with within the time prescribed in the 42348
order, the director may, through officers or employees of the 42349
environmental protection agency or through contractors employed 42350
for that purpose in accordance with the bidding procedure 42351
established in division (C) of section 3734.23 of the Revised 42352
Code, enter upon the facility and perform those measures necessary 42353
to abate or prevent air or water pollution or soil contamination 42354
from the facility or to protect public health or safety, 42355
including, but not limited to, measures prescribed in division (B) 42356
of section 3734.23 of the Revised Code. The director shall keep an 42357
itemized record of the cost of the investigation and measures 42358
performed, including costs for labor, materials, and any contract 42359
services required. Upon completion of the investigation or 42360
measures, the director shall record the cost of performing those 42361

measures at the office of the county recorder of the county in 42362
which the facility is located. The cost so recorded constitutes a 42363
lien against the property on which the facility is located until 42364
discharged. Upon written request of the director, the attorney 42365
general shall institute a civil action to recover the cost. Any 42366
moneys so received shall be credited to the hazardous waste 42367
clean-up fund ~~created in section 3734.28 of the Revised Code~~ or 42368
the environmental protection remediation fund, as applicable. 42369

When entering upon a facility under this division, the 42370
director shall perform or cause to be performed only those 42371
measures necessary to abate or prevent air or water pollution or 42372
soil contamination caused by conditions at the facility or to 42373
abate threats to public health or safety caused by conditions at 42374
the facility. For this purpose the director may expend moneys from 42375
~~the~~ either fund and may expend moneys from loans from the Ohio 42376
water development authority to the environmental protection agency 42377
that pledge moneys from ~~the~~ either fund for the repayment of and 42378
for the interest on such loans. 42379

Sec. 3734.21. (A) The director of environmental protection 42380
may expend moneys credited to the hazardous waste clean-up fund 42381
created in section 3734.28 of the Revised Code or the 42382
environmental protection remediation fund created in section 42383
3734.281 of the Revised Code for the payment of the cost of 42384
measures necessary for the proper closure of hazardous waste 42385
facilities or any solid waste facilities containing significant 42386
quantities of hazardous waste, for the payment of costs of the 42387
development and construction of suitable hazardous waste 42388
facilities required by division (B) of section 3734.23 of the 42389
Revised Code to the extent the director determines that such 42390
facilities are not available, and for the payment of costs that 42391
are necessary to abate conditions thereon that are causing or 42392
contributing to or threatening to cause or contribute to air or 42393

water pollution or soil contamination or that constitute a 42394
substantial threat to public health or safety. In addition, the 42395
director may expend and pledge moneys credited to ~~the~~ either fund 42396
for repayment of and for interest on any loan made by the Ohio 42397
water development authority to the environmental protection agency 42398
for the payment of such costs. 42399

(B) Before beginning to clean up any facility under this 42400
section, the director shall develop a plan for the cleanup and an 42401
estimate of the cost thereof. The plan shall include only those 42402
measures necessary to abate conditions thereon that are causing or 42403
contributing to or threatening to cause or contribute to air or 42404
water pollution or soil contamination or that constitute a 42405
substantial threat to public health or safety, including, but not 42406
limited to, establishment and maintenance of an adequate cover of 42407
soil and vegetation on any facility for the burial of hazardous 42408
waste to prevent the infiltration of water into cells where 42409
hazardous waste is buried, the accumulation or runoff of 42410
contaminated surface water, the production of leachate, and air 42411
emissions of hazardous waste; the collection and treatment of 42412
contaminated surface water runoff; the collection and treatment of 42413
leachate; or, if conditions so require, the removal of hazardous 42414
waste from the facility and the treatment or disposal of the waste 42415
at a suitable hazardous waste facility. The plan or any part of 42416
the plan for the cleanup of the facility shall be carried out by 42417
entering into contracts therefor in accordance with the procedures 42418
established in division (C) of section 3734.23 of the Revised 42419
Code. 42420

Sec. 3734.22. Before beginning to clean up any facility under 42421
section 3734.21 of the Revised Code, the director of environmental 42422
protection shall endeavor to enter into an agreement with the 42423
owner of the land on which the facility is located, or with the 42424
owner of the facility, specifying the measures to be performed and 42425

authorizing the director, employees of the agency, or contractors 42426
retained by the director to enter upon the land and perform the 42427
specified measures. 42428

Each agreement ~~shall~~ may contain provisions for the 42429
reimbursement of the state for the costs of the cleanup. 42430

All reimbursements and payments shall be credited to the 42431
hazardous waste clean-up fund created in section 3734.28 of the 42432
Revised Code or the environmental protection remediation fund 42433
created in section 3734.281 of the Revised Code, as applicable. 42434

The agreement may require the owner to execute an easement 42435
whereby the director, an authorized employee of the agency, or a 42436
contractor employed by the agency in accordance with the bidding 42437
procedure established in division (C) of section 3734.23 of the 42438
Revised Code may enter upon the facility to sample, repair, or 42439
reconstruct air and water quality monitoring equipment constructed 42440
under the agreement. Such easements shall be for a specified 42441
period of years and may be extinguished by agreement between the 42442
owner and the director. When necessary to protect the public 42443
health or safety, the agreement may require the owner to enter 42444
into an environmental covenant with the director in accordance 42445
with sections 5301.80 to 5301.92 of the Revised Code. 42446

Upon a breach of the reimbursement provisions of the 42447
agreement by the owner of the land or facility, or upon 42448
notification to the director by the owner that the owner is unable 42449
to perform the duties under the reimbursement provisions of the 42450
agreement, the director ~~shall~~ may record the unreimbursed portion 42451
of the costs of cleanup at the office of the county recorder of 42452
the county in which the facility is located. The costs so recorded 42453
constitute a lien against the property on which the facility is 42454
located until discharged. Upon written request of the director, 42455
the attorney general shall institute a civil action to recover the 42456
unreimbursed portion of the costs of cleanup. Any moneys so 42457

recovered shall be credited to the hazardous waste clean-up fund 42458
or the environmental protection remediation fund, as applicable. 42459

Sec. 3734.23. (A) The director of environmental protection 42460
may acquire by purchase, gift, donation, contribution, or 42461
appropriation in accordance with sections 163.01 to 163.21 of the 42462
Revised Code any hazardous waste facility or any solid waste 42463
facility containing significant quantities of hazardous waste 42464
that, because of its condition and the types and quantities of 42465
hazardous waste contained in the facility, constitutes an imminent 42466
and substantial threat to public health or safety or results in 42467
air pollution, pollution of the waters of the state, or soil 42468
contamination. For this purpose and for the purposes of division 42469
(B) of this section, the director may expend moneys from the 42470
hazardous waste clean-up fund created in section 3734.28 of the 42471
Revised Code or the environmental protection remediation fund 42472
created in section 3734.281 of the Revised Code and may expend 42473
moneys from loans from the Ohio water development authority to the 42474
environmental protection agency that pledge moneys from ~~the~~ either 42475
fund for the repayment of and for the interest on such loans. Any 42476
lands or facilities purchased or acquired under this section shall 42477
be deeded to the state, but no deed shall be accepted or the 42478
purchase price paid until the title has been approved by the 42479
attorney general. 42480

(B) The director shall, with respect to any land or facility 42481
acquired under this section or cleaned up under section 3734.20 of 42482
the Revised Code, perform closure or other measures necessary to 42483
abate conditions thereon that are causing or contributing to or 42484
threatening to cause or contribute to air or water pollution or 42485
soil contamination or that constitute a substantial threat to 42486
public health or safety, including, but not limited to, 42487
establishment and maintenance of an adequate cover of soil and 42488
vegetation on any facility for the burial of hazardous waste to 42489

prevent the infiltration of water into cells where hazardous waste 42490
is buried, the accumulation or runoff of contaminated surface 42491
water, the production of leachate, and air emissions of hazardous 42492
waste; the collection and treatment of contaminated surface water 42493
runoff; the collection and treatment of leachate; or, if 42494
conditions so require, the removal of hazardous waste from the 42495
facility and the treatment or disposal of the waste at a suitable 42496
hazardous waste facility. After performing these measures, the 42497
director shall provide for the post-closure care, maintenance, and 42498
monitoring of facilities cleaned up under this section. 42499

(C) Before proceeding to clean up any facility under this 42500
section or section 3734.20 or 3734.21 of the Revised Code, the 42501
director shall develop a plan for the cleanup of the facility and 42502
an estimate of the cost thereof. The director may carry out the 42503
plan or any part of the plan by contracting for the services, 42504
construction, and repair necessary therefor. The director shall 42505
award each such contract to the lowest responsible bidder after 42506
sealed bids therefor are received, opened, and published at the 42507
time fixed by the director and notice of the time and place at 42508
which the sealed bids will be received, opened, and published has 42509
been published by the director in a newspaper of general 42510
circulation in the county in which the facility to be cleaned up 42511
under the contract is located at least once within the ten days 42512
before the opening of the bids. However, if after advertising for 42513
bids for the contract, no bids are received by the director at the 42514
time and place fixed for receiving them, the director may 42515
advertise again for bids, or ~~he~~ the director may, if ~~he~~ the 42516
director considers the public interest will best be served 42517
thereby, enter into a contract for the cleanup of the facility 42518
without further advertisement for bids. The director may reject 42519
any or all bids received and fix and publish again notice of the 42520
time and place at which bids for the contracts will be received, 42521
opened, and published. 42522

(D) The director shall keep an itemized record of the costs 42523
of any acquisition under division (A) of this section and the 42524
costs of cleanup under division (B) of this section. 42525

Sec. 3734.28. All moneys collected under sections 3734.122, 42526
3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised 42527
Code and natural resource damages collected by the state under the 42528
"Comprehensive Environmental Response, Compensation, and Liability 42529
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall 42530
be paid into the state treasury to the credit of the hazardous 42531
waste clean-up fund, which is hereby created. In addition, any 42532
moneys recovered for costs paid from the fund for activities 42533
described in division (A)(1) and (2) of section 3745.12 of the 42534
Revised Code shall be credited to the fund. The environmental 42535
protection agency shall use the moneys in the fund for the 42536
purposes set forth in division (D) of section 3734.122, sections 42537
3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, 42538
and, through October 15, 2005, divisions (A)(1) and (2) of section 42539
3745.12 and Chapter 3746. of the Revised Code, including any 42540
related enforcement expenses. In addition, the agency shall use 42541
the moneys in the fund to pay the state's long-term operation and 42542
maintenance costs or matching share for actions taken under the 42543
"Comprehensive Environmental Response, Compensation, and Liability 42544
Act of 1980," as amended. If those moneys are reimbursed by grants 42545
or other moneys from the United States or any other person, the 42546
moneys shall be placed in the fund and not in the general revenue 42547
fund. 42548

Sec. 3734.57. (A) ~~For the purposes of paying the state's~~ 42549
~~long term operation costs or matching share for actions taken~~ 42550
~~under the "Comprehensive Environmental Response, Compensation, and~~ 42551
~~Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as~~ 42552
~~amended; paying the costs of measures for proper clean up of sites~~ 42553

~~where polychlorinated biphenyls and substances, equipment, and 42554
devices containing or contaminated with polychlorinated biphenyls 42555
have been stored or disposed of; paying the costs of conducting 42556
surveys or investigations of solid waste facilities or other 42557
locations where it is believed that significant quantities of 42558
hazardous waste were disposed of and for conducting enforcement 42559
actions arising from the findings of such surveys or 42560
investigations; paying the costs of acquiring and cleaning up, or 42561
providing financial assistance for cleaning up, any hazardous 42562
waste facility or solid waste facility containing significant 42563
quantities of hazardous waste, that constitutes an imminent and 42564
substantial threat to public health or safety or the environment; 42565
and, from July 1, 2003, through June 30, 2006, for the purposes of 42566
paying the costs of administering and enforcing the laws 42567
pertaining to solid wastes, infectious wastes, and construction 42568
and demolition debris, including, without limitation, ground water 42569
evaluations related to solid wastes, infectious wastes, and 42570
construction and demolition debris, under this chapter and Chapter 42571
3714. of the Revised Code and any rules adopted under them, and 42572
paying a share of the administrative costs of the environmental 42573
protection agency pursuant to section 3745.014 of the Revised 42574
Code, the The following fees are hereby levied on the disposal of 42575
solid wastes in this state: 42576~~

~~(1) One dollar per ton on and after July 1, 19932003, through 42577
June 30, 2008, one-half of the proceeds of which shall be 42578
deposited in the state treasury to the credit of the hazardous 42579
waste facility management fund created in section 3734.18 of the 42580
Revised Code and one-half of the proceeds of which shall be 42581
deposited in the state treasury to the credit of the hazardous 42582
waste clean-up fund created in section 3734.28 of the Revised 42583
Code;~~ 42584

(2) An additional one dollar per ton on and after July 1, 42585

2003, through June 30, ~~2006~~ 2008, the proceeds of which shall be 42586
deposited in the state treasury to the credit of the solid waste 42587
fund, which is hereby created. The environmental protection agency 42588
shall use money in the solid waste fund to pay the costs of 42589
administering and enforcing the laws pertaining to solid wastes, 42590
infectious wastes, and construction and demolition debris, 42591
including, without limitation, ground water evaluations related to 42592
solid wastes, infectious wastes, and construction and demolition 42593
debris, under this chapter and Chapter 3714. of the Revised Code 42594
and any rules adopted under them, providing compliance assistance 42595
to small businesses, and paying a share of the administrative 42596
costs of the environmental protection agency pursuant to section 42597
3745.014 of the Revised Code. 42598

(3) An additional one dollar and fifty cents per ton on and 42599
after July 1, 2005, through June 30, 2008, the proceeds of which 42600
shall be deposited in the state treasury to the credit of the 42601
environmental protection fund created in section 3745.015 of the 42602
Revised Code. 42603

In the case of solid wastes that are taken to a solid waste 42604
transfer facility located in this state prior to being transported 42605
to a solid waste disposal facility for disposal, the fees levied 42606
under this division shall be collected by the owner or operator of 42607
the transfer facility as a trustee for the state. The amount of 42608
fees required to be collected under this division at such a 42609
transfer facility shall equal the total tonnage of solid wastes 42610
received at the facility multiplied by the fees levied under this 42611
division. In the case of solid wastes that are not taken to a 42612
solid waste transfer facility located in this state prior to being 42613
transported to a solid waste disposal facility, the fees shall be 42614
collected by the owner or operator of the solid waste disposal 42615
facility as a trustee for the state. The amount of fees required 42616
to be collected under this division at such a disposal facility 42617

shall equal the total tonnage of solid wastes received at the 42618
facility that was not previously taken to a solid waste transfer 42619
facility located in this state multiplied by the fees levied under 42620
this division. Fees levied under this division do not apply to 42621
materials separated from a mixed waste stream for recycling by a 42622
generator or materials removed from the solid waste stream through 42623
recycling, as "recycling" is defined in rules adopted under 42624
section 3734.02 of the Revised Code. 42625

The owner or operator of a solid waste transfer facility or 42626
disposal facility ~~shall collect the fees levied under this~~ 42627
~~division as a trustee for the state and, as applicable, shall~~ 42628
prepare and file with the director of environmental protection 42629
~~monthly returns~~ each month a return indicating the total tonnage 42630
of solid wastes received ~~for disposal at the gate of the facility~~ 42631
during that month and the total amount of the fees required to be 42632
collected under this division during that month. In addition, the 42633
owner or operator of a solid waste disposal facility shall 42634
indicate on the return the total tonnage of solid wastes received 42635
from transfer facilities located in this state during that month 42636
for which the fees were required to be collected by the transfer 42637
facilities. The monthly returns shall be filed on a form 42638
prescribed by the director. Not later than thirty days after the 42639
last day of the month to which ~~such~~ a return applies, the owner or 42640
operator shall mail to the director the return for that month 42641
together with the fees required to be collected under this 42642
division during that month as indicated on the return. ~~The~~ If the 42643
return is filed and the amount of the fees due is paid in a timely 42644
manner as required in this division, the owner or operator may 42645
retain a discount of three-fourths of one per cent of the total 42646
amount of the fees that are required to be paid as indicated on 42647
the return. 42648

The owner or operator may request an extension of not more 42649

than thirty days for filing the return and remitting the fees, 42650
provided that the owner or operator has submitted such a request 42651
in writing to the director together with a detailed description of 42652
why the extension is requested, the director has received the 42653
request not later than the day on which the return is required to 42654
be filed, and the director has approved the request. If the fees 42655
are not remitted within thirty days after the last day of the 42656
month ~~during which they were collected~~ to which the return applies 42657
or are not remitted by the last day of an extension approved by 42658
the director, the owner or operator shall not retain the 42659
three-fourths of one per cent discount and shall pay an additional 42660
~~fifty~~ ten per cent of the amount of the fees for each month that 42661
they are late. For purposes of calculating the late fee, the first 42662
month in which fees are late begins on the first day after the 42663
deadline has passed for timely submitting the return and fees, and 42664
one additional month shall be counted every thirty days 42665
thereafter. 42666

~~One half of the moneys remitted to the director under~~ 42667
~~division (A)(1) of this section shall be credited to the hazardous~~ 42668
~~waste facility management fund created in section 3734.18 of the~~ 42669
~~Revised Code, and one half shall be credited to the hazardous~~ 42670
~~waste clean up fund created in section 3734.28 of the Revised~~ 42671
~~Code. The moneys remitted to the director under division (A)(2) of~~ 42672
~~this section shall be credited to the solid waste fund, which is~~ 42673
~~hereby created in the state treasury. The environmental protection~~ 42674
~~agency shall use moneys in the solid waste fund only to pay the~~ 42675
~~costs of administering and enforcing the laws pertaining to solid~~ 42676
~~wastes, infectious wastes, and construction and demolition debris,~~ 42677
~~including, without limitation, ground water evaluations related to~~ 42678
~~solid wastes, infectious wastes, and construction and demolition~~ 42679
~~debris, under this chapter and Chapter 3714. of the Revised Code~~ 42680
~~and rules adopted under them and to pay a share of the~~ 42681
~~administrative costs of the environmental protection agency~~ 42682

~~pursuant to section 3745.014 of the Revised Code.~~ 42683

The owner or operator of a solid waste facility may request a 42684
refund or credit of fees levied under this division and remitted 42685
to the director that have not been paid to the owner or operator. 42686
Such a request shall be made only if the fees have not been 42687
collected by the owner or operator, have become a debt that has 42688
become worthless or uncollectable for a period of six months or 42689
more, and may be claimed as a deduction, including a deduction 42690
claimed if the owner or operator keeps accounts on an accrual 42691
basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 42692
U.S.C. 166, as amended, and regulations adopted under it. Prior to 42693
making a request for a refund or credit, an owner or operator 42694
shall make reasonable efforts to collect the applicable fees. A 42695
request for a refund or credit shall not include any costs 42696
resulting from those efforts to collect unpaid fees. 42697

A request for a refund or credit of fees shall be made in 42698
writing, on a form prescribed by the director, and shall be 42699
supported by evidence that may be required in rules adopted by the 42700
director under this chapter. After reviewing the request, the 42701
director may grant a refund to the owner or operator or may permit 42702
a credit to be taken by the owner or operator on a subsequent 42703
monthly return submitted by the owner or operator. The amount of a 42704
refund or credit shall not exceed an amount that is equal to 42705
ninety days' worth of fees owed to an owner or operator by a 42706
particular debtor of the owner or operator. A refund or credit 42707
shall not be granted by the director to an owner or operator more 42708
than once in any twelve-month period for fees owed to the owner or 42709
operator by a particular debtor. 42710

If, after receiving a refund or credit from the director, an 42711
owner or operator receives payment of all or part of the fees, the 42712
owner or operator shall remit the fees with the next monthly 42713
return submitted to the director together with a written 42714

explanation of the reason for the submittal. 42715

For purposes of computing the fees levied under this division 42716
or division (B) of this section, any solid waste transfer or 42717
disposal facility that does not use scales as a means of 42718
determining gate receipts shall use a conversion factor of three 42719
cubic yards per ton of solid waste or one cubic yard per ton for 42720
baled waste, as applicable. 42721

The fees levied under this division and divisions (B) and (C) 42722
of this section are in addition to all other applicable fees and 42723
taxes and shall be added to ~~any other fee or amount specified in a~~ 42724
~~contract that is charged~~ paid by the customer to the owner or 42725
operator of a solid waste transfer or disposal facility ~~or to any~~ 42726
~~other fee or amount that is specified in a contract entered into~~ 42727
~~on or after March 4, 1992, and that is charged by a transporter of~~ 42728
~~solid wastes~~ notwithstanding the existence of any provision in a 42729
contract that the customer may have with the owner or operator 42730
that would not require or allow such payment. 42731

(B) ~~For the purpose of preparing, revising, and implementing~~ 42732
~~the solid waste management plan of the county or joint solid waste~~ 42733
~~management district, including, without limitation, the~~ 42734
~~development and implementation of solid waste recycling or~~ 42735
~~reduction programs; providing financial assistance to boards of~~ 42736
~~health within the district, if solid waste facilities are located~~ 42737
~~within the district, for the enforcement of this chapter and rules~~ 42738
~~adopted and orders and terms and conditions of permits, licenses,~~ 42739
~~and variances issued under it, other than the hazardous waste~~ 42740
~~provisions of this chapter and rules adopted and orders and terms~~ 42741
~~and conditions of permits issued under those provisions; providing~~ 42742
~~financial assistance to the county to defray the added costs of~~ 42743
~~maintaining roads and other public facilities and of providing~~ 42744
~~emergency and other public services resulting from the location~~ 42745
~~and operation of a solid waste facility within the county under~~ 42746

~~the district's approved solid waste management plan; paying the 42747
costs incurred by boards of health for collecting and analyzing 42748
water samples from public or private wells on lands adjacent to 42749
solid waste facilities that are contained in the approved or 42750
amended plan of the district; paying the costs of developing and 42751
implementing a program for the inspection of solid wastes 42752
generated outside the boundaries of this state that are disposed 42753
of at solid waste facilities included in the district's approved 42754
solid waste management plan or amended plan; providing financial 42755
assistance to boards of health within the district for enforcing 42756
laws prohibiting open dumping; providing financial assistance to 42757
local law enforcement agencies within the district for enforcing 42758
laws and ordinances prohibiting littering; providing financial 42759
assistance to boards of health of health districts within the 42760
district that are on the approved list under section 3734.08 of 42761
the Revised Code for the training and certification required for 42762
their employees responsible for solid waste enforcement by rules 42763
adopted under division (L) of section 3734.02 of the Revised Code; 42764
providing financial assistance to individual municipal 42765
corporations and townships within the district to defray their 42766
added costs of maintaining roads and other public facilities and 42767
of providing emergency and other public services resulting from 42768
the location and operation within their boundaries of a 42769
composting, energy or resource recovery, incineration, or 42770
recycling facility that either is owned by the district or is 42771
furnishing solid waste management facility or recycling services 42772
to the district pursuant to a contract or agreement with the board 42773
of county commissioners or directors of the district; and payment 42774
of any expenses that are agreed to, awarded, or ordered to be paid 42775
under section 3734.35 of the Revised Code and of any 42776
administrative costs incurred pursuant to that section purposes 42777
specified in division (G) of this section, the solid waste 42778
management policy committee of a county or joint solid waste 42779~~

management district may levy fees upon the following activities: 42780

(1) The disposal at a solid waste disposal facility located 42781
in the district of solid wastes generated within the district; 42782

(2) The disposal at a solid waste disposal facility within 42783
the district of solid wastes generated outside the boundaries of 42784
the district, but inside this state; 42785

(3) The disposal at a solid waste disposal facility within 42786
the district of solid wastes generated outside the boundaries of 42787
this state. 42788

~~If any such fees are levied prior to January 1, 1994, fees 42789
levied under division (B)(1) of this section always shall be equal 42790
to one half of the fees levied under division (B)(2) of this 42791
section, and fees levied under division (B)(3) of this section, 42792
which shall be in addition to fees levied under division (B)(2) of 42793
this section, always shall be equal to fees levied under division 42794
(B)(1) of this section, except as otherwise provided in this 42795
division. The solid waste management plan of the county or joint 42796
district approved under section 3734.521 or 3734.55 of the Revised 42797
Code and any amendments to it, or the resolution adopted under 42798
this division, as appropriate, shall establish the rates of the 42799
fees levied under divisions (B)(1), (2), and (3) of this section, 42800
if any, and shall specify whether the fees are levied on the basis 42801
of tons or cubic yards as the unit of measurement. Although the 42802
fees under divisions (A)(1) and (2) of this section are levied on 42803
the basis of tons as the unit of measurement, the A solid waste 42804
management plan of the district and any amendments to it or the 42805
solid waste management policy committee in its resolution levying 42806
fees under this division may direct that the levies fees levied 42807
under those divisions be levied this division on the basis of 42808
cubic yards as the unit of measurement based upon a conversion 42809
factor of three cubic yards per ton generally or one cubic yard 42810
per ton for baled wastes if the fees under divisions (B)(1) to (3) 42811~~

~~of this section are being levied on the basis of cubic yards as~~ 42812
~~the unit of measurement under the plan, amended plan, or~~ 42813
~~resolution shall do so in accordance with division (A) of this~~ 42814
~~section.~~ 42815

~~On and after January 1, 1994, the The fee levied under~~ 42816
~~division (B)(1) of this section shall be not less than one dollar~~ 42817
~~per ton nor more than two dollars per ton, the fee levied under~~ 42818
~~division (B)(2) of this section shall be not less than two dollars~~ 42819
~~per ton nor more than four dollars per ton, and the fee levied~~ 42820
~~under division (B)(3) of this section shall be not more than the~~ 42821
~~fee levied under division (B)(1) of this section, except as~~ 42822
~~otherwise provided in this division and notwithstanding any~~ 42823
~~schedule of those fees established in the solid waste management~~ 42824
~~plan of a county or joint district approved under section 3734.55~~ 42825
~~of the Revised Code or a resolution adopted and ratified under~~ 42826
~~this division that is in effect on that date. If the fee that a~~ 42827
~~district is levying under division (B)(1) of this section on that~~ 42828
~~date under its approved plan or such a resolution is less than one~~ 42829
~~dollar per ton, the fee shall be one dollar per ton on and after~~ 42830
~~January 1, 1994, and if the fee that a district is so levying~~ 42831
~~under that division exceeds two dollars per ton, the fee shall be~~ 42832
~~two dollars per ton on and after that date. If the fee that a~~ 42833
~~district is so levying under division (B)(2) of this section is~~ 42834
~~less than two dollars per ton, the fee shall be two dollars per~~ 42835
~~ton on and after that date, and if the fee that the district is so~~ 42836
~~levying under that division exceeds four dollars per ton, the fee~~ 42837
~~shall be four dollars per ton on and after that date. On that~~ 42838
~~date, the fee levied by a district under division (B)(3) of this~~ 42839
~~section shall be equal to the fee levied under division (B)(1) of~~ 42840
~~this section. Except as otherwise provided in this division, the~~ 42841
~~fees established by the operation of this amendment shall remain~~ 42842
~~in effect until the district's resolution levying fees under this~~ 42843
~~division is amended or repealed in accordance with this division~~ 42844

~~to amend or abolish the schedule of fees, the schedule of fees is 42845
amended or abolished in an amended plan of the district approved 42846
under section 3734.521 or division (A) or (D) of section 3734.56 42847
of the Revised Code, or the schedule of fees is amended or 42848
abolished through an amendment to the district's plan under 42849
division (E) of section 3734.56 of the Revised Code; the 42850
notification of the amendment or abolishment of the fees has been 42851
given in accordance with this division; and collection of the 42852
amended fees so established commences, or collection of the fees 42853
ceases, in accordance with this division. 42854~~

~~The solid waste management policy committee of a district 42855
levying fees under divisions (B)(1) to (3) of this section on 42856
October 29, 1993, under its solid waste management plan approved 42857
under section 3734.55 of the Revised Code or a resolution adopted 42858
and ratified under this division that are within the ranges of 42859
rates prescribed by this amendment, by adoption of a resolution 42860
not later than December 1, 1993, and without the necessity for 42861
ratification of the resolution under this division, may amend 42862
those fees within the prescribed ranges, provided that the 42863
estimated revenues from the amended fees will not substantially 42864
exceed the estimated revenues set forth in the district's budget 42865
for calendar year 1994. Not later than seven days after the 42866
adoption of such a resolution, the committee shall notify by 42867
certified mail the owner or operator of each solid waste disposal 42868
facility that is required to collect the fees of the adoption of 42869
the resolution and of the amount of the amended fees. Collection 42870
of the amended fees shall take effect on the first day of the 42871
first month following the month in which the notification is sent 42872
to the owner or operator. The fees established in such a 42873
resolution shall remain in effect until the district's resolution 42874
levying fees that was adopted and ratified under this division is 42875
amended or repealed, and the amendment or repeal of the resolution 42876
is ratified, in accordance with this division, to amend or abolish 42877~~

~~the fees, the schedule of fees is amended or abolished in an 42878
amended plan of the district approved under section 3734.521 or 42879
division (A) or (D) of section 3734.56 of the Revised Code, or the 42880
schedule of fees is amended or abolished through an amendment to 42881
the district's plan under division (E) of section 3734.56 of the 42882
Revised Code; the notification of the amendment or abolishment of 42883
the fees has been given in accordance with this division; and 42884
collection of the amended fees so established commences, or 42885
collection of the fees ceases, in accordance with this division. 42886~~

Prior to the approval of the solid waste management plan of 42887
~~the~~ a district under section 3734.55 of the Revised Code, the 42888
solid waste management policy committee of a district may levy 42889
fees under this division by adopting a resolution establishing the 42890
proposed amount of the fees. Upon adopting the resolution, the 42891
committee shall deliver a copy of the resolution to the board of 42892
county commissioners of each county forming the district and to 42893
the legislative authority of each municipal corporation and 42894
township under the jurisdiction of the district and shall prepare 42895
and publish the resolution and a notice of the time and location 42896
where a public hearing on the fees will be held. Upon adopting the 42897
resolution, the committee shall deliver written notice of the 42898
adoption of the resolution; of the amount of the proposed fees; 42899
and of the date, time, and location of the public hearing to the 42900
director and to the fifty industrial, commercial, or institutional 42901
generators of solid wastes within the district that generate the 42902
largest quantities of solid wastes, as determined by the 42903
committee, and to their local trade associations. The committee 42904
shall make good faith efforts to identify those generators within 42905
the district and their local trade associations, but the 42906
nonprovision of notice under this division to a particular 42907
generator or local trade association does not invalidate the 42908
proceedings under this division. The publication shall occur at 42909
least thirty days before the hearing. After the hearing, the 42910

committee may make such revisions to the proposed fees as it 42911
considers appropriate and thereafter, by resolution, shall adopt 42912
the revised fee schedule. Upon adopting the revised fee schedule, 42913
the committee shall deliver a copy of the resolution doing so to 42914
the board of county commissioners of each county forming the 42915
district and to the legislative authority of each municipal 42916
corporation and township under the jurisdiction of the district. 42917
Within sixty days after the delivery of a copy of the resolution 42918
adopting the proposed revised fees by the policy committee, each 42919
such board and legislative authority, by ordinance or resolution, 42920
shall approve or disapprove the revised fees and deliver a copy of 42921
the ordinance or resolution to the committee. If any such board or 42922
legislative authority fails to adopt and deliver to the policy 42923
committee an ordinance or resolution approving or disapproving the 42924
revised fees within sixty days after the policy committee 42925
delivered its resolution adopting the proposed revised fees, it 42926
shall be conclusively presumed that the board or legislative 42927
authority has approved the proposed revised fees. The committee 42928
shall determine if the resolution has been ratified in the same 42929
manner in which it determines if a draft solid waste management 42930
plan has been ratified under division (B) of section 3734.55 of 42931
the Revised Code. 42932

~~In the case of a county district or a joint district formed 42933
by two or three counties, the committee shall declare the proposed 42934
revised fees to be ratified as the fee schedule of the district 42935
upon determining that the board of county commissioners of each 42936
county forming the district has approved the proposed revised fees 42937
and that the legislative authorities of a combination of municipal 42938
corporations and townships with a combined population within the 42939
district comprising at least sixty per cent of the total 42940
population of the district have approved the proposed revised 42941
fees, provided that in the case of a county district, that 42942
combination shall include the municipal corporation having the 42943~~

~~largest population within the boundaries of the district, and 42944
provided further that in the case of a joint district formed by 42945
two or three counties, that combination shall include for each 42946
county forming the joint district the municipal corporation having 42947
the largest population within the boundaries of both the county in 42948
which the municipal corporation is located and the joint district. 42949
In the case of a joint district formed by four or more counties, 42950
the committee shall declare the proposed revised fees to be 42951
ratified as the fee schedule of the joint district upon 42952
determining that the boards of county commissioners of a majority 42953
of the counties forming the district have approved the proposed 42954
revised fees; that, in each of a majority of the counties forming 42955
the joint district, the proposed revised fees have been approved 42956
by the municipal corporation having the largest population within 42957
the county and the joint district; and that the legislative 42958
authorities of a combination of municipal corporations and 42959
townships with a combined population within the joint district 42960
comprising at least sixty per cent of the total population of the 42961
joint district have approved the proposed revised fees. 42962~~

~~For the purposes of this division, only the population of the 42963
unincorporated area of a township shall be considered. For the 42964
purpose of determining the largest municipal corporation within 42965
each county under this division, a municipal corporation that is 42966
located in more than one solid waste management district, but that 42967
is under the jurisdiction of one county or joint solid waste 42968
management district in accordance with division (A) of section 42969
3734.52 of the Revised Code shall be considered to be within the 42970
boundaries of the county in which a majority of the population of 42971
the municipal corporation resides. 42972~~

~~The committee may amend the schedule of fees levied pursuant 42973
to a resolution or amended resolution adopted and ratified under 42974
this division by adopting a resolution establishing the proposed 42975~~

amount of the amended fees. The committee may ~~abolish~~ repeal the 42976
fees levied pursuant to such a resolution ~~or amended resolution~~ by 42977
adopting a resolution proposing to repeal them. Upon adopting such 42978
a resolution, the committee shall proceed to obtain ratification 42979
of the resolution in accordance with this division. 42980

Not later than fourteen days after declaring the new fees ~~or~~ 42981
~~amended fees~~ to be ratified or the fees to be repealed under this 42982
division, the committee shall notify by certified mail the owner 42983
or operator of each solid waste disposal facility that is required 42984
to collect the fees of the ratification and the amount of the fees 42985
or of the repeal of the fees. Collection of any fees ~~or amended~~ 42986
~~fees ratified on or after March 24, 1992,~~ shall commence or 42987
collection of repealed fees shall cease on the first day of the 42988
second month following the month in which notification is sent to 42989
the owner or operator. 42990

~~Not later than fourteen days after declaring the repeal of~~ 42991
~~the district's schedule of fees to be ratified under this~~ 42992
~~division, the committee shall notify by certified mail the owner~~ 42993
~~or operator of each facility that is collecting the fees of the~~ 42994
~~repeal. Collection of the fees shall cease on the first day of the~~ 42995
~~second month following the month in which notification is sent to~~ 42996
~~the owner or operator.~~ 42997

Fees levied under this division also may be established, 42998
amended, or repealed by a solid waste management policy committee 42999
through the adoption of a new district solid waste management 43000
plan, the adoption of an amended plan, or the amendment of the 43001
plan or amended plan in accordance with sections 3734.55 and 43002
3734.56 of the Revised Code or the adoption or amendment of a 43003
district plan in connection with a change in district composition 43004
under section 3734.521 of the Revised Code. 43005

Not later than fourteen days after the director issues an 43006
order approving a district's solid waste management plan ~~under~~ 43007

~~section 3734.55 of the Revised Code or, amended plan under~~ 43008
~~division (A) or (D) of section 3734.56 of the Revised Code, or~~ 43009
~~amendment to a plan or amended plan~~ that establishes ~~or,~~ amends, 43010
~~or repeals~~ a schedule of fees levied by the district, ~~or the~~ 43011
~~ratification of an amendment to the district's approved plan or~~ 43012
~~amended plan under division (E) of section 3734.56 of the Revised~~ 43013
~~Code that establishes or amends a schedule of fees, as~~ 43014
~~appropriate,~~ the committee shall notify by certified mail the 43015
owner or operator of each solid waste disposal facility that is 43016
required to collect the fees of the approval of the plan or 43017
amended plan, or the amendment to the plan, as appropriate, and 43018
the amount of the fees ~~or amended fees, if any.~~ In the case of an 43019
initial or amended plan approved under section 3734.521 of the 43020
Revised Code in connection with a change in district composition, 43021
other than one involving the withdrawal of a county from a joint 43022
district, ~~that establishes or amends a schedule of fees levied~~ 43023
~~under divisions (B)(1) to (3) of this section by a district~~ 43024
~~resulting from the change,~~ the committee, within fourteen days 43025
after the change takes effect pursuant to division (G) of that 43026
section, shall notify by certified mail the owner or operator of 43027
each solid waste disposal facility that is required to collect the 43028
fees that the change has taken effect and of the amount of the 43029
fees ~~or amended fees, if any.~~ Collection of any fees ~~set forth in~~ 43030
~~a plan or amended plan approved by the director on or after April~~ 43031
~~16, 1993, or an amendment of a plan or amended plan under division~~ 43032
~~(E) of section 3734.56 of the Revised Code that is ratified on or~~ 43033
~~after April 16, 1993,~~ shall commence or collection of repealed 43034
fees shall cease on the first day of the second month following 43035
the month in which notification is sent to the owner or operator. 43036

~~Not later than fourteen days after the director issues an~~ 43037
~~order approving a district's plan under section 3734.55 of the~~ 43038
~~Revised Code or amended plan under division (A) or (D) of section~~ 43039
~~3734.56 of the Revised Code that abolishes the schedule of fees~~ 43040

~~levied under divisions (B)(1) to (3) of this section, or an 43041
amendment to the district's approved plan or amended plan 43042
abolishing the schedule of fees is ratified pursuant to division 43043
(E) of section 3734.56 of the Revised Code, as appropriate, the 43044
committee shall notify by certified mail the owner or operator of 43045
each facility that is collecting the fees of the approval of the 43046
plan or amended plan, or the amendment of the plan or amended 43047
plan, as appropriate, and the abolishment of the fees. In the case 43048
of an initial or amended plan approved under section 3734.521 of 43049
the Revised Code in connection with a change in district 43050
composition, other than one involving the withdrawal of a county 43051
from a joint district, that abolishes the schedule of fees levied 43052
under divisions (B)(1) to (3) of this section by a district 43053
resulting from the change, the committee, within fourteen days 43054
after the change takes effect pursuant to division (C) of that 43055
section, shall notify by certified mail the owner or operator of 43056
each solid waste disposal facility that is required to collect the 43057
fees that the change has taken effect and of the abolishment of 43058
the fees. Collection of the fees shall cease on the first day of 43059
the second month following the month in which notification is sent 43060
to the owner or operator. 43061~~

~~Except as otherwise provided in this division, if the 43062
schedule of fees that a district is levying under divisions (B)(1) 43063
to (3) of this section pursuant to a resolution or amended 43064
resolution adopted and ratified under this division, the solid 43065
waste management plan of the district approved under section 43066
3734.55 of the Revised Code, an amended plan approved under 43067
division (A) or (D) of section 3734.56 of the Revised Code, or an 43068
amendment to the district's approved plan or amended plan under 43069
division (E) of section 3734.56 of the Revised Code, is amended by 43070
the adoption and ratification of an amendment to the resolution or 43071
amended resolution or an amendment of the district's approved plan 43072
or amended plan, the fees in effect immediately prior to the 43073~~

~~approval of the plan or the amendment of the resolution, amended 43074
resolution, plan, or amended plan, as appropriate, shall continue 43075
to be collected until collection of the amended fees commences 43076
pursuant to this division. 43077~~

If, in the case of a change in district composition involving 43078
the withdrawal of a county from a joint district, the director 43079
completes the actions required under division (G)(1) or (3) of 43080
section 3734.521 of the Revised Code, as appropriate, forty-five 43081
days or more before the beginning of a calendar year, the policy 43082
committee of each of the districts resulting from the change that 43083
obtained the director's approval of an initial or amended plan in 43084
connection with the change, within fourteen days after the 43085
director's completion of the required actions, shall notify by 43086
certified mail the owner or operator of each solid waste disposal 43087
facility that is required to collect the district's fees that the 43088
change is to take effect on the first day of January immediately 43089
following the issuance of the notice and of the amount of the fees 43090
or amended fees levied under divisions (B)(1) to (3) of this 43091
section pursuant to the district's initial or amended plan as so 43092
approved or, if appropriate, the ~~abolishment~~ repeal of the 43093
district's fees by that initial or amended plan. Collection of any 43094
fees set forth in such a plan or amended plan shall commence on 43095
the first day of January immediately following the issuance of the 43096
notice. If such an initial or amended plan ~~abolishes~~ repeals a 43097
schedule of fees, collection of the fees shall cease on that first 43098
day of January. 43099

If, in the case of a change in district composition involving 43100
the withdrawal of a county from a joint district, the director 43101
completes the actions required under division (G)(1) or (3) of 43102
section 3734.521 of the Revised Code, as appropriate, less than 43103
forty-five days before the beginning of a calendar year, the 43104
director, on behalf of each of the districts resulting from the 43105

change that obtained the director's approval of an initial or 43106
amended plan in connection with the change proceedings, shall 43107
notify by certified mail the owner or operator of each solid waste 43108
disposal facility that is required to collect the district's fees 43109
that the change is to take effect on the first day of January 43110
immediately following the mailing of the notice and of the amount 43111
of the fees or amended fees levied under divisions (B)(1) to (3) 43112
of this section pursuant to the district's initial or amended plan 43113
as so approved or, if appropriate, the ~~abolishment~~ repeal of the 43114
district's fees by that initial or amended plan. Collection of any 43115
fees set forth in such a plan or amended plan shall commence on 43116
the first day of the second month following the month in which 43117
notification is sent to the owner or operator. If such an initial 43118
or amended plan ~~abolishes~~ repeals a schedule of fees, collection 43119
of the fees shall cease on the first day of the second month 43120
following the month in which notification is sent to the owner or 43121
operator. 43122

~~In~~ If the schedule of fees that a solid waste management 43123
district is levying under divisions (B)(1) to (3) of this section 43124
is amended or repealed, the fees in effect immediately prior to 43125
the amendment or repeal shall continue to be collected until 43126
collection of the amended fees commences or collection of the 43127
repealed fees ceases, as applicable, as specified in this 43128
division. In the case of a change in district composition, ~~the~~ 43129
~~schedule of fees that the former districts that existed prior to~~ 43130
~~the change were levying under divisions (B)(1) to (3) of this~~ 43131
~~section pursuant to a resolution or amended resolution adopted and~~ 43132
~~ratified under this division, the solid waste management plan of a~~ 43133
~~former district approved under section 3734.521 or 3734.55 of the~~ 43134
~~Revised Code, an amended plan approved under section 3734.521 or~~ 43135
~~division (A) or (D) of section 3734.56 of the Revised Code, or an~~ 43136
~~amendment to a former district's approved plan or amended plan~~ 43137
~~under division (E) of section 3734.56 of the Revised Code, and~~ 43138

~~that were in effect on the date that the director completed the~~ 43139
~~actions required under division (G)(1) or (3) of section 3734.521~~ 43140
~~of the Revised Code shall continue to be collected until the~~ 43141
~~collection of the fees or amended fees of the districts resulting~~ 43142
~~from the change is required to commence, or if an initial or~~ 43143
~~amended plan of a resulting district abolishes a schedule of fees,~~ 43144
~~collection of the fees is required to cease, under this division.~~ 43145
Moneys money so received from the collection of the fees of the 43146
former districts shall be divided among the resulting districts in 43147
accordance with division (B) of section 343.012 of the Revised 43148
Code and the agreements entered into under division (B) of section 43149
343.01 of the Revised Code to establish the former and resulting 43150
districts and any amendments to those agreements. 43151

For the purposes of the provisions of division (B) of this 43152
section establishing the times when newly established or amended 43153
fees levied by a district are required to commence and the 43154
collection of fees that have been amended or ~~abolished~~ repealed is 43155
required to cease, "fees" or "schedule of fees" includes, in 43156
addition to fees levied under divisions (B)(1) to (3) of this 43157
section, those levied under section 3734.573 or 3734.574 of the 43158
Revised Code. 43159

(C) For the purposes of defraying the added costs to a 43160
municipal corporation or township of maintaining roads and other 43161
public facilities and of providing emergency and other public 43162
services, and compensating a municipal corporation or township for 43163
reductions in real property tax revenues due to reductions in real 43164
property valuations resulting from the location and operation of a 43165
solid waste disposal facility within the municipal corporation or 43166
township, a municipal corporation or township in which such a 43167
solid waste disposal facility is located may levy a fee of not 43168
more than twenty-five cents per ton on the disposal of solid 43169
wastes at a solid waste disposal facility located within the 43170

boundaries of the municipal corporation or township regardless of 43171
where the wastes were generated. 43172

The legislative authority of a municipal corporation or 43173
township may levy fees under this division by enacting an 43174
ordinance or adopting a resolution establishing the amount of the 43175
fees. Upon so doing the legislative authority shall mail a 43176
certified copy of the ordinance or resolution to the board of 43177
county commissioners or directors of the county or joint solid 43178
waste management district in which the municipal corporation or 43179
township is located or, if a regional solid waste management 43180
authority has been formed under section 343.011 of the Revised 43181
Code, to the board of trustees of that regional authority, the 43182
owner or operator of each solid waste disposal facility in the 43183
municipal corporation or township that is required to collect the 43184
fee by the ordinance or resolution, and the director of 43185
environmental protection. Although the fees levied under this 43186
division are levied on the basis of tons as the unit of 43187
measurement, the legislative authority, in its ordinance or 43188
resolution levying the fees under this division, may direct that 43189
the fees be levied on the basis of cubic yards as the unit of 43190
measurement based upon a conversion factor of three cubic yards 43191
per ton generally or one cubic yard per ton for baled wastes. 43192

Not later than five days after enacting an ordinance or 43193
adopting a resolution under this division, the legislative 43194
authority shall so notify by certified mail the owner or operator 43195
of each solid waste disposal facility that is required to collect 43196
the fee. Collection of any fee levied on or after March 24, 1992, 43197
shall commence on the first day of the second month following the 43198
month in which notification is sent to the owner or operator. 43199

(D)(1) The fees levied under divisions (A), (B), and (C) of 43200
this section do not apply to the disposal of solid wastes that: 43201

(a) Are disposed of at a facility owned by the generator of 43202

the wastes when the solid waste facility exclusively disposes of 43203
solid wastes generated at one or more premises owned by the 43204
generator regardless of whether the facility is located on a 43205
premises where the wastes are generated; 43206

(b) Are disposed of at facilities that exclusively dispose of 43207
wastes that are generated from the combustion of coal, or from the 43208
combustion of primarily coal in combination with scrap tires, that 43209
is not combined in any way with garbage at one or more premises 43210
owned by the generator. 43211

(2) Except as provided in section 3734.571 of the Revised 43212
Code, any fees levied under division (B)(1) of this section apply 43213
to solid wastes originating outside the boundaries of a county or 43214
joint district that are covered by an agreement for the joint use 43215
of solid waste facilities entered into under section 343.02 of the 43216
Revised Code by the board of county commissioners or board of 43217
directors of the county or joint district where the wastes are 43218
generated and disposed of. 43219

(3) When solid wastes, other than solid wastes that consist 43220
of scrap tires, are burned in a disposal facility that is an 43221
incinerator or energy recovery facility, the fees levied under 43222
divisions (A), (B), and (C) of this section shall be levied upon 43223
the disposal of the fly ash and bottom ash remaining after burning 43224
of the solid wastes and shall be collected by the owner or 43225
operator of the sanitary landfill where the ash is disposed of. 43226

(4) When solid wastes are delivered to a solid waste transfer 43227
facility, the fees levied under divisions ~~(A)~~ (B) and (C) of 43228
this section shall be levied upon the disposal of solid wastes 43229
transported off the premises of the transfer facility for disposal 43230
and shall be collected by the owner or operator of the solid waste 43231
disposal facility where the wastes are disposed of. 43232

(5) The fees levied under divisions (A), (B), and (C) of this 43233

section do not apply to sewage sludge that is generated by a waste 43234
water treatment facility holding a national pollutant discharge 43235
elimination system permit and that is disposed of through 43236
incineration, land application, or composting or at another 43237
resource recovery or disposal facility that is not a landfill. 43238

(6) The fees levied under divisions (A), (B), and (C) of this 43239
section do not apply to solid wastes delivered to a solid waste 43240
composting facility for processing. When any unprocessed solid 43241
waste or compost product is transported off the premises of a 43242
composting facility and disposed of at a landfill, the fees levied 43243
under divisions (A), (B), and (C) of this section shall be 43244
collected by the owner or operator of the landfill where the 43245
unprocessed waste or compost product is disposed of. 43246

(7) When solid wastes that consist of scrap tires are 43247
processed at a scrap tire recovery facility, the fees levied under 43248
divisions (A), (B), and (C) of this section shall be levied upon 43249
the disposal of the fly ash and bottom ash or other solid wastes 43250
remaining after the processing of the scrap tires and shall be 43251
collected by the owner or operator of the solid waste disposal 43252
facility where the ash or other solid wastes are disposed of. 43253

(8) The director of environmental protection may issue an 43254
order exempting from the fees levied under this section solid 43255
wastes, including, but not limited to, scrap tires, that are 43256
generated, transferred, or disposed of as a result of a contract 43257
providing for the expenditure of public funds entered into by the 43258
administrator or regional administrator of the United States 43259
environmental protection agency, the director of environmental 43260
protection, or the director of administrative services on behalf 43261
of the director of environmental protection for the purpose of 43262
remediating conditions at a hazardous waste facility, solid waste 43263
facility, or other location at which the administrator or regional 43264
administrator or the director of environmental protection has 43265

reason to believe that there is a substantial threat to public 43266
health or safety or the environment or that the conditions are 43267
causing or contributing to air or water pollution or soil 43268
contamination. An order issued by the director of environmental 43269
protection under division (D)(8) of this section shall include a 43270
determination that the amount of the fees not received by a solid 43271
waste management district as a result of the order will not 43272
adversely impact the implementation and financing of the 43273
district's approved solid waste management plan and any approved 43274
amendments to the plan. Such an order is a final action of the 43275
director of environmental protection. 43276

(E) The fees levied under divisions (B) and (C) of this 43277
section shall be collected by the owner or operator of the solid 43278
waste disposal facility where the wastes are disposed of as a 43279
trustee for the county or joint district and municipal corporation 43280
or township where the wastes are disposed of. Moneys from the fees 43281
levied under division (B) of this section shall be forwarded to 43282
the board of county commissioners or board of directors of the 43283
district in accordance with rules adopted under division (H) of 43284
this section. Moneys from the fees levied under division (C) of 43285
this section shall be forwarded to the treasurer or such other 43286
officer of the municipal corporation as, by virtue of the charter, 43287
has the duties of the treasurer or to the clerk of the township, 43288
as appropriate, in accordance with those rules. 43289

(F) Moneys received by the treasurer or such other officer of 43290
the municipal corporation under division (E) of this section shall 43291
be paid into the general fund of the municipal corporation. Moneys 43292
received by the clerk of the township under that division shall be 43293
paid into the general fund of the township. The treasurer or such 43294
other officer of the municipal corporation or the clerk, as 43295
appropriate, shall maintain separate records of the moneys 43296
received from the fees levied under division (C) of this section. 43297

(G) Moneys received by the board of county commissioners or 43298
board of directors under division (E) of this section or section 43299
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code 43300
shall be paid to the county treasurer, or other official acting in 43301
a similar capacity under a county charter, in a county district or 43302
to the county treasurer or other official designated by the board 43303
of directors in a joint district and kept in a separate and 43304
distinct fund to the credit of the district. If a regional solid 43305
waste management authority has been formed under section 343.011 43306
of the Revised Code, moneys received by the board of trustees of 43307
that regional authority under division (E) of this section shall 43308
be kept by the board in a separate and distinct fund to the credit 43309
of the district. Moneys in the special fund of the county or joint 43310
district arising from the fees levied under division (B) of this 43311
section and the fee levied under division (A) of section 3734.573 43312
of the Revised Code shall be expended by the board of county 43313
commissioners or directors of the district in accordance with the 43314
district's solid waste management plan or amended plan approved 43315
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 43316
exclusively for the following purposes: 43317

(1) Preparation of the solid waste management plan of the 43318
district under section 3734.54 of the Revised Code, monitoring 43319
implementation of the plan, and conducting the periodic review and 43320
amendment of the plan required by section 3734.56 of the Revised 43321
Code by the solid waste management policy committee; 43322

(2) Implementation of the approved solid waste management 43323
plan or amended plan of the district, including, without 43324
limitation, the development and implementation of solid waste 43325
recycling or reduction programs; 43326

(3) Providing financial assistance to boards of health within 43327
the district, if solid waste facilities are located within the 43328
district, for enforcement of this chapter and rules, orders, and 43329

terms and conditions of permits, licenses, and variances adopted 43330
or issued under it, other than the hazardous waste provisions of 43331
this chapter and rules adopted and orders and terms and conditions 43332
of permits issued under those provisions; 43333

(4) Providing financial assistance to each county within the 43334
district to defray the added costs of maintaining roads and other 43335
public facilities and of providing emergency and other public 43336
services resulting from the location and operation of a solid 43337
waste facility within the county under the district's approved 43338
solid waste management plan or amended plan; 43339

(5) Pursuant to contracts entered into with boards of health 43340
within the district, if solid waste facilities contained in the 43341
district's approved plan or amended plan are located within the 43342
district, for paying the costs incurred by those boards of health 43343
for collecting and analyzing samples from public or private water 43344
wells on lands adjacent to those facilities; 43345

(6) Developing and implementing a program for the inspection 43346
of solid wastes generated outside the boundaries of this state 43347
that are disposed of at solid waste facilities included in the 43348
district's approved solid waste management plan or amended plan; 43349

(7) Providing financial assistance to boards of health within 43350
the district for the enforcement of section 3734.03 of the Revised 43351
Code or to local law enforcement agencies having jurisdiction 43352
within the district for enforcing anti-littering laws and 43353
ordinances; 43354

(8) Providing financial assistance to boards of health of 43355
health districts within the district that are on the approved list 43356
under section 3734.08 of the Revised Code to defray the costs to 43357
the health districts for the participation of their employees 43358
responsible for enforcement of the solid waste provisions of this 43359
chapter and rules adopted and orders and terms and conditions of 43360

permits, licenses, and variances issued under those provisions in 43361
the training and certification program as required by rules 43362
adopted under division (L) of section 3734.02 of the Revised Code; 43363

(9) Providing financial assistance to individual municipal 43364
corporations and townships within the district to defray their 43365
added costs of maintaining roads and other public facilities and 43366
of providing emergency and other public services resulting from 43367
the location and operation within their boundaries of a 43368
composting, energy or resource recovery, incineration, or 43369
recycling facility that either is owned by the district or is 43370
furnishing solid waste management facility or recycling services 43371
to the district pursuant to a contract or agreement with the board 43372
of county commissioners or directors of the district; 43373

(10) Payment of any expenses that are agreed to, awarded, or 43374
ordered to be paid under section 3734.35 of the Revised Code and 43375
of any administrative costs incurred pursuant to that section. In 43376
the case of a joint solid waste management district, if the board 43377
of county commissioners of one of the counties in the district is 43378
negotiating on behalf of affected communities, as defined in that 43379
section, in that county, the board shall obtain the approval of 43380
the board of directors of the district in order to expend moneys 43381
for administrative costs incurred. 43382

Prior to the approval of the district's solid waste 43383
management plan under section 3734.55 of the Revised Code, moneys 43384
in the special fund of the district arising from the fees shall be 43385
expended for those purposes in the manner prescribed by the solid 43386
waste management policy committee by resolution. 43387

Notwithstanding division (G)(6) of this section as it existed 43388
prior to October 29, 1993, or any provision in a district's solid 43389
waste management plan prepared in accordance with division 43390
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 43391
prior to that date, any moneys arising from the fees levied under 43392

division (B)(3) of this section prior to January 1, 1994, may be 43393
expended for any of the purposes authorized in divisions (G)(1) to 43394
(10) of this section. 43395

(H) The director shall adopt rules in accordance with Chapter 43396
119. of the Revised Code prescribing procedures for collecting and 43397
forwarding the fees levied under divisions (B) and (C) of this 43398
section to the boards of county commissioners or directors of 43399
county or joint solid waste management districts and to the 43400
treasurers or other officers of municipal corporations or to the 43401
clerks of townships. The rules also shall prescribe the dates for 43402
forwarding the fees to the boards and officials and may prescribe 43403
any other requirements the director considers necessary or 43404
appropriate to implement and administer divisions (A), (B), and 43405
(C) of this section. ~~Collection of the fees levied under division~~ 43406
~~(A)(1) of this section shall commence on July 1, 1993. Collection~~ 43407
~~of the fees levied under division (A)(2) of this section shall~~ 43408
~~commence on January 1, 1994.~~ 43409

Sec. 3734.573. (A) ~~For the purpose of preparing, revising,~~ 43410
~~and implementing the solid waste management plan of the district,~~ 43411
~~including, without limitation, the development and implementation~~ 43412
~~of solid waste recycling or reduction programs; providing~~ 43413
~~financial assistance to boards of health within the district, if~~ 43414
~~solid waste facilities are located in the district, for the~~ 43415
~~enforcement of this chapter and rules adopted and orders and terms~~ 43416
~~and conditions of permits, licenses, and variances issued under~~ 43417
~~it, other than the hazardous waste provisions of this chapter and~~ 43418
~~rules adopted and orders and terms and conditions of permits~~ 43419
~~issued under those provisions; providing financial assistance to~~ 43420
~~the county to defray the added costs of maintaining roads and~~ 43421
~~other public facilities and of providing emergency and other~~ 43422
~~public services resulting from the location and operation of a~~ 43423
~~solid waste facility within the county under the district's~~ 43424

~~approved plan or amended plan; paying the costs incurred by boards 43425
of health for collecting and analyzing water samples from public 43426
and private wells on lands adjacent to solid waste facilities that 43427
are contained in the approved or amended plan of the district; 43428
paying the costs of developing and implementing a program for the 43429
inspection of solid wastes generated outside the boundaries of 43430
this state that are disposed of at solid waste facilities included 43431
in the district's approved plan or amended plan; providing 43432
financial assistance to boards of health within the district for 43433
enforcing laws prohibiting open dumping; providing financial 43434
assistance to local law enforcement agencies within the district 43435
for enforcing laws and ordinances prohibiting littering; providing 43436
financial assistance to boards of health of health districts 43437
within the district that are on the approved list under section 43438
3734.08 of the Revised Code for the training and certification 43439
required for their employees responsible for solid waste 43440
enforcement by rules adopted under division (L) of section 3734.02 43441
of the Revised Code; providing financial assistance to individual 43442
municipal corporations and townships within the district to defray 43443
their added costs of maintaining roads and other public facilities 43444
and of providing emergency and other public services resulting 43445
from the location and operation within their boundaries of a 43446
composting, energy or resource recovery, incineration, or 43447
recycling facility that either is owned by the district or is 43448
furnishing solid waste management facility or recycling services 43449
to the district pursuant to a contract or agreement with the board 43450
of county commissioners or directors of the district; and paying 43451
any expenses provided for or incurred under section 3734.35 43452
purposes specified in division (G) of section 3734.57 of the 43453
Revised Code, the solid waste management policy committee of a 43454
county or joint solid waste management district may levy a fee on 43455
the generation of solid wastes within the district. 43456~~

The initial or amended solid waste management plan of the 43457

county or joint district approved under section 3734.521, 3734.55, 43458
or 3734.56 of the Revised Code, an amendment to the district's 43459
plan adopted under division (E) of section 3734.56 of the Revised 43460
Code, or the resolution adopted and ratified under division (B) of 43461
this section shall establish the rate of the fee levied under this 43462
division and shall specify whether the fee is levied on the basis 43463
of tons or cubic yards as the unit of measurement. 43464

(B) Prior to the approval under division (A) of section 43465
3734.56 of the Revised Code of the first amended plan that the 43466
district is required to submit for approval under that section, 43467
the approval of an initial plan under section 3734.521 of the 43468
Revised Code, the approval of an amended plan under section 43469
3734.521 or division (D) of section 3734.56 of the Revised Code, 43470
or the amendment of the district's plan under division (E) of 43471
section 3734.56 of the Revised Code, the solid waste management 43472
policy committee of a county or joint district that is operating 43473
under an initial plan approved under section 3734.55 of the 43474
Revised Code, or one for which approval of its initial plan is 43475
pending before the director of environmental protection on October 43476
29, 1993, under section 3734.55 of the Revised Code, may levy a 43477
fee under division (A) of this section by adopting and obtaining 43478
ratification of a resolution establishing the amount of the fee. A 43479
policy committee that, after December 1, 1993, concurrently 43480
proposes to levy a fee under division (A) of this section and to 43481
amend the fees levied by the district under divisions (B)(1) to 43482
(3) of section 3734.57 of the Revised Code may adopt and obtain 43483
ratification of one resolution proposing to do both. The 43484
requirements and procedures set forth in division (B) of section 43485
3734.57 of the Revised Code governing the adoption, amendment, and 43486
repeal of resolutions levying fees under divisions (B)(1) to (3) 43487
of that section, the ratification of those resolutions, and the 43488
notification of owners and operators of solid waste facilities 43489
required to collect fees levied under those divisions govern the 43490

adoption of the resolutions authorized to be adopted under this 43491
division, the ratification thereof, and the notification of owners 43492
and operators required to collect the fees, except as otherwise 43493
specifically provided in division (C) of this section. 43494

(C) Any initial or amended plan of a district adopted under 43495
section 3734.521 or 3734.56 of the Revised Code, or resolution 43496
adopted under division (B) of this section, that proposes to levy 43497
a fee under division (A) of this section that exceeds five dollars 43498
per ton shall be ratified in accordance with the provisions of 43499
section 3734.55 or division (B) of section 3734.57 of the Revised 43500
Code, as applicable, except that such an initial or amended plan 43501
or resolution shall be approved by a combination of municipal 43502
corporations and townships with a combined population within the 43503
boundaries of the district comprising at least seventy-five per 43504
cent, rather than at least sixty per cent, of the total population 43505
of the district. 43506

(D) The policy committee of a county or joint district may 43507
amend the fee levied by the district under division (A) of this 43508
section by adopting and obtaining ratification of a resolution 43509
establishing the amount of the amended fee. The policy committee 43510
may abolish the fee or an amended fee established under this 43511
division by adopting and obtaining ratification of a resolution 43512
proposing to repeal it. The requirements and procedures under 43513
division (B) and, if applicable, division (C) of this section 43514
govern the adoption and ratification of a resolution authorized to 43515
be adopted under this division and the notification of owners and 43516
operators of solid waste facilities required to collect the fees. 43517

(E) Collection of a fee or amended fee levied under division 43518
(A) or (D) of this section shall commence or cease in accordance 43519
with division (B) of section 3734.57 of the Revised Code. If a 43520
district is levying a fee under section 3734.572 of the Revised 43521
Code, collection of that fee shall cease on the date on which 43522

collection of the fee levied under division (A) of this section 43523
commences in accordance with division (B) of section 3734.57 of 43524
the Revised Code. 43525

(F) In the case of solid wastes that are taken to a solid 43526
waste transfer facility prior to being transported to a solid 43527
waste disposal facility for disposal, the fee levied under 43528
division (A) of this section shall be collected by the owner or 43529
operator of the transfer facility as a trustee for the district. 43530
In the case of solid wastes that are not taken to a solid waste 43531
transfer facility prior to being transported to a solid waste 43532
disposal facility, the fee shall be collected by the owner or 43533
operator of the solid waste disposal facility where the wastes are 43534
disposed of. An owner or operator of a solid waste transfer or 43535
disposal facility who is required to collect the fee shall collect 43536
and forward the fee to the district in accordance with section 43537
3734.57 of the Revised Code and rules adopted under division (H) 43538
of that section. 43539

If the owner or operator of a solid waste transfer or 43540
disposal facility who did not receive notice pursuant to division 43541
(B) of this section to collect the fee levied by a district under 43542
division (A) of this section receives solid wastes generated in 43543
the district, the owner or operator, within thirty days after 43544
receiving the wastes, shall send written notice of that fact to 43545
the board of county commissioners or directors of the district. 43546
Within thirty days after receiving such a notice, the board of 43547
county commissioners or directors shall send written notice to the 43548
owner or operator indicating whether the district is levying a fee 43549
under division (A) of this section and, if so, the amount of the 43550
fee. 43551

(G) Moneys received by a district levying a fee under 43552
division (A) of this section shall be credited to the special fund 43553
of the district created in division (G) of section 3734.57 of the 43554

Revised Code and shall be used exclusively for the purposes set 43555
forth specified in ~~divisions (G)(1) to (10)~~ of that section 43556
division. Prior to the approval under division (A) of section 43557
3734.56 of the Revised Code of the first amended plan that the 43558
district is required to submit for approval under that section, 43559
the approval of an initial plan under section 3734.521 of the 43560
Revised Code, the approval of an amended plan under that section 43561
or division (D) of section 3734.56 of the Revised Code, or the 43562
amendment of the district's plan under division (E) of section 43563
3734.56 of the Revised Code, moneys credited to the special fund 43564
arising from the fee levied pursuant to a resolution adopted and 43565
ratified under division (B) of this section shall be expended for 43566
those purposes in the manner prescribed by the solid waste 43567
management policy committee by resolution. 43568

(H) The fee levied under division (A) of this section does 43569
not apply to the management of solid wastes that: 43570

(1) Are disposed of at a facility owned by the generator of 43571
the wastes when the solid waste facility exclusively disposes of 43572
solid wastes generated at one or more premises owned by the 43573
generator regardless of whether the facility is located on a 43574
premises where the wastes were generated; 43575

(2) Are disposed of at facilities that exclusively dispose of 43576
wastes that are generated from the combustion of coal, or from the 43577
combustion of primarily coal in combination with scrap tires, that 43578
is not combined in any way with garbage at one or more premises 43579
owned by the generator. 43580

(I) When solid wastes that are burned in a disposal facility 43581
that is an incinerator or energy recovery facility are delivered 43582
to a solid waste transfer facility prior to being transported to 43583
the incinerator or energy recovery facility where they are burned, 43584
the fee levied under division (A) of this section shall be levied 43585
on the wastes delivered to the transfer facility. 43586

(J) When solid wastes that are burned in a disposal facility 43587
that is an incinerator or energy recovery facility are not 43588
delivered to a solid waste transfer facility prior to being 43589
transported to the incinerator or energy recovery facility where 43590
they are burned, the fee levied under division (A) of this section 43591
shall be levied on the wastes delivered to the incinerator or 43592
energy recovery facility. 43593

(K) The fee levied under division (A) of this section does 43594
not apply to sewage sludge that is generated by a waste water 43595
treatment facility holding a national pollutant discharge 43596
elimination system permit and that is disposed of through 43597
incineration, land application, or composting or at another 43598
resource recovery or disposal facility that is not a landfill. 43599

(L) The fee levied under division (A) of this section does 43600
not apply to yard waste delivered to a solid waste composting 43601
facility for processing or to a solid waste transfer facility. 43602

(M) The fee levied under division (A) of this section does 43603
not apply to materials separated from a mixed waste stream for 43604
recycling by the generator. 43605

(N) The director of environmental protection may issue an 43606
order exempting from the fees levied under this section solid 43607
wastes, including, but not limited to, scrap tires, that are 43608
generated, transferred, or disposed of as a result of a contract 43609
providing for the expenditure of public funds entered into by the 43610
administrator or regional administrator of the United States 43611
environmental protection agency, the director of environmental 43612
protection, or the director of administrative services on behalf 43613
of the director of environmental protection for the purpose of 43614
remediating conditions at a hazardous waste facility, solid waste 43615
facility, or other location at which the administrator or regional 43616
administrator or the director of environmental protection has 43617
reason to believe that there is a substantial threat to public 43618

health or safety or the environment or that the conditions are 43619
causing or contributing to air or water pollution or soil 43620
contamination. An order issued by the director of environmental 43621
protection under this division shall include a determination that 43622
the amount of fees not received by a solid waste management 43623
district as a result of the order will not adversely impact the 43624
implementation and financing of the district's approved solid 43625
waste management plan and any approved amendments to the plan. Such 43626
an order is a final action of the director of environmental 43627
protection. 43628

Sec. 3734.85. (A) On and after the effective date of the 43629
rules adopted under sections 3734.70, 3734.71, 3734.72, and 43630
3734.73 of the Revised Code, the director of environmental 43631
protection may take action under this section to abate 43632
accumulations of scrap tires. If the director determines that an 43633
accumulation of scrap tires constitutes a danger to the public 43634
health or safety or to the environment, ~~he~~ the director shall 43635
issue an order under section 3734.13 of the Revised Code to the 43636
person responsible for the accumulation of scrap tires directing 43637
that person, within one hundred twenty days after the issuance of 43638
the order, to remove the accumulation of scrap tires from the 43639
premises on which it is located and transport the tires to a scrap 43640
tire storage, monocell, monofill, or recovery facility licensed 43641
under section 3734.81 of the Revised Code, to such a facility in 43642
another state operating in compliance with the laws of the state 43643
in which it is located, or to any other solid waste disposal 43644
facility in another state that is operating in compliance with the 43645
laws of that state. If the person responsible for causing the 43646
accumulation of scrap tires is a person different from the owner 43647
of the land on which the accumulation is located, the director may 43648
issue such an order to the landowner. 43649

If the director is unable to ascertain immediately the 43650

identity of the person responsible for causing the accumulation of scrap tires, ~~he~~ the director shall examine the records of the applicable board of health and law enforcement agencies to ascertain that person's identity. Before initiating any enforcement or removal actions under this division against the owner of the land on which the accumulation is located, the director shall initiate any such actions against the person that ~~he~~ the director has identified as responsible for causing the accumulation of scrap tires. Failure of the director to make diligent efforts to ascertain the identity of the person responsible for causing the accumulation of scrap tires or to initiate an action against the person responsible for causing the accumulation shall not constitute an affirmative defense by a landowner to an enforcement action initiated by the director under this division requiring immediate removal of any accumulation of scrap tires.

Upon the written request of the recipient of an order issued under this division, the director may extend the time for compliance with the order if the request demonstrates that the recipient has acted in good faith to comply with the order. If the recipient of an order issued under this division fails to comply with the order within one hundred twenty days after the issuance of the order or, if the time for compliance with the order was so extended, within that time, the director shall take such actions as ~~he~~ the director considers reasonable and necessary to remove and properly manage the scrap tires located on the land named in the order. The director, through employees of the environmental protection agency or a contractor, may enter upon the land on which the accumulation of scrap tires is located and remove and transport them to a scrap tire recovery facility for processing, to a scrap tire storage facility for storage, or to a scrap tire monocell or monofill facility for storage or disposal.

The director shall enter into contracts with the owners or operators of scrap tire storage, monocell, monofill, or recovery facilities for the storage, disposal, or processing of scrap tires removed through removal operations conducted under this section. In doing so, the director shall give preference to scrap tire recovery facilities.

If a person to whom a removal order is issued under this division fails to comply with the order and if the director performs a removal action under this section, the person to whom the removal order is issued is liable to the director for the costs incurred by the director for conducting the removal operation, storage at a scrap tire storage facility, storage or disposal at a scrap tire monocell or monofill facility, or processing of the scrap tires so removed, the transportation of the scrap tires from the site of the accumulation to the scrap tire storage, monocell, monofill, or recovery facility where the scrap tires were stored, disposed of, or processed, and the administrative and legal expenses incurred by the director in connection with the removal operation. The director shall keep an itemized record of those costs. Upon completion of the actions for which the costs were incurred, the director shall record the costs at the office of the county recorder of the county in which the accumulation of scrap tires was located. The costs so recorded constitute a lien on the property on which the accumulation of scrap tires was located until discharged. Upon the written request of the director, the attorney general shall bring a civil action against the person responsible for the accumulation of the scrap tires that were the subject of the removal operation to recover the costs ~~of the removal operation. If the director is unable to recover those costs through such a civil action, he shall certify them to the county recorder of the county in which the accumulation of scrap tires was located. The recorder shall record the costs so certified as a lien on the property on which the~~

~~accumulation of scrap tires was located, which costs shall be a~~ 43716
~~lien on the property until discharged for which the person is~~ 43717
~~liable under this division. Any money so received or recovered~~ 43718
~~shall be credited to the scrap tire management fund created in~~ 43719
~~section 3734.82 of the Revised Code.~~ 43720

If, in a civil action brought under this division, an owner 43721
of real property is ordered to pay to the director the costs of a 43722
removal action that removed an accumulation of scrap tires from 43723
the person's land or if a lien is placed on the person's land for 43724
the costs of such a removal action, and, in either case, if the 43725
landowner was not the person responsible for causing the 43726
accumulation of scrap tires so removed, the landowner may bring a 43727
civil action against the person who was responsible for causing 43728
the accumulation to recover the amount of the removal costs that 43729
the court ordered the landowner to pay to the director or the 43730
amount of the removal costs certified to the county recorder as a 43731
lien on the landowner's property, whichever is applicable. If the 43732
landowner prevails in the civil action against the person who was 43733
responsible for causing the accumulation of scrap tires, the 43734
court, as it considers appropriate, may award to the landowner the 43735
reasonable attorney's fees incurred by the landowner for bringing 43736
the action, court costs, and other reasonable expenses incurred by 43737
the landowner in connection with the civil action. A landowner 43738
shall bring such a civil action within two years after making the 43739
final payment of the removal costs to the director pursuant to the 43740
judgment rendered against the landowner in the civil action 43741
brought under this division upon the director's request or within 43742
two years after the director certified the costs of the removal 43743
action to the county recorder, as appropriate. A person who, at 43744
the time that a removal action was conducted under this division, 43745
owned the land on which the removal action was performed may bring 43746
an action under this division to recover the costs of the removal 43747
action from the person responsible for causing the accumulation of 43748

scrap tires so removed regardless of whether the person owns the 43749
land at the time of bringing the action. 43750

Subject to the limitations set forth in division (G) of 43751
section 3734.82 of the Revised Code, the director may use moneys 43752
in the scrap tire management fund ~~created in that division~~ for 43753
conducting removal actions under this division. Any moneys 43754
recovered under this division shall be credited to the scrap tire 43755
management fund. 43756

(B) The director shall initiate enforcement and removal 43757
actions under division (A) of this section in accordance with the 43758
following descending listing of priorities: 43759

(1) Accumulations of scrap tires that the director finds 43760
constitute a fire hazard or threat to public health; 43761

(2) Accumulations of scrap tires determined by the director 43762
to contain more than one million scrap tires; 43763

(3) Accumulations of scrap tires in densely populated areas; 43764

(4) Other accumulations of scrap tires that the director or 43765
board of health of the health district in which the accumulation 43766
is located determines constitute a public nuisance; 43767

(5) Any other accumulations of scrap tires present on 43768
premises operating without a valid license issued under section 43769
3734.05 or 3734.81 of the Revised Code. 43770

(C) The director shall not take enforcement and removal 43771
actions under division (A) of this section against the owner or 43772
operator of, or the owner of the land on which is located, any of 43773
the following: 43774

(1) A premises where not more than one hundred scrap tires 43775
are present at any time; 43776

(2) The premises of a business engaging in the sale of tires 43777
at retail that meets either of the following criteria: 43778

- (a) Not more than one thousand scrap tires are present on the premises at any time in an unsecured, uncovered outdoor location; 43779
43780
- (b) Any number of scrap tires are secured in a building or a covered, enclosed container, trailer, or installation. 43781
43782
- (3) The premises of a tire retreading business, a tire manufacturing finishing center, or a tire adjustment center on which is located a single, covered scrap tire storage area where not more than four thousand scrap tires are stored; 43783
43784
43785
43786
- (4) The premises of a business that removes tires from motor vehicles in the ordinary course of business and on which is located a single scrap tire storage area that occupies not more than twenty-five hundred square feet; 43787
43788
43789
43790
- (5) A solid waste facility licensed under section 3734.05 of the Revised Code that stores scrap tires on the surface of the ground if the total land area on which scrap tires are actually stored does not exceed ten thousand square feet; 43791
43792
43793
43794
- (6) A premises where not more than two hundred fifty scrap tires are stored or kept for agricultural use; 43795
43796
- (7) A construction site where scrap tires are stored for use or used in road resurfacing or the construction of embankments; 43797
43798
- (8) A scrap tire collection, storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; 43799
43800
43801
- (9) A solid waste incineration or energy recovery facility that is subject to regulation under this chapter and that burns scrap tires; 43802
43803
43804
- (10) A premises where scrap tires are beneficially used and for which the notice required by rules adopted under section 3734.84 of the Revised Code has been given; 43805
43806
43807
- (11) A transporter registered under section 3734.83 of the 43808

Revised Code that collects and holds scrap tires in a covered trailer or vehicle for not longer than thirty days prior to transporting them to their final destination.

(D) Nothing in this section restricts any right any person may have under statute or common law to enforce or seek enforcement of any law applicable to the management of scrap tires, abate a nuisance, or seek any other appropriate relief.

(E) An owner of real property upon which there is located an accumulation of not more than two thousand scrap tires is not liable under division (A) of this section for the cost of the removal of the scrap tires, and no lien shall attach to the property under this section, if all of the following conditions are met:

(1) The tires were placed on the property after the owner acquired title to the property, or the tires were placed on the property before the owner acquired title to the property and the owner acquired title to the property by bequest or devise.

(2) The owner of the property did not have knowledge that the tires were being placed on the property, or the owner posted on the property signs prohibiting dumping or took other action to prevent the placing of tires on the property.

(3) The owner of the property did not participate in or consent to the placing of the tires on the property.

(4) The owner of the property received no financial benefit from the placing of the tires on the property or otherwise having the tires on the property.

(5) Title to the property was not transferred to the owner for the purpose of evading liability under division (A) of this section.

(6) The person responsible for placing the tires on the

property, in doing so, was not acting as an agent for the owner of 43839
the property. 43840

Sec. 3734.901. (A)(1) For the purpose of providing revenue to 43841
defray the cost of administering and enforcing the scrap tire 43842
provisions of this chapter, rules adopted under those provisions, 43843
and terms and conditions of orders, variances, and licenses issued 43844
under those provisions; to abate accumulations of scrap tires; to 43845
make grants to promote research regarding alternative methods of 43846
recycling scrap tires and loans to promote the recycling or 43847
recovery of energy from scrap tires; and to defray the costs of 43848
administering and enforcing sections 3734.90 to 3734.9014 of the 43849
Revised Code, a fee of fifty cents per tire is hereby levied on 43850
the sale of tires. The fee is levied from the first day of the 43851
calendar month that begins next after thirty days from October 29, 43852
1993, through June 30, ~~2006~~ 2011. 43853

(2) Beginning on ~~the effective date of this section~~ September 43854
5, 2001, and ending on June 30, 2011, there is hereby levied an 43855
additional fee of fifty cents per tire on the sale of tires the 43856
proceeds of which shall be deposited in the state treasury to the 43857
credit of the scrap tire management fund created in section 43858
3734.82 of the Revised Code and be used exclusively for the 43859
purposes specified in division (G)(3) of that section. 43860

(B) Only one sale of the same article shall be used in 43861
computing the amount of the fee due. 43862

Sec. 3734.9010. ~~Four~~ Two per cent of all amounts paid to the 43863
treasurer of state pursuant to sections 3734.90 to 3734.9014 of 43864
the Revised Code shall be certified directly to the credit of the 43865
tire fee administrative fund, which is hereby created in the state 43866
treasury, for appropriation to the department of taxation for use 43867
in administering those sections. The remainder of the amounts paid 43868

to the treasurer of state shall be deposited to the credit of the 43869
scrap tire management fund created in section 3734.82 of the 43870
Revised Code. 43871

Sec. 3735.27. (A) Whenever the director of development has 43872
determined that there is need for a housing authority in any 43873
portion of any county that comprises two or more political 43874
subdivisions or portions of two or more political subdivisions but 43875
is less than all the territory within the county, a metropolitan 43876
housing authority shall be declared to exist, and the territorial 43877
limits of the authority shall be defined, by a letter from the 43878
director. The director shall issue a determination from the 43879
department of development declaring that there is need for a 43880
housing authority within those territorial limits after finding 43881
either of the following: 43882

(1) Unsanitary or unsafe inhabited housing accommodations 43883
exist in that area; 43884

(2) There is a shortage of safe and sanitary housing 43885
accommodations in that area available to persons who lack the 43886
amount of income that is necessary, as determined by the director, 43887
to enable them, without financial assistance, to live in decent, 43888
safe, and sanitary dwellings without congestion. 43889

In determining whether dwelling accommodations are unsafe or 43890
unsanitary, the director may take into consideration the degree of 43891
congestion, the percentage of land coverage, the light, air, 43892
space, and access available to the inhabitants of the dwelling 43893
accommodations, the size and arrangement of rooms, the sanitary 43894
facilities, and the extent to which conditions exist in the 43895
dwelling accommodations that endanger life or property by fire or 43896
other causes. 43897

The territorial limits of a metropolitan housing authority as 43898
defined by the director under this division shall be fixed for the 43899

authority upon proof of a letter from the director declaring the 43900
need for the authority to function in those territorial limits. 43901
Any such letter from the director, any certificate of 43902
determination issued by the director, and any certificate of 43903
appointment of members of the authority shall be admissible in 43904
evidence in any suit, action, or proceeding. 43905

A certified copy of the letter from the director declaring 43906
the existence of a metropolitan housing authority and the 43907
territorial limits of its district shall be immediately forwarded 43908
to each appointing authority. A metropolitan housing authority 43909
shall consist of members who are residents of the territory in 43910
which they serve. 43911

(B)(1) Except as otherwise provided in division (C), (D), or 43912
(E) of this section, the members of a metropolitan housing 43913
authority shall be appointed as follows: 43914

(a)(i) In a district in a county in which a charter has been 43915
adopted under Article X, Section 3 of the Ohio Constitution, and 43916
in which the most populous city is not the city with the largest 43917
ratio of housing units owned or managed by the authority to 43918
population, one member shall be appointed by the probate court, 43919
one member shall be appointed by the court of common pleas, one 43920
member shall be appointed by the board of county commissioners, 43921
one member shall be appointed by the chief executive officer of 43922
the city that has the largest ratio of housing units owned or 43923
managed by the authority to population, and two members shall be 43924
appointed by the chief executive officer of the most populous city 43925
in the district. 43926

(ii) If, in a district that appoints members pursuant to 43927
division (B)(1)(a) of this section, the most populous city becomes 43928
the city with the largest ratio of housing units owned or managed 43929
by the authority to population, when the term of office of the 43930
member who was appointed by the chief executive officer of the 43931

city with the largest ratio expires, that member shall not be 43932
reappointed, and the membership of the authority shall be as 43933
described in division (B)(1)(b) of this section. 43934

(b) In any district other than one described in division 43935
(B)(1)(a) of this section, one member shall be appointed by the 43936
probate court, one member shall be appointed by the court of 43937
common pleas, one member shall be appointed by the board of county 43938
commissioners, and two members shall be appointed by the chief 43939
executive officer of the most populous city in the district. 43940

(2) At the time of the initial appointment of the authority, 43941
the member appointed by the probate court shall be appointed for a 43942
period of four years, the member appointed by the court of common 43943
pleas shall be appointed for three years, the member appointed by 43944
the board of county commissioners shall be appointed for two 43945
years, one member appointed by the chief executive officer of the 43946
most populous city in the district shall be appointed for one 43947
year, and the other member appointed by the chief executive 43948
officer of the most populous city in the district shall be 43949
appointed for five years. 43950

If appointments are made under division (B)(1)(a) of this 43951
section, the member appointed by the chief executive officer of 43952
the city in the district that is not the most populous city, but 43953
that has the largest ratio of housing units owned or managed by 43954
the authority to population, shall be appointed for five years. 43955

After the initial appointments, all members of the authority 43956
shall be appointed for five-year terms, and any vacancy occurring 43957
upon the expiration of a term shall be filled by the appointing 43958
authority that made the initial appointment. 43959

(3) For purposes of this division, population shall be 43960
determined according to the last preceding federal census. 43961

(C) For any metropolitan housing authority district that 43962

contained, as of the 1990 federal census, a population of at least 43963
one million, two members of the authority shall be appointed by 43964
the legislative authority of the most populous city in the 43965
district, two members shall be appointed by the chief executive 43966
officer of the most populous city in the district, and one member 43967
shall be appointed by the chief executive officer, with the 43968
approval of the legislative authority, of the city in the district 43969
that has the second highest number of housing units owned or 43970
managed by the authority. 43971

At the time of the initial appointment of the authority, one 43972
member appointed by the legislative authority of the most populous 43973
city in the district shall be appointed for three years, and one 43974
such member shall be appointed for one year; the member appointed 43975
by the chief executive officer of the city with the second highest 43976
number of housing units owned or managed by the authority shall be 43977
appointed, with the approval of the legislative authority, for 43978
three years; and one member appointed by the chief executive 43979
officer of the most populous city in the district shall be 43980
appointed for three years, and one such member shall be appointed 43981
for one year. Thereafter, all members of the authority shall be 43982
appointed for three-year terms, and any vacancy shall be filled by 43983
the same appointing power that made the initial appointment. At 43984
the expiration of the term of any member appointed by the chief 43985
executive officer of the most populous city in the district before 43986
March 15, 1983, the chief executive officer of the most populous 43987
city in the district shall fill the vacancy by appointment for a 43988
three-year term. At the expiration of the term of any member 43989
appointed by the board of county commissioners before March 15, 43990
1983, the chief executive officer of the city in the district with 43991
the second highest number of housing units owned or managed by the 43992
authority shall, with the approval of the municipal legislative 43993
authority, fill the vacancy by appointment for a three-year term. 43994
At the expiration of the term of any member appointed before March 43995

15, 1983, by the court of common pleas or the probate court, the 43996
legislative authority of the most populous city in the district 43997
shall fill the vacancy by appointment for a three-year term. 43998

After March 15, 1983, at least one of the members appointed 43999
by the chief executive officer of the most populous city shall be 44000
a resident of a dwelling unit owned or managed by the authority. 44001
At least one of the initial appointments by the chief executive 44002
officer of the most populous city, after March 15, 1983, shall be 44003
a resident of a dwelling unit owned or managed by the authority. 44004
Thereafter, any member appointed by the chief executive officer of 44005
the most populous city for the term established by this initial 44006
appointment, or for any succeeding term, shall be a person who 44007
resides in a dwelling unit owned or managed by the authority. If 44008
there is an elected, representative body of all residents of the 44009
authority, the chief executive officer of the most populous city 44010
shall, whenever there is a vacancy in this resident term, provide 44011
written notice of the vacancy to the representative body. If the 44012
representative body submits to the chief executive officer of the 44013
most populous city, in writing and within sixty days after the 44014
date on which it was notified of the vacancy, the names of at 44015
least five residents of the authority who are willing and 44016
qualified to serve as a member, the chief executive officer of the 44017
most populous city shall appoint to the resident term one of the 44018
residents recommended by the representative body. At no time shall 44019
residents constitute a majority of the members of the authority. 44020

(D)(1) For any metropolitan housing authority district 44021
located in a county that had, as of the 2000 federal census, a 44022
population of at least four hundred thousand and no city with a 44023
population greater than thirty per cent of the total population of 44024
the county, one member of the authority shall be appointed by the 44025
probate court, one member shall be appointed by the court of 44026
common pleas, one member shall be appointed by the chief executive 44027

officer of the most populous city in the district, and two members 44028
shall be appointed by the board of county commissioners. 44029

(2) At the time of the initial appointment of a metropolitan 44030
housing authority pursuant to this division, the member appointed 44031
by the probate court shall be appointed for a period of four 44032
years, the member appointed by the court of common pleas shall be 44033
appointed for three years, the member appointed by the chief 44034
executive officer of the most populous city shall be appointed for 44035
two years, one member appointed by the board of county 44036
commissioners shall be appointed for one year, and the other 44037
member appointed by the board of county commissioners shall be 44038
appointed for five years. Thereafter, all members of the authority 44039
shall be appointed for five-year terms, with each term ending on 44040
the same day of the same month as the term that it succeeds. 44041
Vacancies shall be filled in the manner provided in the original 44042
appointments. Any member appointed to fill a vacancy occurring 44043
prior to the expiration of the term shall hold office as a member 44044
for the remainder of that term. 44045

(E)(1) ~~An additional two members~~ One resident member shall be 44046
appointed to ~~the a~~ metropolitan housing authority ~~in any district~~ 44047
~~that has three hundred or more assisted housing units and that~~ 44048
~~does not have at least one resident as a member of its authority.~~ 44049
~~For the purposes of this section, an "assisted unit" is a housing~~ 44050
~~unit owned or operated by the housing authority or a unit in which~~ 44051
~~the occupants receive tenant-based housing assistance through the~~ 44052
~~federal section 8 housing program, 24 C.F.R. Ch VIII, and, a~~ 44053
~~"resident" is a person who lives in an assisted housing unit when~~ 44054
required by federal law. The 44055

~~(2) The~~ chief executive officer of the most populous city in 44056
the district shall appoint ~~an additional member who is a~~ that 44057
resident member for ~~an initial a~~ term of five years. ~~The board of~~ 44058
~~county commissioners shall appoint the other additional member,~~ 44059

~~who need not be a resident, for an initial term of three years.~~ 44060
~~After the initial term, the terms of both members~~ Subsequent terms 44061
of that resident member also shall be for five years, and 44062
~~vacancies~~ any vacancy in the position of the resident member shall 44063
be filled in the manner provided for original appointments by the 44064
chief executive officer of the most populous city in the district. 44065
Any member appointed to fill such a vacancy ~~occurring prior to the~~ 44066
~~expiration of the term for which the member's predecessor was~~ 44067
~~appointed~~ shall hold office as a resident member for the remainder 44068
of that term. If, at any time, 44069

~~(3) A member appointed as a resident member who no longer~~ 44070
~~qualifies as a resident shall be deemed unable to serve, and~~ 44071
another resident member shall be appointed by the appointing 44072
authority who originally appointed the resident member to serve 44073
for the unexpired portion of that term. 44074

(2) On and after the effective date of this amendment, any 44075
metropolitan housing authority to which two additional members 44076
were appointed pursuant to former division (E)(1) of this section 44077
as enacted by Amended Substitute House Bill No. 95 of the 125th 44078
general assembly shall continue to have those additional members. 44079
Their terms shall be for five years, and vacancies in their 44080
positions shall be filled in the manner provided for their 44081
original appointment under former division (E)(1) of this section 44082
as so enacted. 44083

(F) Public officials, other than the officers having the 44084
appointing power under this section, shall be eligible to serve as 44085
members, officers, or employees of a metropolitan housing 44086
authority notwithstanding any statute, charter, or law to the 44087
contrary. Not more than two such public officials shall be members 44088
of the authority at any one time. 44089

All members of an authority shall serve without compensation 44090
but shall be entitled to be reimbursed for all necessary expenses 44091

incurred. 44092

After a metropolitan housing authority district is formed, 44093
the director may enlarge the territory within the district to 44094
include other political subdivisions, or portions of other 44095
political subdivisions, but the territorial limits of the district 44096
shall be less than that of the county. 44097

(G)(1) Any vote taken by a metropolitan housing authority 44098
shall require a majority affirmative vote to pass. A tie vote 44099
shall constitute a defeat of any measure receiving equal numbers 44100
of votes for and against it. 44101

(2) The members of a metropolitan housing authority shall act 44102
in the best interest of the district and shall not act solely as 44103
representatives of their respective appointing authorities. 44104

Sec. 3743.01. As used in this chapter: 44105

(A) "Beer" and "intoxicating liquor" have the same meanings 44106
as in section 4301.01 of the Revised Code. 44107

(B) "Booby trap" means a small tube that has a string 44108
protruding from both ends, that has a friction-sensitive 44109
composition, and that is ignited by pulling the ends of the 44110
string. 44111

(C) "Cigarette load" means a small wooden peg that is coated 44112
with a small quantity of explosive composition and that is ignited 44113
in a cigarette. 44114

(D)(1) "1.3G fireworks" means display fireworks consistent 44115
with regulations of the United States department of transportation 44116
as expressed using the designation "division 1.3" in Title 49, 44117
Code of Federal Regulations. 44118

(2) "1.4G fireworks" means consumer fireworks consistent with 44119
regulations of the United States department of transportation as 44120
expressed using the designation "division 1.4" in Title 49, Code 44121

of Federal Regulations. 44122

(E) "Controlled substance" has the same meaning as in section 44123
3719.01 of the Revised Code. 44124

(F) "Fireworks" means any composition or device prepared for 44125
the purpose of producing a visible or an audible effect by 44126
combustion, deflagration, or detonation, except ordinary matches 44127
and except as provided in section 3743.80 of the Revised Code. 44128

(G) "Fireworks plant" means all buildings and other 44129
structures in which the manufacturing of fireworks, or the storage 44130
or sale of manufactured fireworks by a manufacturer, takes place. 44131

(H) "Highway" means any public street, road, alley, way, 44132
lane, or other public thoroughfare. 44133

(I) "Licensed exhibitor of fireworks" or "licensed exhibitor" 44134
means a person licensed pursuant to sections 3743.50 to 3743.55 of 44135
the Revised Code. 44136

(J) "Licensed manufacturer of fireworks" or "licensed 44137
manufacturer" means a person licensed pursuant to sections 3743.02 44138
to 3743.08 of the Revised Code. 44139

(K) "Licensed wholesaler of fireworks" or "licensed 44140
wholesaler" means a person licensed pursuant to sections 3743.15 44141
to 3743.21 of the Revised Code. 44142

(L) "List of licensed exhibitors" means the list required by 44143
division (C) of section 3743.51 of the Revised Code. 44144

(M) "List of licensed manufacturers" means the list required 44145
by division (C) of section 3743.03 of the Revised Code. 44146

(N) "List of licensed wholesalers" means the list required by 44147
division (C) of section 3743.16 of the Revised Code. 44148

(O) "Manufacturing of fireworks" means the making of 44149
fireworks from raw materials, none of which in and of themselves 44150
constitute a fireworks, or the processing of fireworks. 44151

(P) "Navigable waters" means any body of water susceptible of being used in its ordinary condition as a highway of commerce over which trade and travel is or may be conducted in the customary modes, but does not include a body of water that is not capable of navigation by barges, tugboats, and other large vessels.

(Q) "Novelties and trick noisemakers" include the following items:

(1) Devices that produce a small report intended to surprise the user, including, but not limited to, booby traps, cigarette loads, party poppers, and snappers;

(2) Snakes or glow worms;

(3) Smoke devices;

(4) Trick matches.

(R) "Party popper" means a small plastic or paper item that contains not more than sixteen milligrams of friction-sensitive explosive composition, that is ignited by pulling a string protruding from the item, and from which paper streamers are expelled when the item is ignited.

(S) "Processing of fireworks" means the making of fireworks from materials all or part of which in and of themselves constitute a fireworks, but does not include the mere packaging or repackaging of fireworks.

(T) "Railroad" means any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs, and sidings installed and primarily used in serving a mine, quarry, or plant.

(U) "Retail sale" or "sell at retail" means a sale of fireworks to a purchaser who intends to use the fireworks, and not resell them.

(V) "Smoke device" means a tube or sphere that contains

pyrotechnic composition that, upon ignition, produces white or 44182
colored smoke as the primary effect. 44183

(W) "Snake or glow worm" means a device that consists of a 44184
pressed pellet of pyrotechnic composition that produces a large, 44185
snake-like ash upon burning, which ash expands in length as the 44186
pellet burns. 44187

(X) "Snapper" means a small, paper-wrapped item that contains 44188
a minute quantity of explosive composition coated on small bits of 44189
sand, and that, when dropped, implodes. 44190

(Y) "Trick match" means a kitchen or book match that is 44191
coated with a small quantity of explosive composition and that, 44192
upon ignition, produces a small report or a shower of sparks. 44193

(Z) "Wire sparkler" means a sparkler consisting of a wire or 44194
stick coated with a nonexplosive pyrotechnic mixture that produces 44195
a shower of sparks upon ignition and that contains no more than 44196
one hundred grams of this mixture. 44197

(AA) "Wholesale sale" or "sell at wholesale" means a sale of 44198
fireworks to a purchaser who intends to resell the fireworks so 44199
purchased. 44200

(BB) "Licensed premises" means the real estate upon which a 44201
licensed manufacturer or wholesaler of fireworks conducts 44202
business. 44203

(CC) "Licensed building" means a building on the licensed 44204
premises of a licensed manufacturer or wholesaler of fireworks 44205
that is approved for occupancy by the building official having 44206
jurisdiction. 44207

(DD) "Fireworks incident" means any action or omission that 44208
occurs at a fireworks exhibition, that results in injury or death, 44209
or a substantial risk of injury or death, to any person, and that 44210
involves either of the following: 44211

(1) The handling or other use, or the results of the handling 44212
or other use, of fireworks or associated equipment or other 44213
materials; 44214

(2) The failure of any person to comply with any applicable 44215
requirement imposed by this chapter or any applicable rule adopted 44216
under this chapter. 44217

(EE) "Discharge site" means an area immediately surrounding 44218
the mortars used to fire aerial shells. 44219

(FF) "Fireworks incident site" means a discharge site or 44220
other location at a fireworks exhibition where a fireworks 44221
incident occurs, a location where an injury or death associated 44222
with a fireworks incident occurs, or a location where evidence of 44223
a fireworks incident or an injury or death associated with a 44224
fireworks incident is found. 44225

(GG) "Storage location" means a single parcel or contiguous 44226
parcels of real estate approved by the fire marshal pursuant to 44227
division (I) of section 3743.04 of the Revised Code or division 44228
(G) of section 3743.17 of the Revised Code that are separate from 44229
a licensed premises containing a retail showroom, and which parcel 44230
or parcels a licensed manufacturer or wholesaler of fireworks may 44231
use only for the distribution, possession, and storage of 44232
fireworks in accordance with this chapter. 44233

Sec. 3743.02. (A) Any person who wishes to manufacture 44234
fireworks in this state shall submit to the fire marshal an 44235
application for licensure as a manufacturer of fireworks before 44236
the first day of October of each year. The application shall be 44237
submitted prior to the operation of a fireworks plant, shall be on 44238
a form prescribed by the fire marshal, shall contain all 44239
information required by this section or requested by the fire 44240
marshal, and shall be accompanied by the license fee, 44241
fingerprints, and proof of insurance coverage described in 44242

division (B) of this section. 44243

The fire marshal shall prescribe a form for applications for 44244
licensure as a manufacturer of fireworks and make a copy of the 44245
form available, upon request, to persons who seek that licensure. 44246

(B) An applicant for licensure as a manufacturer of fireworks 44247
shall submit with the application all of the following: 44248

(1) A license fee of two thousand seven hundred fifty 44249
dollars, which the fire marshal shall use to pay for fireworks 44250
safety education, training programs, and inspections+. If the 44251
applicant has any storage locations approved in accordance with 44252
division (I) of section 3743.04 of the Revised Code, the applicant 44253
also shall submit a fee of one hundred dollars per storage 44254
location for the inspection of each storage location. 44255

(2) Proof of comprehensive general liability insurance 44256
coverage, specifically including fire and smoke casualty on 44257
premises and products, in an amount not less than one million 44258
dollars for each occurrence for bodily injury liability and 44259
wrongful death liability at the fireworks plant. All applicants 44260
shall submit evidence of comprehensive general liability insurance 44261
coverage verified by the insurer and certified as to its provision 44262
of the minimum coverage required under this division. 44263

(3) One complete set of the applicant's fingerprints and a 44264
complete set of fingerprints of any individual holding, owning, or 44265
controlling a five per cent or greater beneficial or equity 44266
interest in the applicant for the license. 44267

(C) A separate application for licensure as a manufacturer of 44268
fireworks shall be submitted for each fireworks plant that a 44269
person wishes to operate in this state. 44270

(D) If an applicant intends to include the processing of 44271
fireworks as any part of its proposed manufacturing of fireworks, 44272
a statement indicating that intent shall be included in its 44273

application for licensure. 44274

Sec. 3743.04. (A) The license of a manufacturer of fireworks 44275
is effective for one year beginning on the first day of December. 44276
The fire marshal shall issue or renew a license only on that date 44277
and at no other time. If a manufacturer of fireworks wishes to 44278
continue manufacturing fireworks at the designated fireworks plant 44279
after its then effective license expires, it shall apply no later 44280
than the first day of October for a new license pursuant to 44281
section 3743.02 of the Revised Code. The fire marshal shall send a 44282
written notice of the expiration of its license to a licensed 44283
manufacturer at least three months before the expiration date. 44284

(B) If, during the effective period of its licensure, a 44285
licensed manufacturer of fireworks wishes to construct, locate, or 44286
relocate any buildings or other structures on the premises of its 44287
fireworks plant, to make any structural change or renovation in 44288
any building or other structure on the premises of its fireworks 44289
plant, or to change the nature of its manufacturing of fireworks 44290
so as to include the processing of fireworks, the manufacturer 44291
shall notify the fire marshal in writing. The fire marshal may 44292
require a licensed manufacturer also to submit documentation, 44293
including, but not limited to, plans covering the proposed 44294
construction, location, relocation, structural change or 44295
renovation, or change in manufacturing of fireworks, if the fire 44296
marshal determines the documentation is necessary for evaluation 44297
purposes in light of the proposed construction, location, 44298
relocation, structural change or renovation, or change in 44299
manufacturing of fireworks. 44300

Upon receipt of the notification and additional documentation 44301
required by the fire marshal, the fire marshal shall inspect the 44302
premises of the fireworks plant to determine if the proposed 44303
construction, location, relocation, structural change or 44304

renovation, or change in manufacturing of fireworks conforms to 44305
sections 3743.02 to 3743.08 of the Revised Code and the rules 44306
adopted by the fire marshal pursuant to section 3743.05 of the 44307
Revised Code. The fire marshal shall issue a written authorization 44308
to the manufacturer for the construction, location, relocation, 44309
structural change or renovation, or change in manufacturing of 44310
fireworks if the fire marshal determines, upon the inspection and 44311
a review of submitted documentation, that the construction, 44312
location, relocation, structural change or renovation, or change 44313
in manufacturing of fireworks conforms to those sections and 44314
rules. Upon authorizing a change in manufacturing of fireworks to 44315
include the processing of fireworks, the fire marshal shall make 44316
notations on the manufacturer's license and in the list of 44317
licensed manufacturers in accordance with section 3743.03 of the 44318
Revised Code. 44319

On or before June 1, 1998, a licensed manufacturer shall 44320
install, in every licensed building in which fireworks are 44321
manufactured, stored, or displayed and to which the public has 44322
access, interlinked fire detection, smoke exhaust, and smoke 44323
evacuation systems that are approved by the superintendent of the 44324
division of industrial compliance, and shall comply with floor 44325
plans showing occupancy load limits and internal circulation and 44326
egress patterns that are approved by the fire marshal and 44327
superintendent, and that are submitted under seal as required by 44328
section 3791.04 of the Revised Code. Notwithstanding section 44329
3743.59 of the Revised Code, the construction and safety 44330
requirements established in this division are not subject to any 44331
variance, waiver, or exclusion. 44332

(C) The license of a manufacturer of fireworks authorizes the 44333
manufacturer to engage only in the following activities: 44334

(1) The manufacturing of fireworks on the premises of the 44335
fireworks plant as described in the application for licensure or 44336

in the notification submitted under division (B) of this section, 44337
except that a licensed manufacturer shall not engage in the 44338
processing of fireworks unless authorized to do so by its license. 44339

(2) To possess for sale at wholesale and sell at wholesale 44340
the fireworks manufactured by the manufacturer, to persons who are 44341
licensed wholesalers of fireworks, to out-of-state residents in 44342
accordance with section 3743.44 of the Revised Code, to residents 44343
of this state in accordance with section 3743.45 of the Revised 44344
Code, or to persons located in another state provided the 44345
fireworks are shipped directly out of this state to them by the 44346
manufacturer. A person who is licensed as a manufacturer of 44347
fireworks on June 14, 1988, also may possess for sale and sell 44348
pursuant to division (C)(2) of this section fireworks other than 44349
those the person manufactures. The possession for sale shall be on 44350
the premises of the fireworks plant described in the application 44351
for licensure or in the notification submitted under division (B) 44352
of this section, and the sale shall be from the inside of a 44353
licensed building and from no other structure or device outside a 44354
licensed building. At no time shall a licensed manufacturer sell 44355
any class of fireworks outside a licensed building. 44356

(3) Possess for sale at retail and sell at retail the 44357
fireworks manufactured by the manufacturer, other than 1.4G 44358
fireworks as designated by the fire marshal in rules adopted 44359
pursuant to division (A) of section 3743.05 of the Revised Code, 44360
to licensed exhibitors in accordance with sections 3743.50 to 44361
3743.55 of the Revised Code, and possess for sale at retail and 44362
sell at retail the fireworks manufactured by the manufacturer, 44363
including 1.4G fireworks, to out-of-state residents in accordance 44364
with section 3743.44 of the Revised Code, to residents of this 44365
state in accordance with section 3743.45 of the Revised Code, or 44366
to persons located in another state provided the fireworks are 44367
shipped directly out of this state to them by the manufacturer. A 44368

person who is licensed as a manufacturer of fireworks on June 14, 44369
1988, may also possess for sale and sell pursuant to division 44370
(C)(3) of this section fireworks other than those the person 44371
manufactures. The possession for sale shall be on the premises of 44372
the fireworks plant described in the application for licensure or 44373
in the notification submitted under division (B) of this section, 44374
and the sale shall be from the inside of a licensed building and 44375
from no other structure or device outside a licensed building. At 44376
no time shall a licensed manufacturer sell any class of fireworks 44377
outside a licensed building. 44378

A licensed manufacturer of fireworks shall sell under 44379
division (C) of this section only fireworks that meet the 44380
standards set by the consumer product safety commission or by the 44381
American fireworks standard laboratories or that have received an 44382
EX number from the United States department of transportation. 44383

(D) The license of a manufacturer of fireworks shall be 44384
protected under glass and posted in a conspicuous place on the 44385
premises of the fireworks plant. Except as otherwise provided in 44386
this division, the license is not transferable or assignable. A 44387
license may be transferred to another person for the same 44388
fireworks plant for which the license was issued if the assets of 44389
the plant are transferred to that person by inheritance or by a 44390
sale approved by the fire marshal. The license is subject to 44391
revocation in accordance with section 3743.08 of the Revised Code. 44392

(E) The fire marshal shall not place the license of a 44393
manufacturer of fireworks in a temporarily inactive status while 44394
the holder of the license is attempting to qualify to retain the 44395
license. 44396

(F) Each licensed manufacturer of fireworks that possesses 44397
fireworks for sale and sells fireworks under division (C) of 44398
section 3743.04 of the Revised Code, or a designee of the 44399
manufacturer, whose identity is provided to the fire marshal by 44400

the manufacturer, annually shall attend a continuing education 44401
program consisting of not less than eight hours of instruction. 44402
The fire marshal shall develop the program and the fire marshal or 44403
a person or public agency approved by the fire marshal shall 44404
conduct it. A licensed manufacturer or the manufacturer's designee 44405
who attends a program as required under this division, within one 44406
year after attending the program, shall conduct in-service 44407
training for other employees of the licensed manufacturer 44408
regarding the information obtained in the program. A licensed 44409
manufacturer shall provide the fire marshal with notice of the 44410
date, time, and place of all in-service training not less than 44411
thirty days prior to an in-service training event. 44412

(G) A licensed manufacturer shall maintain comprehensive 44413
general liability insurance coverage in the amount and type 44414
specified under division (B)(2) of section 3743.02 of the Revised 44415
Code at all times. Each policy of insurance required under this 44416
division shall contain a provision requiring the insurer to give 44417
not less than fifteen days' prior written notice to the fire 44418
marshal before termination, lapse, or cancellation of the policy, 44419
or any change in the policy that reduces the coverage below the 44420
minimum required under this division. Prior to canceling or 44421
reducing the amount of coverage of any comprehensive general 44422
liability insurance coverage required under this division, a 44423
licensed manufacturer shall secure supplemental insurance in an 44424
amount and type that satisfies the requirements of this division 44425
so that no lapse in coverage occurs at any time. A licensed 44426
manufacturer who secures supplemental insurance shall file 44427
evidence of the supplemental insurance with the fire marshal prior 44428
to canceling or reducing the amount of coverage of any 44429
comprehensive general liability insurance coverage required under 44430
this division. 44431

(H) The fire marshal shall adopt rules for the expansion or 44432

contraction of a licensed premises and for approval of such 44433
expansions or contractions. The boundaries of a licensed premises, 44434
including any geographic expansion or contraction of those 44435
boundaries, shall be approved by the fire marshal in accordance 44436
with rules the fire marshal adopts. If the licensed premises 44437
consists of more than one parcel of real estate, those parcels 44438
shall be contiguous unless an exception is allowed pursuant to 44439
division (I) of this section. 44440

(I)(1) A licensed manufacturer may expand its licensed 44441
premises within this state to include not more than two storage 44442
locations that are located upon one or more real estate parcels 44443
that are noncontiguous to the licensed premises as that licensed 44444
premises exists on the date a licensee submits an application as 44445
described below, if all of the following apply: 44446

(a) The licensee submits an application to the fire marshal 44447
and an application fee of one hundred dollars per storage location 44448
for which the licensee is requesting approval. 44449

(b) The identity of the holder of the license remains the 44450
same at the storage location. 44451

(c) The storage location has received a valid certificate of 44452
zoning compliance as applicable and a valid certificate of 44453
occupancy for each building or structure at the storage location 44454
issued by the authority having jurisdiction to issue the 44455
certificate for the storage location, and those certificates 44456
permit the distribution and storage of fireworks regulated under 44457
this chapter at the storage location and in the buildings or 44458
structures. The storage location shall be in compliance with all 44459
other applicable federal, state, and local laws and regulations. 44460

(d) Every building or structure located upon the storage 44461
location is separated from occupied residential and nonresidential 44462
buildings or structures, railroads, highways, or any other 44463

buildings or structures on the licensed premises in accordance 44464
with the distances specified in the rules adopted by the fire 44465
marshal pursuant to section 3743.05 of the Revised Code. 44466

(e) Neither the licensee nor any person holding, owning, or 44467
controlling a five per cent or greater beneficial or equity 44468
interest in the licensee has been convicted of or pleaded guilty 44469
to a felony under the laws of this state, any other state, or the 44470
United States, after the effective date of this amendment. 44471

(f) The fire marshal approves the application for expansion. 44472

(2) The fire marshal shall approve an application for 44473
expansion requested under division (I)(1) of this section if the 44474
fire marshal receives the application fee and proof that the 44475
requirements of divisions (I)(1)(b) to (e) of this section are 44476
satisfied. The storage location shall be considered part of the 44477
original licensed premises and shall use the same distinct number 44478
assigned to the original licensed premises with any additional 44479
designations as the fire marshal deems necessary in accordance 44480
with section 3743.03 of the Revised Code. 44481

(J)(1) A licensee who obtains approval for the use of a 44482
storage location in accordance with division (I) of this section 44483
shall use the storage location exclusively for the following 44484
activities, in accordance with division (C) of this section: 44485

(a) The packaging, assembling, or storing of fireworks, which 44486
shall only occur in buildings, structures, or trailers approved 44487
for such hazardous uses by the building code official having 44488
jurisdiction for the storage location and shall be in accordance 44489
with the rules adopted by the fire marshal under division (G) of 44490
section 3743.05 of the Revised Code for the packaging, assembling, 44491
and storage of fireworks. 44492

(b) Distributing fireworks to other parcels of real estate 44493
located on the manufacturer's licensed premises, to licensed 44494

wholesalers or other licensed manufacturers in this state or to 44495
similarly licensed persons located in another state or country; 44496

(c) Distributing fireworks to a licensed exhibitor of 44497
fireworks pursuant to a properly issued permit in accordance with 44498
section 3743.54 of the Revised Code. 44499

(2) A licensed manufacturer shall not engage in any sales 44500
activity, including the retail sale of fireworks otherwise 44501
permitted under division (C)(2) or (C)(3) of this section, or 44502
pursuant to section 3743.44 or 3743.45 of the Revised Code, at the 44503
storage location approved under this section. 44504

(K) The licensee shall prohibit public access to the storage 44505
location. The fire marshal shall adopt rules to describe the 44506
acceptable measures a manufacturer shall use to prohibit access to 44507
the storage site. 44508

Sec. 3743.05. The fire marshal shall adopt rules in 44509
accordance with Chapter 119. of the Revised Code governing the 44510
classification of fireworks that are consistent with the 44511
classification of fireworks by the United States department of 44512
transportation as set forth in Title 49, Code of Federal 44513
Regulations, and the manufacture of fireworks and the storage of 44514
manufactured fireworks by licensed manufacturers of fireworks. The 44515
rules shall be designed to promote the safety and security of 44516
employees of manufacturers, members of the public, and the 44517
fireworks plant. 44518

The rules shall be consistent with sections 3743.02 to 44519
3743.08 of the Revised Code, shall be substantially equivalent to 44520
the most recent versions of chapters 1123, 1124, and 1126 of the 44521
most recent national fire protection association standards, and 44522
shall apply to, but not be limited to, the following subject 44523
matters: 44524

(A) A classification of fireworks by number and letter designation, including, specifically, a 1.4G designation of fireworks. The classes of fireworks established by the fire marshal shall be substantially equivalent to those defined by the United States department of transportation by regulation, except that, if the fire marshal determines that a type of fireworks designated as common fireworks by the United States department of transportation meets the criteria of any class of fireworks, other than 1.4G fireworks, as adopted by the fire marshal pursuant to this section, the fire marshal may include the type of fireworks in the other class instead of 1.4G.

(B) Appropriate standards for the manufacturing of types of fireworks that are consistent with standards adopted by the United States department of transportation and the consumer product safety commission, including, but not limited to, the following:

(1) Permissible amounts of pyrotechnic or explosive composition;

(2) Interior and exterior dimensions;

(3) Structural specifications.

(C) Cleanliness and orderliness in, the heating, lighting, and use of stoves and flame-producing items in, smoking in, the prevention of fire and explosion in, the availability of fire extinguishers or other fire-fighting equipment and their use in, and emergency procedures relative to the buildings and other structures located on the premises of a fireworks plant.

(D) Appropriate uniforms to be worn by employees of manufacturers in the course of the manufacturing, handling, and storing of fireworks, and the use of protective clothing and equipment by the employees.

(E) The manner in which fireworks are to be packed, packaged, and stored.

(F) Required distances between buildings or structures used in the manufacturing, storage, or sale of fireworks and occupied residential and nonresidential buildings or structures, railroads, highways, or any additional buildings or structures located on the licensed premises. The rules adopted pursuant to this division do not apply to factory buildings in fireworks plants that were erected on or before May 30, 1986, and that were legally being used for fireworks activities under authority of a valid license issued by the fire marshal as of December 1, 1990, pursuant to sections 3743.03 and 3743.04 of the Revised Code.

(G) Requirements for the operation of storage locations, including packaging, assembling, and storage of fireworks.

Sec. 3743.06. In addition to conforming to the rules of the fire marshal adopted pursuant to section 3743.05 of the Revised Code, licensed manufacturers of fireworks shall operate their fireworks plants in accordance with the following:

(A) Signs indicating that smoking is generally forbidden and trespassing is prohibited on the premises of a fireworks plant shall be posted on the premises in a manner determined by the fire marshal.

(B) Reasonable precautions shall be taken to protect the premises of a fireworks plant from trespass, loss, theft, or destruction. Only persons employed by the manufacturer, authorized governmental personnel, and persons who have obtained permission from a member of the manufacturer's office to be on the premises, are to be allowed to enter and remain on the premises.

(C) Smoking or the carrying of pipes, cigarettes, or cigars, matches, lighters, other flame-producing items, or open flame on, or the carrying of a concealed source of ignition into, the premises of a fireworks plant is prohibited, except that a manufacturer may permit smoking in specified lunchrooms or

restrooms in buildings or other structures in which no 44587
manufacturing, handling, sales, or storage of fireworks takes 44588
place. "NO SMOKING" signs shall be posted on the premises as 44589
required by the fire marshal. 44590

(D) Fire and explosion prevention and other reasonable safety 44591
measures and precautions shall be implemented by a manufacturer. 44592

(E) Persons shall not be permitted to have in their 44593
possession or under their control, while they are on the premises 44594
of the fireworks plant, any intoxicating liquor, beer, or 44595
controlled substance, and they shall not be permitted to enter or 44596
remain on the premises if they are found to be under the influence 44597
of any intoxicating liquor, beer, or controlled substance. 44598

(F) A manufacturer shall conform to all building, safety, and 44599
zoning statutes, ordinances, rules, or other enactments that apply 44600
to the premises of its fireworks plant. 44601

~~(G) No building used in the manufacture, storage, or sale of 44602
fireworks shall be situated nearer than one thousand feet to any 44603
structure that is not located on the property of and that does not 44604
belong to the licensed fireworks manufacturer, or nearer than 44605
three hundred feet to any highway or railroad, or nearer than one 44606
hundred feet to any building used for the storage of explosives or 44607
fireworks, or nearer than fifty feet to any factory building. This 44608
division does not apply to factory buildings in fireworks plants 44609
that were erected on or before May 30, 1986, and that were legally 44610
being used for fireworks activities under authority of a valid 44611
license issued by the fire marshal as of December 1, 1990, 44612
pursuant to sections 3743.03 and 3743.04 of the Revised Code. 44613~~

~~(H) Each fireworks plant shall have at least one class 1 44614
magazine that is approved by the bureau of alcohol, tobacco, and 44615
firearms of the United States department of the treasury and that 44616
is otherwise in conformity with federal law. This division does 44617~~

not apply to fireworks plants existing on or before August 3, 44618
1931. 44619

~~(I)~~(H) Awnings, tents, and canopies shall not be used as 44620
facilities for the sale or storage of fireworks. This division 44621
does not prohibit the use of an awning or canopy attached to a 44622
public access showroom for storing nonflammable shopping 44623
convenience items such as shopping carts or baskets or providing a 44624
shaded area for patrons waiting to enter the public sales area. 44625

~~(J)~~(I) Fireworks may be stored in trailers if the trailers 44626
are properly enclosed, secured, and grounded and are separated 44627
from any structure to which the public is admitted by a distance 44628
that will, in the fire marshal's judgment, allow fire-fighting 44629
equipment to have full access to the structures on the licensed 44630
premises. Such trailers may be moved into closer proximity to any 44631
structure only to accept or discharge cargo for a period not to 44632
exceed forty-eight hours. Only two such trailers may be placed in 44633
such closer proximity at any one time. At no time may trailers be 44634
used for conducting sales of any class of fireworks, nor may 44635
members of the public have access to the trailers. 44636

Storage areas for fireworks that are in the same building 44637
where fireworks are displayed and sold to the public shall be 44638
separated from the areas to which the public has access by an 44639
appropriately rated fire wall. 44640

~~(K)~~(J) A fire suppression system as defined in section 44641
3781.108 of the Revised Code may be turned off only for repair, 44642
drainage of the system to prevent damage by freezing during the 44643
period of time, approved by the fire marshal, that the facility is 44644
closed to all public access during winter months, or maintenance 44645
of the system. If any repair or maintenance is necessary during 44646
times when the facility is open for public access and business as 44647
approved by the fire marshal, the licensed manufacturer shall 44648
notify in advance the appropriate insurance company and fire chief 44649

or fire prevention officer regarding the nature of the maintenance 44650
or repair and the time when it will be performed. 44651

~~(L)~~(K) If any fireworks item is removed from its original 44652
package or is manufactured with any fuse other than a safety fuse 44653
approved by the consumer product safety commission, then the item 44654
shall be covered completely by repackaging or bagging or it shall 44655
otherwise be covered so as to prevent ignition prior to sale. 44656

~~(M)~~(L) A safety officer shall be present during regular 44657
business hours at a building open to the public during the period 44658
commencing fourteen days before, and ending two days after, each 44659
fourth day of July. The officer shall be highly visible, enforce 44660
this chapter and any applicable building codes to the extent the 44661
officer is authorized by law, and be one of the following: 44662

(1) A deputy sheriff; 44663

(2) A law enforcement officer of a municipal corporation, 44664
township, or township or joint township police district; 44665

(3) A private uniformed security guard registered under 44666
section 4749.06 of the Revised Code. 44667

~~(N)~~(M) All doors of all buildings on the licensed premises 44668
shall swing outward. 44669

~~(O)~~(N) All wholesale and commercial sales of fireworks shall 44670
be packaged, shipped, placarded, and transported in accordance 44671
with United States department of transportation regulations 44672
applicable to the transportation, and the offering for 44673
transportation, of hazardous materials. For purposes of this 44674
division, "wholesale and commercial sales" includes all sales for 44675
resale and any nonretail sale made in furtherance of a commercial 44676
enterprise. For purposes of enforcement of these regulations under 44677
section 4905.83 of the Revised Code, any sales transaction 44678
exceeding one thousand pounds shall be rebuttably presumed to be a 44679
wholesale or commercial sale. 44680

Sec. 3743.15. (A) Except as provided in division (C) of this 44681
section, any person who wishes to be a wholesaler of fireworks in 44682
this state shall submit to the fire marshal an application for 44683
licensure as a wholesaler of fireworks before the first day of 44684
October of each year. The application shall be submitted prior to 44685
commencement of business operations, shall be on a form prescribed 44686
by the fire marshal, shall contain all information requested by 44687
the fire marshal, and shall be accompanied by the license fee, 44688
fingerprints, and proof of insurance coverage described in 44689
division (B) of this section. 44690

The fire marshal shall prescribe a form for applications for 44691
licensure as a wholesaler of fireworks and make a copy of the form 44692
available, upon request, to persons who seek that licensure. 44693

(B) An applicant for licensure as a wholesaler of fireworks 44694
shall submit with the application all of the following: 44695

(1) A license fee of two thousand seven hundred fifty 44696
dollars, which the fire marshal shall use to pay for fireworks 44697
safety education, training programs, and inspections~~†~~. If the 44698
applicant has any storage locations approved in accordance with 44699
division (G) of section 3743.17 of the Revised Code, the applicant 44700
also shall submit a fee of one hundred dollars per storage 44701
location for the inspection of each storage location. 44702

(2) Proof of comprehensive general liability insurance 44703
coverage, specifically including fire and smoke casualty on 44704
premises, in an amount not less than one million dollars for each 44705
occurrence for bodily injury liability and wrongful death 44706
liability at its business location. Proof of such insurance 44707
coverage shall be submitted together with proof of coverage for 44708
products liability on all inventory located at the business 44709
location. All applicants shall submit evidence of comprehensive 44710
general liability insurance coverage verified by the insurer and 44711

certified as to its provision of the minimum coverage required 44712
under this division. 44713

(3) One complete set of the applicant's fingerprints and a 44714
complete set of fingerprints of any individual holding, owning, or 44715
controlling a five per cent or greater beneficial or equity 44716
interest in the applicant for the license. 44717

(C) A licensed manufacturer of fireworks is not required to 44718
apply for and obtain a wholesaler of fireworks license in order to 44719
engage in the wholesale sale of fireworks as authorized by 44720
division (C)(2) of section 3743.04 of the Revised Code. A business 44721
which is not a licensed manufacturer of fireworks may engage in 44722
the wholesale and retail sale of fireworks in the same manner as a 44723
licensed manufacturer of fireworks is authorized to do under this 44724
chapter without the necessity of applying for and obtaining a 44725
license pursuant to this section, but only if the business sells 44726
the fireworks on the premises of a fireworks plant covered by a 44727
license issued under section 3743.03 of the Revised Code and the 44728
holder of that license owns at least a majority interest in that 44729
business. However, if a licensed manufacturer of fireworks wishes 44730
to engage in the wholesale sale of fireworks in this state at a 44731
location other than the premises of the fireworks plant described 44732
in its application for licensure as a manufacturer or in a 44733
notification submitted under division (B) of section 3743.04 of 44734
the Revised Code, the manufacturer shall first apply for and 44735
obtain a wholesaler of fireworks license before engaging in 44736
wholesale sales of fireworks at the other location. 44737

(D) A separate application for licensure as a wholesaler of 44738
fireworks shall be submitted for each location at which a person 44739
wishes to engage in wholesale sales of fireworks. 44740

Sec. 3743.17. (A) The license of a wholesaler of fireworks is 44741
effective for one year beginning on the first day of December. The 44742

fire marshal shall issue or renew a license only on that date and 44743
at no other time. If a wholesaler of fireworks wishes to continue 44744
engaging in the wholesale sale of fireworks at the particular 44745
location after its then effective license expires, it shall apply 44746
not later than the first day of October for a new license pursuant 44747
to section 3743.15 of the Revised Code. The fire marshal shall 44748
send a written notice of the expiration of its license to a 44749
licensed wholesaler at least three months before the expiration 44750
date. 44751

(B) If, during the effective period of its licensure, a 44752
licensed wholesaler of fireworks wishes to perform any 44753
construction, or make any structural change or renovation, on the 44754
premises on which the fireworks are sold, the wholesaler shall 44755
notify the fire marshal in writing. The fire marshal may require a 44756
licensed wholesaler also to submit documentation, including, but 44757
not limited to, plans covering the proposed construction or 44758
structural change or renovation, if the fire marshal determines 44759
the documentation is necessary for evaluation purposes in light of 44760
the proposed construction or structural change or renovation. 44761

Upon receipt of the notification and additional documentation 44762
required by the fire marshal, the fire marshal shall inspect the 44763
premises on which the fireworks are sold to determine if the 44764
proposed construction or structural change or renovation conforms 44765
to sections 3743.15 to 3743.21 of the Revised Code and the rules 44766
adopted by the fire marshal pursuant to section 3743.18 of the 44767
Revised Code. The fire marshal shall issue a written authorization 44768
to the wholesaler for the construction or structural change or 44769
renovation if the fire marshal determines, upon the inspection and 44770
a review of submitted documentation, that the construction or 44771
structural change or renovation conforms to those sections and 44772
rules. 44773

(C) The license of a wholesaler of fireworks authorizes the 44774

wholesaler to engage only in the following activities: 44775

(1) Possess for sale at wholesale and sell at wholesale 44776
fireworks to persons who are licensed wholesalers of fireworks, to 44777
out-of-state residents in accordance with section 3743.44 of the 44778
Revised Code, to residents of this state in accordance with 44779
section 3743.45 of the Revised Code, or to persons located in 44780
another state provided the fireworks are shipped directly out of 44781
this state to them by the wholesaler. The possession for sale 44782
shall be at the location described in the application for 44783
licensure or in the notification submitted under division (B) of 44784
this section, and the sale shall be from the inside of a licensed 44785
building and from no structure or device outside a licensed 44786
building. At no time shall a licensed wholesaler sell any class of 44787
fireworks outside a licensed building. 44788

(2) Possess for sale at retail and sell at retail fireworks, 44789
other than 1.4G fireworks as designated by the fire marshal in 44790
rules adopted pursuant to division (A) of section 3743.05 of the 44791
Revised Code, to licensed exhibitors in accordance with sections 44792
3743.50 to 3743.55 of the Revised Code, and possess for sale at 44793
retail and sell at retail fireworks, including 1.4G fireworks, to 44794
out-of-state residents in accordance with section 3743.44 of the 44795
Revised Code, to residents of this state in accordance with 44796
section 3743.45 of the Revised Code, or to persons located in 44797
another state provided the fireworks are shipped directly out of 44798
this state to them by the wholesaler. The possession for sale 44799
shall be at the location described in the application for 44800
licensure or in the notification submitted under division (B) of 44801
this section, and the sale shall be from the inside of the 44802
licensed building and from no other structure or device outside 44803
this licensed building. At no time shall a licensed wholesaler 44804
sell any class of fireworks outside a licensed building. 44805

A licensed wholesaler of fireworks shall sell under division 44806

(C) of this section only fireworks that meet the standards set by 44807
the consumer product safety commission or by the American 44808
fireworks standard laboratories or that have received an EX number 44809
from the United States department of transportation. 44810

(D)~~(1)~~ The license of a wholesaler of fireworks shall be 44811
protected under glass and posted in a conspicuous place at the 44812
location described in the application for licensure or in the 44813
notification submitted under division (B) of this section. Except 44814
as otherwise provided in this ~~division~~ section, the license is not 44815
transferable or assignable. A license may be transferred to 44816
another person for the same location for which the license was 44817
issued if the assets of the wholesaler are transferred to that 44818
person by inheritance or by a sale approved by the fire marshal. 44819
The license is subject to revocation in accordance with section 44820
3743.21 of the Revised Code. 44821

~~(2)~~(E) The fire marshal shall adopt rules for the expansion 44822
or contraction of a licensed premises and for the approval of an 44823
expansion or contraction. The boundaries of a licensed premises, 44824
including any geographic expansion or contraction of those 44825
boundaries, shall be approved by the fire marshal in accordance 44826
with rules the fire marshal adopts. If the licensed premises of a 44827
licensed wholesaler from which the wholesaler operates consists of 44828
more than one parcel of real estate, those parcels must be 44829
contiguous, unless an exception is allowed pursuant to division 44830
(G) of this section. 44831

(F)(1) Upon application by a licensed wholesaler of 44832
fireworks, a wholesaler license may be transferred from one 44833
geographic location to another within the same municipal 44834
corporation or within the unincorporated area of the same 44835
township, but only if all of the following apply: 44836

(a) The identity of the holder of the license remains the 44837
same in the new location. 44838

(b) The former location is closed prior to the opening of the 44839
new location and no fireworks business of any kind is conducted at 44840
the former location after the transfer of the license. 44841

(c) The new location has received a local certificate of 44842
zoning compliance and a local certificate of occupancy, and 44843
otherwise is in compliance with all local building regulations. 44844

(d) The transfer of the license is requested by the licensee 44845
because the existing facility poses an immediate hazard to the 44846
public. 44847

(e) ~~Any~~ Every building or structure at the new location is 44848
~~situated no closer than one thousand feet to any property line or~~ 44849
~~structure that does not belong to the licensee requesting the~~ 44850
~~transfer, no closer than three hundred feet to any highway or~~ 44851
~~railroad, no closer than one hundred feet to any building used for~~ 44852
~~the storage of explosives or fireworks by the licensee, no closer~~ 44853
~~than fifty feet to any factory building owned or used by the~~ 44854
~~licensee, and no closer than two thousand feet to any building~~ 44855
~~used for the sale, storage, or manufacturing of fireworks that~~ 44856
~~does not belong to the licensee~~ separated from occupied 44857
residential and nonresidential buildings or structures, railroads, 44858
highways, or any other buildings or structures located on the 44859
licensed premises in accordance with the distances specified in 44860
the rules adopted by the fire marshal pursuant to section 3743.18 44861
of the Revised Code. If the licensee fails to comply with the 44862
requirements of division ~~(D)(2)(e)~~ (F)(1)(e) of this section by the 44863
licensee's own act, the license at the new location is forfeited. 44864

(f) Neither the licensee nor any person holding, owning, or 44865
controlling a five per cent or greater beneficial or equity 44866
interest in the licensee has been convicted of or has pleaded 44867
guilty to a felony under the laws of this state, any other state, 44868
or the United States after ~~the effective date of this amendment~~ 44869
June 30, 1997. 44870

(g) The fire marshal approves the request for the transfer. 44871

(2) The new location shall comply with the requirements 44872
specified in divisions (A)(1) and (2) of section 3743.25 of the 44873
Revised Code whether or not the fireworks showroom at the new 44874
location is constructed, expanded, or first begins operating on 44875
and after ~~the effective date of this amendment~~ June 30, 1997. 44876

~~(E)~~(G)(1) A licensed wholesaler may expand its licensed 44877
premises within this state to include not more than two storage 44878
locations that are located upon one or more real estate parcels 44879
that are noncontiguous to the licensed premises as that licensed 44880
premises exists on the date a licensee submits an application as 44881
described below, if all of the following apply: 44882

(a) The licensee submits an application to the fire marshal 44883
requesting the expansion and an application fee of one hundred 44884
dollars per storage location for which the licensee is requesting 44885
approval. 44886

(b) The identity of the holder of the license remains the 44887
same at the storage location. 44888

(c) The storage location has received a valid certificate of 44889
zoning compliance, as applicable, and a valid certificate of 44890
occupancy for each building or structure at the storage location 44891
issued by the authority having jurisdiction to issue the 44892
certificate for the storage location, and those certificates 44893
permit the distribution and storage of fireworks regulated under 44894
this chapter at the storage location and in the buildings or 44895
structures. The storage location shall be in compliance with all 44896
other applicable federal, state, and local laws and regulations. 44897

(d) Every building or structure located upon the storage 44898
location is separated from occupied residential and nonresidential 44899
buildings or structures, railroads, highways, and any other 44900
buildings or structures on the licensed premises in accordance 44901

with the distances specified in the rules adopted by the fire marshal pursuant to section 3743.18 of the Revised Code. 44902
44903

(e) Neither the licensee nor any person holding, owning, or controlling a five per cent or greater beneficial or equity interest in the licensee has been convicted of or pleaded guilty to a felony under the laws of this state, any other state, or the United States, after the effective date of this amendment. 44904
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(f) The fire marshal approves the application for expansion. 44909

(2) The fire marshal shall approve an application for expansion requested under division (G)(1) of this section if the fire marshal receives the application fee and proof that the requirements of divisions (G)(1)(b) to (e) of this section are satisfied. The storage location shall be considered part of the original licensed premises and shall use the same distinct number assigned to the original licensed premises with any additional designations as the fire marshal deems necessary in accordance with section 3743.16 of the Revised Code. 44910
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(H)(1) A licensee who obtains approval for use of a storage location in accordance with division (G) of this section shall use the site exclusively for the following activities, in accordance with division (C)(1) of this section: 44919
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44922

(a) Packaging, assembling, or storing fireworks, which shall occur only in buildings approved for such hazardous uses by the building code official having jurisdiction for the storage location and shall be in accordance with the rules adopted by the fire marshal under division (B)(4) of section 3743.18 of the Revised Code for the packaging, assembling, and storage of fireworks. 44923
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(b) Distributing fireworks to other parcels of real estate located on the wholesaler's licensed premises, to licensed manufacturers or other licensed wholesalers in this state or to 44930
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44932

similarly licensed persons located in another state or country; 44933

(c) Distributing fireworks to a licensed exhibitor of fireworks pursuant to a properly issued permit in accordance with section 3743.54 of the Revised Code. 44934
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(2) A licensed wholesaler shall not engage in any sales activity, including the retail sale of fireworks otherwise permitted under division (C)(2) of this section or pursuant to section 3743.44 or 3743.45 of the Revised Code, at a storage location approved under this section. 44937
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(I) A licensee shall prohibit public access to all storage locations it uses. The fire marshal shall adopt rules establishing acceptable measures a wholesaler shall use to prohibit access to storage sites. 44942
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(J) The fire marshal shall not place the license of a wholesaler of fireworks in temporarily inactive status while the holder of the license is attempting to qualify to retain the license. 44946
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~~(F)~~(K) Each licensed wholesaler of fireworks or a designee of the wholesaler, whose identity is provided to the fire marshal by the wholesaler, annually shall attend a continuing education program consisting of not less than eight hours of instruction. 44950
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The fire marshal shall develop the program and the fire marshal or a person or public agency approved by the fire marshal shall 44954
44955
conduct it. A licensed wholesaler or the wholesaler's designee who 44956
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attends a program as required under this division, within one year 44958
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after attending the program, shall conduct in-service training for 44960
44961
other employees of the licensed wholesaler regarding the 44962
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information obtained in the program. A licensed wholesaler shall 44964
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provide the fire marshal with notice of the date, time, and place 44966
44967
of all in-service training not less than thirty days prior to an 44968
44969
in-service training event. 44970

~~(G)~~(L) A licensed wholesaler shall maintain comprehensive 44964
general liability insurance coverage in the amount and type 44965
specified under division (B)(2) of section 3743.15 of the Revised 44966
Code at all times. Each policy of insurance required under this 44967
division shall contain a provision requiring the insurer to give 44968
not less than fifteen days' prior written notice to the fire 44969
marshal before termination, lapse, or cancellation of the policy, 44970
or any change in the policy that reduces the coverage below the 44971
minimum required under this division. Prior to canceling or 44972
reducing the amount of coverage of any comprehensive general 44973
liability insurance coverage required under this division, a 44974
licensed wholesaler shall secure supplemental insurance in an 44975
amount and type that satisfies the requirements of this division 44976
so that no lapse in coverage occurs at any time. A licensed 44977
wholesaler who secures supplemental insurance shall file evidence 44978
of the supplemental insurance with the fire marshal prior to 44979
canceling or reducing the amount of coverage of any comprehensive 44980
general liability insurance coverage required under this division. 44981

Sec. 3743.18. (A) The fire marshal shall adopt rules pursuant 44982
to Chapter 119. of the Revised Code governing the storage of 44983
fireworks by and the business operations of licensed wholesalers 44984
of fireworks. These rules shall be designed to promote the safety 44985
and security of employees of wholesalers, members of the public, 44986
and the premises upon which fireworks are sold. 44987

(B) The rules shall be consistent with sections 3743.15 to 44988
3743.21 of the Revised Code, shall be substantially equivalent to 44989
the most recent versions of chapters 1123, 1124, and 1126 of the 44990
most recent national fire protection association standards, and 44991
shall apply to, but not be limited to, the following subject 44992
matters: 44993

~~(A)~~(1) Cleanliness and orderliness in, the heating, lighting, 44994

and use of stoves and flame-producing items in, smoking in, the 44995
prevention of fire and explosion in, the availability of fire 44996
extinguishers or other fire-fighting equipment and their use in, 44997
and emergency procedures relative to the buildings and other 44998
structures on a wholesaler's premises-; 44999

~~(B)~~(2) Appropriate uniforms to be worn by employees of 45000
wholesalers in the course of handling and storing of fireworks, 45001
and the use of protective clothing and equipment by the 45002
employees-; 45003

~~(C)~~(3) The manner in which fireworks are to be stored; 45004

(4) Required distances between buildings or structures used 45005
in the manufacturing, storage, or sale of fireworks and occupied 45006
residential and nonresidential buildings or structures, railroads, 45007
highways, or any additional buildings or structures on a licensed 45008
premises. 45009

(5) Requirements for the operation of storage locations, 45010
including packaging, assembling, and storage of fireworks. 45011

(C) Rules adopted pursuant to division (B)(4) of this section 45012
do not apply to buildings that were erected on or before May 30, 45013
1986, and that were legally being used for fireworks activities 45014
under authority of a valid license issued by the fire marshal as 45015
of December 1, 1990, pursuant to sections 3743.16 and 3743.17 of 45016
the Revised Code. 45017

Sec. 3743.19. In addition to conforming to the rules of the 45018
fire marshal adopted pursuant to section 3743.18 of the Revised 45019
Code, licensed wholesalers of fireworks shall conduct their 45020
business operations in accordance with the following: 45021

(A) A wholesaler shall conduct its business operations from 45022
the location described in its application for licensure or in a 45023
notification submitted under division (B) of section 3743.17 of 45024

the Revised Code. 45025

(B) Signs indicating that smoking is generally forbidden and 45026
trespassing is prohibited on the premises of a wholesaler shall be 45027
posted on the premises as determined by the fire marshal. 45028

(C) Reasonable precautions shall be taken to protect the 45029
premises of a wholesaler from trespass, loss, theft, or 45030
destruction. 45031

(D) Smoking or the carrying of pipes, cigarettes, or cigars, 45032
matches, lighters, other flame-producing items, or open flame on, 45033
or the carrying of a concealed source of ignition into, the 45034
premises of a wholesaler is prohibited, except that a wholesaler 45035
may permit smoking in specified lunchrooms or restrooms in 45036
buildings or other structures in which no sales, handling, or 45037
storage of fireworks takes place. "NO SMOKING" signs shall be 45038
posted on the premises as required by the fire marshal. 45039

(E) Fire and explosion prevention and other reasonable safety 45040
measures and precautions shall be implemented by a wholesaler. 45041

(F) Persons shall not be permitted to have in their 45042
possession or under their control, while they are on the premises 45043
of a wholesaler, any intoxicating liquor, beer, or controlled 45044
substance, and they shall not be permitted to enter or remain on 45045
the premises if they are found to be under the influence of any 45046
intoxicating liquor, beer, or controlled substance. 45047

(G) A wholesaler shall conform to all building, safety, and 45048
zoning statutes, ordinances, rules, or other enactments that apply 45049
to its premises. 45050

(H) ~~No building used in the storage or sale of fireworks~~ 45051
~~shall be situated nearer than one thousand feet to any structure~~ 45052
~~that is not located on the property of and that does not belong to~~ 45053
~~the licensed fireworks wholesaler, nearer than three hundred feet~~ 45054
~~to any highway or railroad, or nearer than one hundred feet to any~~ 45055

~~building used for the storage of explosives or fireworks. This 45056
division does not apply to buildings that were erected on or 45057
before May 30, 1986, and that were legally being used for 45058
fireworks activities under authority of a valid license issued by 45059
the fire marshal as of December 1, 1990, pursuant to sections 45060
3743.16 and 3743.17 of the Revised Code. 45061~~

~~(I)~~ Each building used in the sale of fireworks shall be kept 45062
open to the public for at least four hours each day between the 45063
hours of eight a.m. and five p.m., five days of each week, every 45064
week of the year. Upon application from a licensed wholesaler, the 45065
fire marshal may waive any of the requirements of this division. 45066

~~(J)~~(I) Awnings, tents, or canopies shall not be used as 45067
facilities for the storage or sale of fireworks. This division 45068
does not prohibit the use of an awning or canopy attached to a 45069
public access showroom for storing nonflammable shopping 45070
convenience items such as shopping carts or baskets or providing a 45071
shaded area for patrons waiting to enter the public sales area. 45072

~~(K)~~(J) Fireworks may be stored in trailers if the trailers 45073
are properly enclosed, secured, and grounded and are separated 45074
from any structure to which the public is admitted by a distance 45075
that will, in the fire marshal's judgment, allow fire-fighting 45076
equipment to have full access to the structures on the licensed 45077
premises. Such trailers may be moved into closer proximity to any 45078
structure only to accept or discharge cargo for a period not to 45079
exceed forty-eight hours. Only two such trailers may be placed in 45080
such closer proximity at any one time. At no time may trailers be 45081
used for conducting sales of any class of fireworks nor may 45082
members of the public have access to the trailers. 45083

Storage areas for fireworks that are in the same building 45084
where fireworks are displayed and sold to the public shall be 45085
separated from the areas to which the public has access by an 45086
appropriately rated fire wall. 45087

~~(L)~~(K) A fire suppression system as defined in section 45088
3781.108 of the Revised Code may be turned off only for repair, 45089
drainage of the system to prevent damage by freezing during the 45090
period of time, approved by the fire marshal under division (I) of 45091
this section, that the facility is closed to public access during 45092
winter months, or maintenance of the system. If any repair or 45093
maintenance is necessary during times when the facility is open 45094
for public access and business, the licensed wholesaler shall 45095
notify in advance the appropriate insurance company and fire chief 45096
or fire prevention officer regarding the nature of the maintenance 45097
or repair and the time when it will be performed. 45098

~~(M)~~(L) If any fireworks item is removed from its original 45099
package or is manufactured with any fuse other than a fuse 45100
approved by the consumer product safety commission, then the item 45101
shall be covered completely by repackaging or bagging or it shall 45102
otherwise be covered so as to prevent ignition prior to sale. 45103

~~(N)~~(M) A safety officer shall be present during regular 45104
business hours at a building open to the public during the period 45105
commencing fourteen days before, and ending two days after, each 45106
fourth day of July. The officer shall be highly visible, enforce 45107
this chapter and any applicable building codes to the extent the 45108
officer is authorized by law, and be one of the following: 45109

(1) A deputy sheriff; 45110

(2) A law enforcement officer of a municipal corporation, 45111
township, or township or joint township police district; 45112

(3) A private uniformed security guard registered under 45113
section 4749.06 of the Revised Code. 45114

~~(O)~~(N) All doors of all buildings on the licensed premises 45115
shall swing outward. 45116

~~(P)~~(O) All wholesale and commercial sales of fireworks shall 45117
be packaged, shipped, placarded, and transported in accordance 45118

with United States department of transportation regulations 45119
applicable to the transportation, and the offering for 45120
transportation, of hazardous materials. For purposes of this 45121
division, "wholesale and commercial sales" includes all sales for 45122
resale and any nonretail sale made in furtherance of a commercial 45123
enterprise. For purposes of enforcement of these regulations under 45124
section 4905.83 of the Revised Code, any sales transaction 45125
exceeding one thousand pounds shall be rebuttably presumed to be a 45126
wholesale or commercial sale. 45127

Sec. 3743.57. (A) All fees collected by the fire marshal for 45128
licenses or permits issued pursuant to this chapter shall be 45129
deposited into the state fire marshal's fund, and interest earned 45130
on the amounts in the fund shall be credited by the treasurer of 45131
state to the fund. 45132

~~(B) There is hereby established in the state treasury the 45133
fire marshal's fireworks training and education fund. The fire 45134
marshal shall deposit all assessments paid under this division 45135
into the state treasury to the credit of the fund. Each fireworks 45136
manufacturer and fireworks wholesaler licensed under this chapter 45137
shall pay assessments to the fire marshal for deposit into the 45138
fund as required by this division. 45139~~

~~The fire marshal shall impose an initial assessment upon each 45140
licensed fireworks manufacturer and wholesaler in order to 45141
establish a fund balance of fifteen thousand dollars. The fund 45142
balance shall at no time exceed fifteen thousand dollars, and the 45143
fire marshal shall impose no further assessments unless the fund 45144
balance is reduced to five thousand dollars or less. If the fund 45145
balance is reduced to five thousand dollars or less, the fire 45146
marshal shall impose an additional assessment upon each licensed 45147
fireworks manufacturer and wholesaler in order to increase the 45148
fund balance to fifteen thousand dollars. The fire marshal shall 45149~~

~~determine the amount of the initial assessment on each 45150
manufacturer or wholesaler and each additional assessment by 45151
dividing the total amount needed to be paid into the fund by the 45152
total number of fireworks manufacturers and wholesalers licensed 45153
under this chapter. If a licensed fireworks manufacturer or 45154
wholesaler fails to pay an assessment required by this division 45155
within thirty days after receiving notice of the assessment, the 45156
fire marshal, in accordance with Chapter 119. of the Revised Code, 45157
may refuse to issue, or may revoke, the appropriate license. 45158~~

The fire marshal shall in the fire marshal's discretion use 45159
amounts in the state fire marshal's fund for fireworks training 45160
and education purposes, including, but not limited to, the 45161
creation of educational and training programs, attendance by the 45162
fire marshal and the fire marshal's employees at conferences and 45163
seminars, the payment of travel and meal expenses associated with 45164
such attendance, participation by the fire marshal and the fire 45165
marshal's employees in committee meetings and other meetings 45166
related to pyrotechnic codes, and the payment of travel and meal 45167
expenses associated with such participation. The use of the fund 45168
shall comply with rules of the department of commerce, policies 45169
and procedures established by the director of budget and 45170
management, and all other applicable laws. 45171

Sec. 3743.59. (A) Upon application by an affected party, the 45172
fire marshal may grant variances from the requirements of this 45173
chapter or from the requirements of rules adopted pursuant to this 45174
chapter if the fire marshal determines that a literal enforcement 45175
of the requirement will result in ~~unnecessary hardship~~ practical 45176
difficulty in complying with the requirements of this chapter or 45177
the rules adopted pursuant to this chapter and that the variance 45178
will not be contrary to the public health, safety, or welfare. A 45179
variance shall not be granted to a person who is initially 45180
licensed as a manufacturer or wholesaler of fireworks after June 45181

14, 1988. 45182

(B) The fire marshal may authorize a variance from the 45183
prohibitions in this chapter against the possession and use of 45184
pyrotechnic compounds to a person who submits proof that the 45185
person is certified and in good standing with the Ohio state board 45186
of education, provided that the pyrotechnic compounds are used for 45187
educational purposes only, or are used only at an authorized 45188
educational function approved by the governing board that 45189
exercises authority over the educational function. 45190

(C) The fire marshal may authorize a variance from the 45191
prohibitions in this chapter against the possession and use of 45192
pyrotechnic compounds to a person who possesses and uses the 45193
pyrotechnic compounds for personal and noncommercial purposes as a 45194
hobby. The fire marshal may rescind a variance authorized under 45195
this division at any time, exclusively at the fire marshal's 45196
discretion. 45197

Sec. 3743.65. (A) No person shall possess fireworks in this 45198
state or shall possess for sale or sell fireworks in this state, 45199
except a licensed manufacturer of fireworks as authorized by 45200
sections 3743.02 to 3743.08 of the Revised Code, a licensed 45201
wholesaler of fireworks as authorized by sections 3743.15 to 45202
3743.21 of the Revised Code, a shipping permit holder as 45203
authorized by section 3743.40 of the Revised Code, an out-of-state 45204
resident as authorized by section 3743.44 of the Revised Code, a 45205
resident of this state as authorized by section 3743.45 of the 45206
Revised Code, or a licensed exhibitor of fireworks as authorized 45207
by sections 3743.50 to 3743.55 of the Revised Code, and except as 45208
provided in section 3743.80 of the Revised Code. 45209

(B) Except as provided in section 3743.80 of the Revised Code 45210
and except for licensed exhibitors of fireworks authorized to 45211
conduct a fireworks exhibition pursuant to sections 3743.50 to 45212

3743.55 of the Revised Code, no person shall discharge, ignite, or 45213
explode any fireworks in this state. 45214

(C) No person shall use in a theater or public hall, what is 45215
technically known as fireworks showers, or a mixture containing 45216
potassium chlorate and sulphur. 45217

(D) No person shall sell fireworks of any kind to a person 45218
under eighteen years of age. 45219

(E) No person shall advertise 1.4G fireworks for sale. A sign 45220
located on a seller's premises identifying the seller as a seller 45221
of fireworks is not the advertising of fireworks for sale. 45222

(F) No person, other than a licensed manufacturer, licensed 45223
wholesaler, licensed exhibitor, or shipping permit holder, shall 45224
possess 1.3G fireworks in this state. 45225

(G) Except as otherwise provided in division ~~(K)~~(J) of 45226
section 3743.06 and division ~~(L)~~(K) of section 3743.19 of the 45227
Revised Code, no person shall knowingly disable a fire suppression 45228
system as defined in section 3781.108 of the Revised Code on the 45229
premises of a fireworks plant of a licensed manufacturer of 45230
fireworks or on the premises of the business operations of a 45231
licensed wholesaler of fireworks. 45232

Sec. 3743.75. (A) During the period beginning on June 29, 45233
2001, and ending on December 15, 2008, the state fire marshal 45234
shall not do any of the following: 45235

(1) Issue a license as a manufacturer of fireworks under 45236
sections 3743.02 and 3743.03 of the Revised Code to a person for a 45237
particular fireworks plant unless that person possessed such a 45238
license for that fireworks plant immediately prior to June 29, 45239
2001; 45240

(2) Issue a license as a wholesaler of fireworks under 45241
sections 3743.15 and 3743.16 of the Revised Code to a person for a 45242

particular location unless that person possessed such a license 45243
for that location immediately prior to June 29, 2001; 45244

(3) Except as provided in division (B) of this section, 45245
approve the geographic transfer of a license as a manufacturer or 45246
wholesaler of fireworks issued under this chapter to any location 45247
other than a location for which a license was issued under this 45248
chapter immediately prior to June 29, 2001. 45249

(B) Division (A)(3) of this section does not apply to a 45250
transfer that the state fire marshal approves under division 45251
~~(D)(2)(F)~~ of section 3743.17 of the Revised Code. ~~Section~~ 45252

(C) Notwithstanding section 3743.59 of the Revised Code does 45253
not apply to this section, the prohibited activities established 45254
in divisions (A)(1) and (2) of this section, geographic transfers 45255
approved pursuant to division (F) of section 3743.17 of the 45256
Revised Code, and storage locations allowed pursuant to division 45257
(I) of section 3743.04 of the Revised Code or division (G) of 45258
section 3743.17 of the Revised Code are not subject to any 45259
variance, waiver, or exclusion. 45260

(D) As used in division (A) of this section: 45261

(1) "Person" includes any person or entity, in whatever form 45262
or name, that acquires possession of a manufacturer or wholesaler 45263
of fireworks license issued pursuant to this chapter by transfer 45264
of possession of a license, whether that transfer occurs by 45265
purchase, assignment, inheritance, bequest, stock transfer, or any 45266
other type of transfer, on the condition that the transfer is in 45267
accordance with division (D) of section 3743.04 of the Revised 45268
Code or division (D) of section 3743.17 of the Revised Code and is 45269
approved by the fire marshal. 45270

(2) "Particular location" includes a licensed premises and, 45271
regardless of when approved, any storage location approved in 45272
accordance with section 3743.04 or 3743.17 of the Revised Code. 45273

Sec. 3745.015. There is hereby created in the state treasury 45274
the environmental protection fund consisting of money credited to 45275
the fund under division (A)(3) of section 3734.57 of the Revised 45276
Code. The environmental protection agency shall use money in the 45277
fund to pay the agency's costs associated with administering and 45278
enforcing, or otherwise conducting activities under, this chapter 45279
and Chapters 3704., 3734., 3746., 3747., 3748., 3750., 3751., 45280
3752., 3753., 5709., 6101., 6103., 6105., 6109., 6111., 6112., 45281
6113., 6115., 6117., and 6119. and sections 122.65 and 1521.19 of 45282
the Revised Code. 45283

Sec. 3745.11. (A) Applicants for and holders of permits, 45284
licenses, variances, plan approvals, and certifications issued by 45285
the director of environmental protection pursuant to Chapters 45286
3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 45287
to the environmental protection agency for each such issuance and 45288
each application for an issuance as provided by this section. No 45289
fee shall be charged for any issuance for which no application has 45290
been submitted to the director. 45291

(B) Each person who is issued a permit to install prior to 45292
July 1, 2003, pursuant to rules adopted under division (F) of 45293
section 3704.03 of the Revised Code shall pay the fees specified 45294
in the following schedules: 45295

| Fuel-Burning Equipment <u>Fuel-burning equipment</u> (boilers) 45296 | | |
|---|--|--|
| Input capacity (maximum) 45297 | | |
| (million British thermal units per hour) Permit to install 45298 | | |
| Greater than 0, but less than 10 \$ 200 45299 | | |
| 10 or more, but less than 100 400 45300 | | |
| 100 or more, but less than 300 800 45301 | | |
| 300 or more, but less than 500 1500 45302 | | |
| 500 or more, but less than 1000 2500 45303 | | |

| | | |
|--|-------------------|---|
| 1000 or more, but less than 5000 | 4000 | 45304 |
| 5000 or more | 6000 | 45305 |
| Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half of the applicable amount established in division (F)(1) of this section. | | 45306 45307 45308 |
| (2) Incinerators | | 45309 |
| Input capacity (pounds per hour) | Permit to install | 45310 |
| 0 to 100 | \$ 100 | 45311 |
| 101 to 500 | 400 | 45312 |
| 501 to 2000 | 750 | 45313 |
| 2001 to 20,000 | 1000 | 45314 |
| more than 20,000 | 2500 | 45315 |
| (3)(a) Process | | 45316 |
| Process weight rate (pounds per hour) | Permit to install | 45317 |
| 0 to 1000 | \$ 200 | 45318 |
| 1001 to 5000 | 400 | 45319 |
| 5001 to 10,000 | 600 | 45320 |
| 10,001 to 50,000 | 800 | 45321 |
| more than 50,000 | 1000 | 45322 |
| In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed. | | 45323 45324 |
| (b) Notwithstanding division (B)(3)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees established in division (B)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised: | | 45325 45326 45327 45328 45329 45330 45331 45332 45333 |
| 1211 Bituminous coal and lignite mining; | | 45334 |

| | |
|--|-------|
| 1213 Bituminous coal and lignite mining services; | 45335 |
| 1411 Dimension stone; | 45336 |
| 1422 Crushed and broken limestone; | 45337 |
| 1427 Crushed and broken stone, not elsewhere classified; | 45338 |
| 1442 Construction sand and gravel; | 45339 |
| 1446 Industrial sand; | 45340 |
| 3281 Cut stone and stone products; | 45341 |
| 3295 Minerals and earth, ground or otherwise treated. | 45342 |

(c) The fees established in the following schedule apply to 45343
the issuance of a permit to install pursuant to rules adopted 45344
under division (F) of section 3704.03 of the Revised Code for a 45345
process listed in division (B)(3)(b) of this section: 45346

| Process weight rate (pounds per hour) | Permit to install | |
|---------------------------------------|-------------------|-------|
| 0 to 1000 | \$ 200 | 45348 |
| 10,001 to 50,000 | 300 | 45349 |
| 50,001 to 100,000 | 400 | 45350 |
| 100,001 to 200,000 | 500 | 45351 |
| 200,001 to 400,000 | 600 | 45352 |
| 400,001 or more | 700 | 45353 |

(4) Storage tanks 45354

| Gallons (maximum useful capacity) | Permit to install | |
|-----------------------------------|-------------------|-------|
| 0 to 20,000 | \$ 100 | 45356 |
| 20,001 to 40,000 | 150 | 45357 |
| 40,001 to 100,000 | 200 | 45358 |
| 100,001 to 250,000 | 250 | 45359 |
| 250,001 to 500,000 | 350 | 45360 |
| 500,001 to 1,000,000 | 500 | 45361 |
| 1,000,001 or greater | 750 | 45362 |

(5) Gasoline/fuel dispensing facilities 45363

| For each gasoline/fuel dispensing | Permit to install | |
|-----------------------------------|-------------------|-------|
| | | 45364 |

| | | |
|--|-------------------|-------|
| facility | \$ 100 | 45365 |
| (6) Dry cleaning facilities | | 45366 |
| For each dry cleaning facility | Permit to install | 45367 |
| (includes all units at the facility) | \$ 100 | 45368 |
| (7) Registration status | | 45369 |
| For each source covered | Permit to install | 45370 |
| by registration status | \$ 75 | 45371 |
| (C)(1) Except as otherwise provided in division (C)(2) of | | 45372 |
| this section, beginning July 1, 1994, each person who owns or | | 45373 |
| operates an air contaminant source and who is required to apply | | 45374 |
| for and obtain a Title V permit under section 3704.036 of the | | 45375 |
| Revised Code shall pay the fees set forth in division (C)(1) of | | 45376 |
| this section. For the purposes of that division, total emissions | | 45377 |
| of air contaminants may be calculated using engineering | | 45378 |
| calculations, emissions factors, material balance calculations, or | | 45379 |
| performance testing procedures, as authorized by the director. | | 45380 |
| The following fees shall be assessed on the total actual | | 45381 |
| emissions from a source in tons per year of the regulated | | 45382 |
| pollutants particulate matter, sulfur dioxide, nitrogen oxides, | | 45383 |
| organic compounds, and lead: | | 45384 |
| (a) Fifteen dollars per ton on the total actual emissions of | | 45385 |
| each such regulated pollutant during the period July through | | 45386 |
| December 1993, to be collected no sooner than July 1, 1994; | | 45387 |
| (b) Twenty dollars per ton on the total actual emissions of | | 45388 |
| each such regulated pollutant during calendar year 1994, to be | | 45389 |
| collected no sooner than April 15, 1995; | | 45390 |
| (c) Twenty-five dollars per ton on the total actual emissions | | 45391 |
| of each such regulated pollutant in calendar year 1995, and each | | 45392 |
| subsequent calendar year, to be collected no sooner than the | | 45393 |
| fifteenth day of April of the year next succeeding the calendar | | 45394 |
| year in which the emissions occurred. | | 45395 |

The fees levied under division (C)(1) of this section do not 45396
apply to that portion of the emissions of a regulated pollutant at 45397
a facility that exceed four thousand tons during a calendar year. 45398

(2) The fees assessed under division (C)(1) of this section 45399
are for the purpose of providing funding for the Title V permit 45400
program. 45401

(3) The fees assessed under division (C)(1) of this section 45402
do not apply to emissions from any electric generating unit 45403
designated as a Phase I unit under Title IV of the federal Clean 45404
Air Act prior to calendar year 2000. Those fees shall be assessed 45405
on the emissions from such a generating unit commencing in 45406
calendar year 2001 based upon the total actual emissions from the 45407
generating unit during calendar year 2000 and shall continue to be 45408
assessed each subsequent calendar year based on the total actual 45409
emissions from the generating unit during the preceding calendar 45410
year. 45411

(4) The director shall issue invoices to owners or operators 45412
of air contaminant sources who are required to pay a fee assessed 45413
under division (C) or (D) of this section. Any such invoice shall 45414
be issued no sooner than the applicable date when the fee first 45415
may be collected in a year under the applicable division, shall 45416
identify the nature and amount of the fee assessed, and shall 45417
indicate that the fee is required to be paid within thirty days 45418
after the issuance of the invoice. 45419

(D)(1) Except as provided in division (D)(3) of this section, 45420
from January 1, 1994, through December 31, 2003, each person who 45421
owns or operates an air contaminant source; who is required to 45422
apply for a permit to operate pursuant to rules adopted under 45423
division (G), or a variance pursuant to division (H), of section 45424
3704.03 of the Revised Code; and who is not required to apply for 45425
and obtain a Title V permit under section 3704.036 of the Revised 45426
Code shall pay a single fee based upon the sum of the actual 45427

| | | |
|--|--------------|-------|
| annual emissions from the facility of the regulated pollutants | | 45428 |
| particulate matter, sulfur dioxide, nitrogen oxides, organic | | 45429 |
| compounds, and lead in accordance with the following schedule: | | 45430 |
| Total tons per year | | 45431 |
| of regulated pollutants | Annual fee | 45432 |
| emitted | per facility | 45433 |
| More than 0, but less than 50 | \$ 75 | 45434 |
| 50 or more, but less than 100 | 300 | 45435 |
| 100 or more | 700 | 45436 |
| (2) Except as provided in division (D)(3) of this section, | | 45437 |
| beginning January 1, 2004, each person who owns or operates an air | | 45438 |
| contaminant source; who is required to apply for a permit to | | 45439 |
| operate pursuant to rules adopted under division (G), or a | | 45440 |
| variance pursuant to division (H), of section 3704.03 of the | | 45441 |
| Revised Code; and who is not required to apply for and obtain a | | 45442 |
| Title V permit under section 3704.03 of the Revised Code shall pay | | 45443 |
| a single fee based upon the sum of the actual annual emissions | | 45444 |
| from the facility of the regulated pollutants particulate matter, | | 45445 |
| sulfur dioxide, nitrogen oxides, organic compounds, and lead in | | 45446 |
| accordance with the following schedule: | | 45447 |
| Total tons per year | | 45448 |
| of regulated pollutants | Annual fee | 45449 |
| emitted | per facility | 45450 |
| More than 0, but less than 10 | \$ 100 | 45451 |
| 10 or more, but less than 50 | 200 | 45452 |
| 50 or more, but less than 100 | 300 | 45453 |
| 100 or more | 700 | 45454 |
| (3)(a) As used in division (D) of this section, "synthetic | | 45455 |
| minor facility" means a facility for which one or more permits to | | 45456 |
| install or permits to operate have been issued for the air | | 45457 |
| contaminant sources at the facility that include terms and | | 45458 |
| conditions that lower the facility's potential to emit air | | 45459 |

contaminants below the major source thresholds established in 45460
rules adopted under section 3704.036 of the Revised Code. 45461

(b) Beginning January 1, 2000, through June 30, ~~2006~~ 2008, 45462
each person who owns or operates a synthetic minor facility shall 45463
pay an annual fee based on the sum of the actual annual emissions 45464
from the facility of particulate matter, sulfur dioxide, nitrogen 45465
dioxide, organic compounds, and lead in accordance with the 45466
following schedule: 45467

| Combined total tons | | 45468 |
|-------------------------------|--------------|-------|
| per year of all regulated | Annual fee | 45469 |
| pollutants emitted | per facility | 45470 |
| Less than 10 | \$ 170 | 45471 |
| 10 or more, but less than 20 | 340 | 45472 |
| 20 or more, but less than 30 | 670 | 45473 |
| 30 or more, but less than 40 | 1,010 | 45474 |
| 40 or more, but less than 50 | 1,340 | 45475 |
| 50 or more, but less than 60 | 1,680 | 45476 |
| 60 or more, but less than 70 | 2,010 | 45477 |
| 70 or more, but less than 80 | 2,350 | 45478 |
| 80 or more, but less than 90 | 2,680 | 45479 |
| 90 or more, but less than 100 | 3,020 | 45480 |
| 100 or more | 3,350 | 45481 |

(4) The fees assessed under division (D)(1) of this section 45482
shall be collected annually no sooner than the fifteenth day of 45483
April, commencing in 1995. The fees assessed under division (D)(2) 45484
of this section shall be collected annually no sooner than the 45485
fifteenth day of April, commencing in 2005. The fees assessed 45486
under division (D)(3) of this section shall be collected no sooner 45487
than the fifteenth day of April, commencing in 2000. The fees 45488
assessed under division (D) of this section in a calendar year 45489
shall be based upon the sum of the actual emissions of those 45490
regulated pollutants during the preceding calendar year. For the 45491

purpose of division (D) of this section, emissions of air 45492
contaminants may be calculated using engineering calculations, 45493
emission factors, material balance calculations, or performance 45494
testing procedures, as authorized by the director. The director, 45495
by rule, may require persons who are required to pay the fees 45496
assessed under division (D) of this section to pay those fees 45497
biennially rather than annually. 45498

(E)(1) Consistent with the need to cover the reasonable costs 45499
of the Title V permit program, the director annually shall 45500
increase the fees prescribed in division (C)(1) of this section by 45501
the percentage, if any, by which the consumer price index for the 45502
most recent calendar year ending before the beginning of a year 45503
exceeds the consumer price index for calendar year 1989. Upon 45504
calculating an increase in fees authorized by division (E)(1) of 45505
this section, the director shall compile revised fee schedules for 45506
the purposes of division (C)(1) of this section and shall make the 45507
revised schedules available to persons required to pay the fees 45508
assessed under that division and to the public. 45509

(2) For the purposes of division (E)(1) of this section: 45510

(a) The consumer price index for any year is the average of 45511
the consumer price index for all urban consumers published by the 45512
United States department of labor as of the close of the 45513
twelve-month period ending on the thirty-first day of August of 45514
that year. 45515

(b) If the 1989 consumer price index is revised, the director 45516
shall use the revision of the consumer price index that is most 45517
consistent with that for calendar year 1989. 45518

(F) Each person who is issued a permit to install pursuant to 45519
rules adopted under division (F) of section 3704.03 of the Revised 45520
Code on or after July 1, 2003, shall pay the fees specified in the 45521
following schedules: 45522

| | | |
|---|-------------------|-------|
| (1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer) | | 45523 |
| Input capacity (maximum) | | 45524 |
| (million British thermal units per hour) | Permit to install | 45525 |
| Greater than 0, but less than 10 | \$ 200 | 45526 |
| 10 or more, but less than 100 | 400 | 45527 |
| 100 or more, but less than 300 | 1000 | 45528 |
| 300 or more, but less than 500 | 2250 | 45529 |
| 500 or more, but less than 1000 | 3750 | 45530 |
| 1000 or more, but less than 5000 | 6000 | 45531 |
| 5000 or more | 9000 | 45532 |
| Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section. | | 45533 |
| (2) Combustion turbines and stationary internal combustion engines designed to generate electricity | | 45535 |
| Generating capacity (mega watts) | Permit to install | 45536 |
| 0 or more, but less than 10 | \$ 25 | 45537 |
| 10 or more, but less than 25 | 150 | 45538 |
| 25 or more, but less than 50 | 300 | 45539 |
| 50 or more, but less than 100 | 500 | 45540 |
| 100 or more, but less than 250 | 1000 | 45541 |
| 250 or more | 2000 | 45542 |
| (3) Incinerators | | 45543 |
| Input capacity (pounds per hour) | Permit to install | 45544 |
| 0 to 100 | \$ 100 | 45545 |
| 101 to 500 | 500 | 45546 |
| 501 to 2000 | 1000 | 45547 |
| 2001 to 20,000 | 1500 | 45548 |
| more than 20,000 | 3750 | 45549 |
| (4)(a) Process | | 45550 |

| | | |
|---------------------------------------|-------------------|-------|
| Process weight rate (pounds per hour) | Permit to install | 45555 |
| 0 to 1000 | \$ 200 | 45556 |
| 1001 to 5000 | 500 | 45557 |
| 5001 to 10,000 | 750 | 45558 |
| 10,001 to 50,000 | 1000 | 45559 |
| more than 50,000 | 1250 | 45560 |

In any process where process weight rate cannot be 45561
ascertained, the minimum fee shall be assessed. A boiler, furnace, 45562
combustion turbine, stationary internal combustion engine, or 45563
process heater designed to provide direct heat or power to a 45564
process not designed to generate electricity shall be assessed a 45565
fee established in division (F)(4)(a) of this section. A 45566
combustion turbine or stationary internal combustion engine 45567
designed to generate electricity shall be assessed a fee 45568
established in division (F)(2) of this section. 45569

(b) Notwithstanding division (F)~~(3)~~(4)(a) of this section, 45570
any person issued a permit to install pursuant to rules adopted 45571
under division (F) of section 3704.03 of the Revised Code shall 45572
pay the fees set forth in division (F)~~(3)~~(4)(c) of this section 45573
for a process used in any of the following industries, as 45574
identified by the applicable two-digit, three-digit, or four-digit 45575
standard industrial classification code according to the Standard 45576
Industrial Classification Manual published by the United States 45577
office of management and budget in the executive office of the 45578
president, ~~1972~~ 1987, as revised: 45579

- ~~1211 Bituminous coal and lignite mining;~~ 45580
- ~~1213 Bituminous coal and lignite mining services;~~ 45581
- ~~1411 Dimension stone;~~ 45582
- ~~1422 Crushed and broken limestone;~~ 45583
- ~~1427 Crushed and broken stone, not elsewhere classified;~~ 45584
- ~~1442 Construction sand and gravel;~~ 45585

| | |
|---|-------------------------|
| 1446 <u>Industrial sand; Major group 10, metal mining;</u> | 45586 |
| <u>Major group 12, coal mining;</u> | 45587 |
| <u>Major group 14, mining and quarrying of nonmetallic minerals;</u> | 45588 |
| <u>Industry group 204, grain mill products;</u> | 45589 |
| <u>2873 Nitrogen fertilizers;</u> | 45590 |
| <u>2874 Phosphatic fertilizers;</u> | 45591 |
| 3281 Cut stone and stone products; | 45592 |
| 3295 Minerals and earth, ground or otherwise treated; | 45593 |
| <u>4221 Grain elevators (storage only);</u> | 45594 |
| <u>5159 Farm related raw materials;</u> | 45595 |
| <u>5261 Retail nurseries and lawn and garden supply stores.</u> | 45596 |
| (c) The fees set forth in the following schedule apply to the | 45597 |
| issuance of a permit to install pursuant to rules adopted under | 45598 |
| division (F) of section 3704.03 of the Revised Code for a process | 45599 |
| identified in division (F) (3) (4)(b) of this section: | 45600 |
| Process weight rate (pounds per hour) | Permit to install 45601 |
| 0 to 10,000 | \$ 200 45602 |
| 10,001 to 50,000 | 400 45603 |
| 50,001 to 100,000 | 500 45604 |
| 100,001 to 200,000 | 600 45605 |
| 200,001 to 400,000 | 750 45606 |
| 400,001 or more | 900 45607 |
| (5) Storage tanks | 45608 |
| Gallons (maximum useful capacity) | Permit to install 45609 |
| 0 to 20,000 | \$ 100 45610 |
| 20,001 to 40,000 | 150 45611 |
| 40,001 to 100,000 | 250 45612 |
| 100,001 to 500,000 | 400 45613 |

| | | |
|--|-------------------|-------|
| 500,001 or greater | 750 | 45614 |
| (6) Gasoline/fuel dispensing facilities | | 45615 |
| For each gasoline/fuel | | 45616 |
| dispensing facility (includes all | Permit to install | 45617 |
| units at the facility) | \$ 100 | 45618 |
| (7) Dry cleaning facilities | | 45619 |
| For each dry cleaning | | 45620 |
| facility (includes all units | Permit to install | 45621 |
| at the facility) | \$ 100 | 45622 |
| (8) Registration status | | 45623 |
| For each source covered | Permit to install | 45624 |
| by registration status | \$ 75 | 45625 |
| (G) An owner or operator who is responsible for an asbestos | | 45626 |
| demolition or renovation project pursuant to rules adopted under | | 45627 |
| section 3704.03 of the Revised Code shall pay the fees set forth | | 45628 |
| in the following schedule: | | 45629 |
| Action | Fee | 45630 |
| Each notification | \$75 | 45631 |
| Asbestos removal | \$3/unit | 45632 |
| Asbestos cleanup | \$4/cubic yard | 45633 |
| For purposes of this division, "unit" means any combination of | | 45634 |
| linear feet or square feet equal to fifty. | | 45635 |
| (H) A person who is issued an extension of time for a permit | | 45636 |
| to install an air contaminant source pursuant to rules adopted | | 45637 |
| under division (F) of section 3704.03 of the Revised Code shall | | 45638 |
| pay a fee equal to one-half the fee originally assessed for the | | 45639 |
| permit to install under this section, except that the fee for such | | 45640 |
| an extension shall not exceed two hundred dollars. | | 45641 |
| (I) A person who is issued a modification to a permit to | | 45642 |
| install an air contaminant source pursuant to rules adopted under | | 45643 |
| section 3704.03 of the Revised Code shall pay a fee equal to | | 45644 |

one-half of the fee that would be assessed under this section to 45645
obtain a permit to install the source. The fee assessed by this 45646
division only applies to modifications that are initiated by the 45647
owner or operator of the source and shall not exceed two thousand 45648
dollars. 45649

(J) Notwithstanding division (B) or (F) of this section, a 45650
person who applies for or obtains a permit to install pursuant to 45651
rules adopted under division (F) of section 3704.03 of the Revised 45652
Code after the date actual construction of the source began shall 45653
pay a fee for the permit to install that is equal to twice the fee 45654
that otherwise would be assessed under the applicable division 45655
unless the applicant received authorization to begin construction 45656
under division (W) of section 3704.03 of the Revised Code. This 45657
division only applies to sources for which actual construction of 45658
the source begins on or after July 1, 1993. The imposition or 45659
payment of the fee established in this division does not preclude 45660
the director from taking any administrative or judicial 45661
enforcement action under this chapter, Chapter 3704., 3714., 45662
3734., or 6111. of the Revised Code, or a rule adopted under any 45663
of them, in connection with a violation of rules adopted under 45664
division (F) of section 3704.03 of the Revised Code. 45665

As used in this division, "actual construction of the source" 45666
means the initiation of physical on-site construction activities 45667
in connection with improvements to the source that are permanent 45668
in nature, including, without limitation, the installation of 45669
building supports and foundations and the laying of underground 45670
pipework. 45671

(K) Fifty cents per ton of each fee assessed under division 45672
(C) of this section on actual emissions from a source and received 45673
by the environmental protection agency pursuant to that division 45674
shall be deposited into the state treasury to the credit of the 45675
small business assistance fund created in section 3706.19 of the 45676

Revised Code. The remainder of the moneys received by the division 45677
pursuant to that division and moneys received by the agency 45678
pursuant to divisions (D), (F), (G), (H), (I), and (J) of this 45679
section shall be deposited in the state treasury to the credit of 45680
the clean air fund created in section 3704.035 of the Revised 45681
Code. 45682

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 45683
or (c) of this section, a person issued a water discharge permit 45684
or renewal of a water discharge permit pursuant to Chapter 6111. 45685
of the Revised Code shall pay a fee based on each point source to 45686
which the issuance is applicable in accordance with the following 45687
schedule: 45688

| Design flow discharge (gallons per day) | Fee | |
|---|------|-------|
| 0 to 1000 | \$ 0 | 45689 |
| 1,001 to 5000 | 100 | 45691 |
| 5,001 to 50,000 | 200 | 45692 |
| 50,001 to 100,000 | 300 | 45693 |
| 100,001 to 300,000 | 525 | 45694 |
| over 300,000 | 750 | 45695 |

(b) Notwithstanding the fee schedule specified in division 45696
(L)(1)(a) of this section, the fee for a water discharge permit 45697
that is applicable to coal mining operations regulated under 45698
Chapter 1513. of the Revised Code shall be two hundred fifty 45699
dollars per mine. 45700

(c) Notwithstanding the fee schedule specified in division 45701
(L)(1)(a) of this section, the fee for a water discharge permit 45702
for a public discharger identified by I in the third character of 45703
the permittee's NPDES permit number shall not exceed seven hundred 45704
fifty dollars. 45705

(2) A person applying for a plan approval for a wastewater 45706
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 45707
of the Revised Code shall pay a fee of one hundred dollars plus 45708

sixty-five one-hundredths of one per cent of the estimated project cost through June 30, ~~2006~~ 2008, and one hundred dollars plus two-tenths of one per cent of the estimated project cost on and after July 1, ~~2006~~ 2008, except that the total fee shall not exceed fifteen thousand dollars through June 30, ~~2006~~ 2008, and five thousand dollars on and after July 1, ~~2006~~ 2008. The fee shall be paid at the time the application is submitted.

(3) A person issued a modification of a water discharge permit shall pay a fee equal to one-half the fee that otherwise would be charged for a water discharge permit, except that the fee for the modification shall not exceed four hundred dollars.

(4) A person who has entered into an agreement with the director under section 6111.14 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons who have entered into agreements under that section, or who have applied for agreements, of the amount of the fee.

(5)(a)(i) Not later than January 30, ~~2004~~ 2006, and January 30, ~~2005~~ 2007, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee established in division (L)(5)(a)(i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to

discharge during a billing year, the director shall reduce the 45741
annual discharge fee, including the surcharge applicable to 45742
certain industrial facilities pursuant to division (L)(5)(c) of 45743
this section, by one-twelfth for each full month during the 45744
billing year that the source was not discharging, but only if the 45745
person holding the NPDES discharge permit for the source notifies 45746
the director in writing, not later than the first day of October 45747
of the billing year, of the circumstances causing the cessation of 45748
discharge. 45749

(iii) The annual discharge fee established in division 45750
(L)(5)(a)(i) of this section, except for the surcharge applicable 45751
to certain industrial facilities pursuant to division (L)(5)(c) of 45752
this section, shall be based upon the average daily discharge flow 45753
in gallons per day calculated using first day of May through 45754
thirty-first day of October flow data for the period two years 45755
prior to the date on which the fee is due. In the case of NPDES 45756
discharge permits for new sources, the fee shall be calculated 45757
using the average daily design flow of the facility until actual 45758
average daily discharge flow values are available for the time 45759
period specified in division (L)(5)(a)(iii) of this section. The 45760
annual discharge fee may be prorated for a new source as described 45761
in division (L)(5)(a)(ii) of this section. 45762

(b) An NPDES permit holder that is a public discharger shall 45763
pay the fee specified in the following schedule: 45764

| Average daily | Fee due by | |
|--------------------|-----------------------------------|-------|
| discharge flow | January 30, | |
| | 2004 <u>2006</u> , and | |
| | January 30, 2005 | |
| | <u>2007</u> | |
| 5,000 to 49,999 | \$ 200 | 45769 |
| 50,000 to 100,000 | 500 | 45770 |
| 100,001 to 250,000 | 1,050 | 45771 |

| | | |
|---------------------------|--------|-------|
| 250,001 to 1,000,000 | 2,600 | 45772 |
| 1,000,001 to 5,000,000 | 5,200 | 45773 |
| 5,000,001 to 10,000,000 | 10,350 | 45774 |
| 10,000,001 to 20,000,000 | 15,550 | 45775 |
| 20,000,001 to 50,000,000 | 25,900 | 45776 |
| 50,000,001 to 100,000,000 | 41,400 | 45777 |
| 100,000,001 or more | 62,100 | 45778 |

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

| Average daily discharge flow | Fee due by January 30, 2004 <u>2006</u> , and January 30, 2005 <u>2007</u> | |
|------------------------------|--|-------|
| 5,000 to 49,999 | \$ 250 | 45795 |
| 50,000 to 250,000 | 1,200 | 45796 |
| 250,001 to 1,000,000 | 2,950 | 45797 |
| 1,000,001 to 5,000,000 | 5,850 | 45798 |
| 5,000,001 to 10,000,000 | 8,800 | 45799 |
| 10,000,001 to 20,000,000 | 11,700 | 45800 |
| 20,000,001 to 100,000,000 | 14,050 | 45801 |
| 100,000,001 to 250,000,000 | 16,400 | 45802 |

250,000,001 or more 18,700 45803

In addition to the fee specified in the above schedule, an 45804
NPDES permit holder that is an industrial discharger classified as 45805
a major discharger during all or part of the annual discharge fee 45806
billing year specified in division (L)(5)(a)(ii) of this section 45807
shall pay a nonrefundable annual surcharge of seven thousand five 45808
hundred dollars not later than January 30, ~~2004~~ 2006, and not 45809
later than January 30, ~~2005~~ 2007. Any person who fails to pay the 45810
surcharge at that time shall pay an additional amount that equals 45811
ten per cent of the amount of the surcharge. 45812

(d) Notwithstanding divisions (L)(5)(b) and (c) of this 45813
section, a public discharger identified by I in the third 45814
character of the permittee's NPDES permit number and an industrial 45815
discharger identified by I, J, L, V, W, X, Y, or Z in the third 45816
character of the permittee's NPDES permit number shall pay a 45817
nonrefundable annual discharge fee of one hundred eighty dollars 45818
not later than January 30, ~~2004~~ 2006, and not later than January 45819
30, ~~2005~~ 2007. Any person who fails to pay the fee at that time 45820
shall pay an additional amount that equals ten per cent of the 45821
required fee. 45822

(6) Each person obtaining a national pollutant discharge 45823
elimination system general or individual permit for municipal 45824
storm water discharge shall pay a nonrefundable storm water 45825
discharge fee of one hundred dollars per square mile of area 45826
permitted. The fee shall not exceed ten thousand dollars and shall 45827
be payable on or before January 30, 2004, and the thirtieth day of 45828
January of each year thereafter. Any person who fails to pay the 45829
fee on the date specified in division (L)(6) of this section shall 45830
pay an additional amount per year equal to ten per cent of the 45831
annual fee that is unpaid. 45832

(7) The director shall transmit all moneys collected under 45833
division (L) of this section to the treasurer of state for deposit 45834

into the state treasury to the credit of the surface water protection fund created in section 6111.038 of the Revised Code. 45835
45836

(8) As used in division (L) of this section: 45837

(a) "NPDES" means the federally approved national pollutant discharge elimination system program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Chapter 6111. of the Revised Code and rules adopted under it. 45838
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45841
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(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number assigned by the director. 45843
45844
45845

(c) "Industrial discharger" means any holder of an NPDES permit identified by I in the second character of the NPDES permit number assigned by the director. 45846
45847
45848

(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director. 45849
45850
45851
45852

(M) Through June 30, ~~2006~~ 2008, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code. 45853
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Except as provided in division (M)(4) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule: 45863
45864
45865

(1) For the initial license required under division (A)(1) of section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of the Revised Code, and for each license renewal required for such a system prior to January 31, ~~2006~~ 2008, the fee is:

| Number of service connections | Fee amount | |
|-------------------------------|-----------------------------|-------|
| Not more than 49 | \$ 112 | 45872 |
| 50 to 99 | 176 | 45873 |
| Number of service connections | Average cost per connection | |
| 100 to 2,499 | \$ 1.92 | 45875 |
| 2,500 to 4,999 | 1.48 | 45876 |
| 5,000 to 7,499 | 1.42 | 45877 |
| 7,500 to 9,999 | 1.34 | 45878 |
| 10,000 to 14,999 | 1.16 | 45879 |
| 15,000 to 24,999 | 1.10 | 45880 |
| 25,000 to 49,999 | 1.04 | 45881 |
| 50,000 to 99,999 | .92 | 45882 |
| 100,000 to 149,999 | .86 | 45883 |
| 150,000 to 199,999 | .80 | 45884 |
| 200,000 or more | .76 | 45885 |

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under division (A)(2) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a

| | | |
|---|------------|-------|
| system prior to January 31, 2006 <u>2008</u> , the fee is: | | 45898 |
| Population served | Fee amount | 45899 |
| Fewer than 150 | \$ 112 | 45900 |
| 150 to 299 | 176 | 45901 |
| 300 to 749 | 384 | 45902 |
| 750 to 1,499 | 628 | 45903 |
| 1,500 to 2,999 | 1,268 | 45904 |
| 3,000 to 7,499 | 2,816 | 45905 |
| 7,500 to 14,999 | 5,510 | 45906 |
| 15,000 to 22,499 | 9,048 | 45907 |
| 22,500 to 29,999 | 12,430 | 45908 |
| 30,000 or more | 16,820 | 45909 |

As used in division (M)(2) of this section, "population served" means the total number of individuals receiving water from the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under division (A)(3) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, ~~2006~~ 2008, the fee is:

| | | |
|---|------------|-------|
| Number of wells supplying system | Fee amount | 45921 |
| 1 | \$112 | 45922 |
| 2 | 112 | 45923 |
| 3 | 176 | 45924 |
| 4 | 278 | 45925 |
| 5 | 568 | 45926 |
| System designated as using a surface water source | 792 | 45927 |
| | | 45928 |

As used in division (M)(3) of this section, "number of wells

supplying system" means those wells that are physically connected 45930
to the plumbing system serving the public water system. 45931

(4) A public water system designated as using a surface water 45932
source shall pay a fee of seven hundred ninety-two dollars or the 45933
amount calculated under division (M)(1) or (2) of this section, 45934
whichever is greater. 45935

(N)(1) A person applying for a plan approval for a public 45936
water supply system under section 6109.07 of the Revised Code 45937
shall pay a fee of one hundred fifty dollars plus thirty-five 45938
hundredths of one per cent of the estimated project cost, except 45939
that the total fee shall not exceed twenty thousand dollars 45940
through June 30, ~~2006~~ 2008, and fifteen thousand dollars on and 45941
after July 1, ~~2006~~ 2008. The fee shall be paid at the time the 45942
application is submitted. 45943

(2) A person who has entered into an agreement with the 45944
director under division (A)(2) of section 6109.07 of the Revised 45945
Code shall pay an administrative service fee for each plan 45946
submitted under that section for approval that shall not exceed 45947
the minimum amount necessary to pay administrative costs directly 45948
attributable to processing plan approvals. The director annually 45949
shall calculate the fee and shall notify all persons that have 45950
entered into agreements under that division, or who have applied 45951
for agreements, of the amount of the fee. 45952

(3) Through June 30, ~~2006~~ 2008, the following fee, on a per 45953
survey basis, shall be charged any person for services rendered by 45954
the state in the evaluation of laboratories and laboratory 45955
personnel for compliance with accepted analytical techniques and 45956
procedures established pursuant to Chapter 6109. of the Revised 45957
Code for determining the qualitative characteristics of water: 45958

microbiological 45959

MMO-MUG \$2,000 45960

| | | |
|--------------------|-------|-------|
| MF | 2,100 | 45961 |
| MMO-MUG and MF | 2,550 | 45962 |
| organic chemical | 5,400 | 45963 |
| trace metals | 5,400 | 45964 |
| standard chemistry | 2,800 | 45965 |
| limited chemistry | 1,550 | 45966 |

On and after July 1, ~~2006~~ 2008, the following fee, on a per survey basis, shall be charged any such person:

| | | |
|--------------------|----------|-------|
| microbiological | \$ 1,650 | 45969 |
| organic chemicals | 3,500 | 45970 |
| trace metals | 3,500 | 45971 |
| standard chemistry | 1,800 | 45972 |
| limited chemistry | 1,000 | 45973 |

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, ~~2006~~ 2008, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

- (a) "MF" means microfiltration.
- (b) "MMO" means minimal medium ONPG.
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

~~(O) Any person applying to the director for examination for~~

~~certification as an operator of a water supply system or 45991
wastewater system under Chapter 6109. or 6111. of the Revised 45992
Code, at the time the application is submitted, shall pay an 45993
application fee of twenty five dollars through November 30, 2003. 45994
Upon approval from the director that the applicant is eligible to 45995
take the examination therefor, the applicant shall pay a fee in 45996
accordance with the following schedule through November 30, 2003:~~ 45997

| | | |
|-------------------------------|-----------------|-------|
| Class I operator | \$45 | 45998 |
| Class II operator | 55 | 45999 |
| Class III operator | 65 | 46000 |
| Class IV operator | 75 | 46001 |

~~On and after December 1, 2003, any person applying to the 46002
director for examination for certification as an operator of a 46003
water supply system or wastewater system under Chapter 6109. or 46004
6111. of the Revised Code, at the time the application is 46005
submitted, shall pay an application fee of forty-five dollars 46006
through November 30, ~~2006~~ 2008, and twenty-five dollars on and 46007
after December 1, ~~2006~~ 2008. Upon approval from the director that 46008
the applicant is eligible to take the examination therefor, the 46009
applicant shall pay a fee in accordance with the following 46010
schedule through November 30, ~~2006~~ 2008:~~ 46011

| | | |
|-------------------------------|-----------------|-------|
| Class A operator | \$35 | 46012 |
| Class I operator | 60 | 46013 |
| Class II operator | 75 | 46014 |
| Class III operator | 85 | 46015 |
| Class IV operator | 100 | 46016 |

~~On and after December 1, ~~2006~~ 2008, the applicant shall pay a 46017
fee in accordance with the following schedule:~~ 46018

| | | |
|-------------------------------|-----------------|-------|
| Class A operator | \$25 | 46019 |
| Class I operator | \$45 | 46020 |
| Class II operator | 55 | 46021 |
| Class III operator | 65 | 46022 |

Class IV operator 75 46023

A person shall pay a biennial certification renewal fee for 46024
each applicable class of certification in accordance with the 46025
following schedule: 46026

Class A operator \$25 46027

Class I operator 35 46028

Class II operator 45 46029

Class III operator 55 46030

Class IV operator 65 46031

If a certification renewal fee is received by the director 46032
more than thirty days, but not more than one year after the 46033
expiration date of the certification, the person shall pay a 46034
certification renewal fee in accordance with the following 46035
schedule: 46036

Class A operator \$45 46037

Class I operator 55 46038

Class II operator 65 46039

Class III operator 75 46040

Class IV operator 85 46041

A person who requests a replacement certificate shall pay a 46042
fee of twenty-five dollars at the time the request is made. 46043

The director shall transmit all moneys collected under this 46044
division to the treasurer of state for deposit into the drinking 46045
water protection fund created in section 6109.30 of the Revised 46046
Code. 46047

(P) Any person submitting an application for an industrial 46048
water pollution control certificate under section 6111.31 of the 46049
Revised Code, as that section existed before its repeal by H.B. 95 46050
of the 125th general assembly, shall pay a nonrefundable fee of 46051
five hundred dollars at the time the application is submitted. The 46052
director shall transmit all moneys collected under this division 46053
to the treasurer of state for deposit into the surface water 46054

protection fund created in section 6111.038 of the Revised Code. A 46055
person paying a certificate fee under this division shall not pay 46056
an application fee under division (S)(1) of this section. On and 46057
after ~~the effective date of this amendment~~ June 26, 2003, persons 46058
shall file such applications and pay the fee as required under 46059
sections 5709.20 to 5709.27 of the Revised Code, and proceeds from 46060
the fee shall be credited as provided in section 5709.212 of the 46061
Revised Code. 46062

(Q) Except as otherwise provided in division (R) of this 46063
section, a person issued a permit by the director for a new solid 46064
waste disposal facility other than an incineration or composting 46065
facility, a new infectious waste treatment facility other than an 46066
incineration facility, or a modification of such an existing 46067
facility that includes an increase in the total disposal or 46068
treatment capacity of the facility pursuant to Chapter 3734. of 46069
the Revised Code shall pay a fee of ten dollars per thousand cubic 46070
yards of disposal or treatment capacity, or one thousand dollars, 46071
whichever is greater, except that the total fee for any such 46072
permit shall not exceed eighty thousand dollars. A person issued a 46073
modification of a permit for a solid waste disposal facility or an 46074
infectious waste treatment facility that does not involve an 46075
increase in the total disposal or treatment capacity of the 46076
facility shall pay a fee of one thousand dollars. A person issued 46077
a permit to install a new, or modify an existing, solid waste 46078
transfer facility under that chapter shall pay a fee of two 46079
thousand five hundred dollars. A person issued a permit to install 46080
a new or to modify an existing solid waste incineration or 46081
composting facility, or an existing infectious waste treatment 46082
facility using incineration as its principal method of treatment, 46083
under that chapter shall pay a fee of one thousand dollars. The 46084
increases in the permit fees under this division resulting from 46085
the amendments made by Amended Substitute House Bill 592 of the 46086
117th general assembly do not apply to any person who submitted an 46087

application for a permit to install a new, or modify an existing, 46088
solid waste disposal facility under that chapter prior to 46089
September 1, 1987; any such person shall pay the permit fee 46090
established in this division as it existed prior to June 24, 1988. 46091
In addition to the applicable permit fee under this division, a 46092
person issued a permit to install or modify a solid waste facility 46093
or an infectious waste treatment facility under that chapter who 46094
fails to pay the permit fee to the director in compliance with 46095
division (V) of this section shall pay an additional ten per cent 46096
of the amount of the fee for each week that the permit fee is 46097
late. 46098

Permit and late payment fees paid to the director under this 46099
division shall be credited to the general revenue fund. 46100

(R)(1) A person issued a registration certificate for a scrap 46101
tire collection facility under section 3734.75 of the Revised Code 46102
shall pay a fee of two hundred dollars, except that if the 46103
facility is owned or operated by a motor vehicle salvage dealer 46104
licensed under Chapter 4738. of the Revised Code, the person shall 46105
pay a fee of twenty-five dollars. 46106

(2) A person issued a registration certificate for a new 46107
scrap tire storage facility under section 3734.76 of the Revised 46108
Code shall pay a fee of three hundred dollars, except that if the 46109
facility is owned or operated by a motor vehicle salvage dealer 46110
licensed under Chapter 4738. of the Revised Code, the person shall 46111
pay a fee of twenty-five dollars. 46112

(3) A person issued a permit for a scrap tire storage 46113
facility under section 3734.76 of the Revised Code shall pay a fee 46114
of one thousand dollars, except that if the facility is owned or 46115
operated by a motor vehicle salvage dealer licensed under Chapter 46116
4738. of the Revised Code, the person shall pay a fee of fifty 46117
dollars. 46118

(4) A person issued a permit for a scrap tire monocell or
monofill facility under section 3734.77 of the Revised Code shall
pay a fee of ten dollars per thousand cubic yards of disposal
capacity or one thousand dollars, whichever is greater, except
that the total fee for any such permit shall not exceed eighty
thousand dollars.

(5) A person issued a registration certificate for a scrap
tire recovery facility under section 3734.78 of the Revised Code
shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery
facility under section 3734.78 of the Revised Code shall pay a fee
of one thousand dollars.

(7) In addition to the applicable registration certificate or
permit fee under divisions (R)(1) to (6) of this section, a person
issued a registration certificate or permit for any such scrap
tire facility who fails to pay the registration certificate or
permit fee to the director in compliance with division (V) of this
section shall pay an additional ten per cent of the amount of the
fee for each week that the fee is late.

(8) The registration certificate, permit, and late payment
fees paid to the director under divisions (R)(1) to (7) of this
section shall be credited to the scrap tire management fund
created in section 3734.82 of the Revised Code.

(S)(1) Except as provided by divisions (L), (M), (N), (O),
(P), and (S)(2) of this section, division (A)(2) of section
3734.05 of the Revised Code, section 3734.79 of the Revised Code,
and rules adopted under division (T)(1) of this section, any
person applying for a registration certificate under section
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit,
variance, or plan approval under Chapter 3734. of the Revised Code
shall pay a nonrefundable fee of fifteen dollars at the time the

application is submitted. 46150

Except as otherwise provided, any person applying for a 46151
permit, variance, or plan approval under Chapter 6109. or 6111. of 46152
the Revised Code shall pay a nonrefundable fee of one hundred 46153
dollars at the time the application is submitted through June 30, 46154
~~2006~~ 2008, and a nonrefundable fee of fifteen dollars at the time 46155
the application is submitted on and after July 1, ~~2006~~ 2008. 46156
Through June 30, ~~2006~~ 2008, any person applying for a national 46157
pollutant discharge elimination system permit under Chapter 6111. 46158
of the Revised Code shall pay a nonrefundable fee of two hundred 46159
dollars at the time of application for the permit. On and after 46160
July 1, ~~2006~~ 2008, such a person shall pay a nonrefundable fee of 46161
fifteen dollars at the time of application. 46162

In addition to the application fee established under division 46163
(S)(1) of this section, any person applying for a national 46164
pollutant discharge elimination system general storm water 46165
construction permit shall pay a nonrefundable fee of twenty 46166
dollars per acre for each acre that is permitted above five acres 46167
at the time the application is submitted. However, the per acreage 46168
fee shall not exceed three hundred dollars. In addition, any 46169
person applying for a national pollutant discharge elimination 46170
system general storm water industrial permit shall pay a 46171
nonrefundable fee of one hundred fifty dollars at the time the 46172
application is submitted. 46173

The director shall transmit all moneys collected under 46174
division (S)(1) of this section pursuant to Chapter 6109. of the 46175
Revised Code to the treasurer of state for deposit into the 46176
drinking water protection fund created in section 6109.30 of the 46177
Revised Code. 46178

The director shall transmit all moneys collected under 46179
division (S)(1) of this section pursuant to Chapter 6111. of the 46180
Revised Code to the treasurer of state for deposit into the 46181

surface water protection fund created in section 6111.038 of the Revised Code. 46182
46183

If a registration certificate is issued under section 3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of the application fee paid shall be deducted from the amount of the registration certificate fee due under division (R)(1), (2), or (5) of this section, as applicable. 46184
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If a person submits an electronic application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section, the person shall pay the applicable application fee as expeditiously as possible after the submission of the electronic application. An application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section shall not be reviewed or processed until the applicable application fee, and any other fees established under this division, are paid. 46189
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(2) Division (S)(1) of this section does not apply to an application for a registration certificate for a scrap tire collection or storage facility submitted under section 3734.75 or 3734.76 of the Revised Code, as applicable, if the owner or operator of the facility or proposed facility is a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code. 46200
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(T) The director may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code that do all of the following: 46206
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46208

(1) Prescribe fees to be paid by applicants for and holders of any license, permit, variance, plan approval, or certification required or authorized by Chapter 3704., 3734., 6109., or 6111. of the Revised Code that are not specifically established in this 46209
46210
46211
46212

section. The fees shall be designed to defray the cost of 46213
processing, issuing, revoking, modifying, denying, and enforcing 46214
the licenses, permits, variances, plan approvals, and 46215
certifications. 46216

The director shall transmit all moneys collected under rules 46217
adopted under division (T)(1) of this section pursuant to Chapter 46218
6109. of the Revised Code to the treasurer of state for deposit 46219
into the drinking water protection fund created in section 6109.30 46220
of the Revised Code. 46221

The director shall transmit all moneys collected under rules 46222
adopted under division (T)(1) of this section pursuant to Chapter 46223
6111. of the Revised Code to the treasurer of state for deposit 46224
into the surface water protection fund created in section 6111.038 46225
of the Revised Code. 46226

(2) Exempt the state and political subdivisions thereof, 46227
including education facilities or medical facilities owned by the 46228
state or a political subdivision, or any person exempted from 46229
taxation by section 5709.07 or 5709.12 of the Revised Code, from 46230
any fee required by this section; 46231

(3) Provide for the waiver of any fee, or any part thereof, 46232
otherwise required by this section whenever the director 46233
determines that the imposition of the fee would constitute an 46234
unreasonable cost of doing business for any applicant, class of 46235
applicants, or other person subject to the fee; 46236

(4) Prescribe measures that the director considers necessary 46237
to carry out this section. 46238

(U) When the director reasonably demonstrates that the direct 46239
cost to the state associated with the issuance of a permit to 46240
install, license, variance, plan approval, or certification 46241
exceeds the fee for the issuance or review specified by this 46242
section, the director may condition the issuance or review on the 46243

payment by the person receiving the issuance or review of, in 46244
addition to the fee specified by this section, the amount, or any 46245
portion thereof, in excess of the fee specified under this 46246
section. The director shall not so condition issuances for which 46247
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 46248
section. 46249

(V) Except as provided in divisions (L), (M), and (P) of this 46250
section or unless otherwise prescribed by a rule of the director 46251
adopted pursuant to Chapter 119. of the Revised Code, all fees 46252
required by this section are payable within thirty days after the 46253
issuance of an invoice for the fee by the director or the 46254
effective date of the issuance of the license, permit, variance, 46255
plan approval, or certification. If payment is late, the person 46256
responsible for payment of the fee shall pay an additional ten per 46257
cent of the amount due for each month that it is late. 46258

(W) As used in this section, "fuel-burning equipment," 46259
"fuel-burning equipment input capacity," "incinerator," 46260
"incinerator input capacity," "process," "process weight rate," 46261
"storage tank," "gasoline dispensing facility," "dry cleaning 46262
facility," "design flow discharge," and "new source treatment 46263
works" have the meanings ascribed to those terms by applicable 46264
rules or standards adopted by the director under Chapter 3704. or 46265
6111. of the Revised Code. 46266

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), 46267
and (J) of this section, and in any other provision of this 46268
section pertaining to fees paid pursuant to Chapter 3704. of the 46269
Revised Code: 46270

(1) "Facility," "federal Clean Air Act," "person," and "Title 46271
V permit" have the same meanings as in section 3704.01 of the 46272
Revised Code. 46273

(2) "Title V permit program" means the following activities 46274

| | |
|--|-------|
| as necessary to meet the requirements of Title V of the federal | 46275 |
| Clean Air Act and 40 C.F.R. part 70, including at least: | 46276 |
| (a) Preparing and adopting, if applicable, generally | 46277 |
| applicable rules or guidance regarding the permit program or its | 46278 |
| implementation or enforcement; | 46279 |
| (b) Reviewing and acting on any application for a Title V | 46280 |
| permit, permit revision, or permit renewal, including the | 46281 |
| development of an applicable requirement as part of the processing | 46282 |
| of a permit, permit revision, or permit renewal; | 46283 |
| (c) Administering the permit program, including the | 46284 |
| supporting and tracking of permit applications, compliance | 46285 |
| certification, and related data entry; | 46286 |
| (d) Determining which sources are subject to the program and | 46287 |
| implementing and enforcing the terms of any Title V permit, not | 46288 |
| including any court actions or other formal enforcement actions; | 46289 |
| (e) Emission and ambient monitoring; | 46290 |
| (f) Modeling, analyses, or demonstrations; | 46291 |
| (g) Preparing inventories and tracking emissions; | 46292 |
| (h) Providing direct and indirect support to small business | 46293 |
| stationary sources to determine and meet their obligations under | 46294 |
| the federal Clean Air Act pursuant to the small business | 46295 |
| stationary source technical and environmental compliance | 46296 |
| assistance program required by section 507 of that act and | 46297 |
| established in sections 3704.18, 3704.19, and 3706.19 of the | 46298 |
| Revised Code. | 46299 |
| (Y)(1) Except as provided in divisions (Y)(2), (3), and (4) | 46300 |
| of this section, each sewage sludge facility shall pay a | 46301 |
| nonrefundable annual sludge fee equal to three dollars and fifty | 46302 |
| cents per dry ton of sewage sludge, including the dry tons of | 46303 |
| sewage sludge in materials derived from sewage sludge, that the | 46304 |

sewage sludge facility treats or disposes of in this state. The 46305
annual volume of sewage sludge treated or disposed of by a sewage 46306
sludge facility shall be calculated using the first day of January 46307
through the thirty-first day of December of the calendar year 46308
preceding the date on which payment of the fee is due. 46309

(2)(a) Except as provided in division (Y)(2)(d) of this 46310
section, each sewage sludge facility shall pay a minimum annual 46311
sewage sludge fee of one hundred dollars. 46312

(b) The annual sludge fee required to be paid by a sewage 46313
sludge facility that treats or disposes of exceptional quality 46314
sludge in this state shall be thirty-five per cent less per dry 46315
ton of exceptional quality sludge than the fee assessed under 46316
division (Y)(1) of this section, subject to the following 46317
exceptions: 46318

(i) Except as provided in division (Y)(2)(d) of this section, 46319
a sewage sludge facility that treats or disposes of exceptional 46320
quality sludge shall pay a minimum annual sewage sludge fee of one 46321
hundred dollars. 46322

(ii) A sewage sludge facility that treats or disposes of 46323
exceptional quality sludge shall not be required to pay the annual 46324
sludge fee for treatment or disposal in this state of exceptional 46325
quality sludge generated outside of this state and contained in 46326
bags or other containers not greater than one hundred pounds in 46327
capacity. 46328

A thirty-five per cent reduction for exceptional quality 46329
sludge applies to the maximum annual fees established under 46330
division (Y)(3) of this section. 46331

(c) A sewage sludge facility that transfers sewage sludge to 46332
another sewage sludge facility in this state for further treatment 46333
prior to disposal in this state shall not be required to pay the 46334
annual sludge fee for the tons of sewage sludge that have been 46335

transferred. In such a case, the sewage sludge facility that 46336
disposes of the sewage sludge shall pay the annual sludge fee. 46337
However, the facility transferring the sewage sludge shall pay the 46338
one-hundred-dollar minimum fee required under division (Y)(2)(a) 46339
of this section. 46340

In the case of a sewage sludge facility that treats sewage 46341
sludge in this state and transfers it out of this state to another 46342
entity for disposal, the sewage sludge facility in this state 46343
shall be required to pay the annual sludge fee for the tons of 46344
sewage sludge that have been transferred. 46345

(d) A sewage sludge facility that generates sewage sludge 46346
resulting from an average daily discharge flow of less than five 46347
thousand gallons per day is not subject to the fees assessed under 46348
division (Y) of this section. 46349

(3) No sewage sludge facility required to pay the annual 46350
sludge fee shall be required to pay more than the maximum annual 46351
fee for each disposal method that the sewage sludge facility uses. 46352
The maximum annual fee does not include the additional amount that 46353
may be charged under division (Y)(5) of this section for late 46354
payment of the annual sludge fee. The maximum annual fee for the 46355
following methods of disposal of sewage sludge is as follows: 46356

(a) Incineration: five thousand dollars; 46357

(b) Preexisting land reclamation project or disposal in a 46358
landfill: five thousand dollars; 46359

(c) Land application, land reclamation, surface disposal, or 46360
any other disposal method not specified in division (Y)(3)(a) or 46361
(b) of this section: twenty thousand dollars. 46362

(4)(a) In the case of an entity that generates sewage sludge 46363
or a sewage sludge facility that treats sewage sludge and 46364
transfers the sewage sludge to an incineration facility for 46365
disposal, the incineration facility, and not the entity generating 46366

the sewage sludge or the sewage sludge facility treating the 46367
sewage sludge, shall pay the annual sludge fee for the tons of 46368
sewage sludge that are transferred. However, the entity or 46369
facility generating or treating the sewage sludge shall pay the 46370
one-hundred-dollar minimum fee required under division (Y)(2)(a) 46371
of this section. 46372

(b) In the case of an entity that generates sewage sludge and 46373
transfers the sewage sludge to a landfill for disposal or to a 46374
sewage sludge facility for land reclamation or surface disposal, 46375
the entity generating the sewage sludge, and not the landfill or 46376
sewage sludge facility, shall pay the annual sludge fee for the 46377
tons of sewage sludge that are transferred. 46378

(5) Not later than the first day of April of the calendar 46379
year following March 17, 2000, and each first day of April 46380
thereafter, the director shall issue invoices to persons who are 46381
required to pay the annual sludge fee. The invoice shall identify 46382
the nature and amount of the annual sludge fee assessed and state 46383
the first day of May as the deadline for receipt by the director 46384
of objections regarding the amount of the fee and the first day of 46385
July as the deadline for payment of the fee. 46386

Not later than the first day of May following receipt of an 46387
invoice, a person required to pay the annual sludge fee may submit 46388
objections to the director concerning the accuracy of information 46389
regarding the number of dry tons of sewage sludge used to 46390
calculate the amount of the annual sludge fee or regarding whether 46391
the sewage sludge qualifies for the exceptional quality sludge 46392
discount established in division (Y)(2)(b) of this section. The 46393
director may consider the objections and adjust the amount of the 46394
fee to ensure that it is accurate. 46395

If the director does not adjust the amount of the annual 46396
sludge fee in response to a person's objections, the person may 46397
appeal the director's determination in accordance with Chapter 46398

119. of the Revised Code. 46399

Not later than the first day of June, the director shall 46400
notify the objecting person regarding whether the director has 46401
found the objections to be valid and the reasons for the finding. 46402
If the director finds the objections to be valid and adjusts the 46403
amount of the annual sludge fee accordingly, the director shall 46404
issue with the notification a new invoice to the person 46405
identifying the amount of the annual sludge fee assessed and 46406
stating the first day of July as the deadline for payment. 46407

Not later than the first day of July, any person who is 46408
required to do so shall pay the annual sludge fee. Any person who 46409
is required to pay the fee, but who fails to do so on or before 46410
that date shall pay an additional amount that equals ten per cent 46411
of the required annual sludge fee. 46412

(6) The director shall transmit all moneys collected under 46413
division (Y) of this section to the treasurer of state for deposit 46414
into the surface water protection fund created in section 6111.038 46415
of the Revised Code. The moneys shall be used to defray the costs 46416
of administering and enforcing provisions in Chapter 6111. of the 46417
Revised Code and rules adopted under it that govern the use, 46418
storage, treatment, or disposal of sewage sludge. 46419

(7) Beginning in fiscal year 2001, and every two years 46420
thereafter, the director shall review the total amount of moneys 46421
generated by the annual sludge fees to determine if that amount 46422
exceeded six hundred thousand dollars in either of the two 46423
preceding fiscal years. If the total amount of moneys in the fund 46424
exceeded six hundred thousand dollars in either fiscal year, the 46425
director, after review of the fee structure and consultation with 46426
affected persons, shall issue an order reducing the amount of the 46427
fees levied under division (Y) of this section so that the 46428
estimated amount of moneys resulting from the fees will not exceed 46429
six hundred thousand dollars in any fiscal year. 46430

If, upon review of the fees under division (Y)(7) of this section and after the fees have been reduced, the director determines that the total amount of moneys collected and accumulated is less than six hundred thousand dollars, the director, after review of the fee structure and consultation with affected persons, may issue an order increasing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will be approximately six hundred thousand dollars. Fees shall never be increased to an amount exceeding the amount specified in division (Y)(7) of this section.

Notwithstanding section 119.06 of the Revised Code, the director may issue an order under division (Y)(7) of this section without the necessity to hold an adjudicatory hearing in connection with the order. The issuance of an order under this division is not an act or action for purposes of section 3745.04 of the Revised Code.

(8) As used in division (Y) of this section:

(a) "Sewage sludge facility" means an entity that performs treatment on or is responsible for the disposal of sewage sludge.

(b) "Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.

(c) "Exceptional quality sludge" means sewage sludge that

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| meets all of the following qualifications: | 46462 |
| (i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a); | 46463 46464 |
| (ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8); | 46465 46466 |
| (iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13; | 46467 46468 |
| (iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13. | 46469 46470 |
| (d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge. | 46471 46472 46473 |
| (e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator. | 46474 46475 46476 |
| (f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil. | 46477 46478 46479 46480 46481 |
| (g) "Land reclamation" means the returning of disturbed land to productive use. | 46482 46483 |
| (h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites. | 46484 46485 46486 46487 |
| (i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device. | 46488 46489 46490 46491 |

(j) "Incineration facility" includes all incinerators owned 46492
or operated by the same entity and located on a contiguous tract 46493
of land. Areas of land are considered to be contiguous even if 46494
they are separated by a public road or highway. 46495

(k) "Annual sludge fee" means the fee assessed under division 46496
(Y)(1) of this section. 46497

(l) "Landfill" means a sanitary landfill facility, as defined 46498
in rules adopted under section 3734.02 of the Revised Code, that 46499
is licensed under section 3734.05 of the Revised Code. 46500

(m) "Preexisting land reclamation project" means a 46501
property-specific land reclamation project that has been in 46502
continuous operation for not less than five years pursuant to 46503
approval of the activity by the director and includes the 46504
implementation of a community outreach program concerning the 46505
activity. 46506

Sec. 3745.114. (A) A person that applies for a section 401 46507
water quality certification under Chapter 6111. of the Revised 46508
Code and rules adopted under it shall pay an application fee of 46509
two hundred dollars at the time of application plus any of the 46510
following fees, as applicable: 46511

(1) If the water resource to be impacted is a wetland, a 46512
review fee of five hundred dollars per acre of wetland to be 46513
impacted; 46514

(2) If the water resource to be impacted is a stream one of 46515
the following fees, as applicable: 46516

(a) For an ephemeral stream, a review fee of five dollars per 46517
linear foot of stream to be impacted, or two hundred dollars, 46518
whichever is greater; 46519

(b) For an intermittent stream, a review fee of ten dollars 46520
per linear foot of stream to be impacted, or two hundred dollars, 46521

whichever is greater; 46522

(c) For a perennial stream, a review fee of fifteen dollars per linear foot of stream to be impacted, or two hundred dollars, whichever is greater. 46523
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(3) If the water resource to be impacted is a lake, a review fee of three dollars per cubic yard of dredged or fill material to be moved. 46526
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(B) One-half of all applicable review fees levied under this section shall be due at the time of application for a section 401 water quality certification. The remainder of the fees shall be paid upon the final disposition of the application for a section 401 water quality certification. The total fee to be paid under this section shall not exceed twenty-five thousand dollars per application. However, if the applicant is a county, township, or municipal corporation in this state, the total fee to be paid shall not exceed five thousand dollars per application. 46529
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(C) All money collected under this section shall be transmitted to the treasurer of state for deposit into the state treasury to the credit of the surface water protection fund created in section 6111.038 of the Revised Code. 46538
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(D) The fees established under this section do not apply to any state agency as defined in section 119.01 of the Revised Code. 46542
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(E) The fees established under this section do not apply to projects that are authorized by the environmental protection agency's general certifications of nationwide permits or general permits issued by the United States army corps of engineers. As used in this division, "general permit" and "nationwide permit" have the same meanings as in rules adopted under Chapter 6111. of the Revised Code. 46544
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(F) Coal mining and reclamation operations that are authorized under Chapter 1513. of the Revised Code are exempt from 46551
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the fees established under this section for one year after the 46553
effective date of this section. 46554

(G) As used in this section: 46555

(1) "Ephemeral stream" means a stream that flows only in 46556
direct response to precipitation in the immediate watershed or in 46557
response to the melting of a cover of snow and ice and that has 46558
channel bottom that is always above the local water table. 46559

(2) "Intermittent stream" means a stream that is below the 46560
local water table and flows for at least a part of each year and 46561
that obtains its flow from both surface runoff and ground water 46562
discharge. 46563

(3) "Perennial stream" means a stream or a part of a stream 46564
that flows continuously during all of the calendar year as a 46565
result of ground water discharge or surface water runoff. 46566
"Perennial stream" does not include an intermittent stream or an 46567
ephemeral stream. 46568

Sec. 3745.12. (A) There is hereby created in the state 46569
treasury the immediate removal fund, which shall be administered 46570
by the director of environmental protection. The fund may be used 46571
for both of the following purposes: 46572

(1) To pay costs incurred by the environmental protection 46573
agency in investigating, mitigating, minimizing, removing, or 46574
abating any unauthorized spill, release, or discharge of material 46575
into or upon the environment that requires emergency action to 46576
protect the public health or safety or the environment; 46577

(2) Conducting remedial actions under section 3752.13 of the 46578
Revised Code. 46579

(B) Any person responsible for causing or allowing the 46580
unauthorized spill, release, or discharge is liable to the 46581
director for the costs incurred by the agency regardless of 46582

whether those costs were paid out of the fund created under 46583
division (A) of this section or any other fund of the agency. Upon 46584
the request of the director, the attorney general shall bring a 46585
civil action against the responsible person to recover those 46586
costs. Moneys recovered under this division shall be paid into the 46587
state treasury to the credit of the immediate removal fund, except 46588
that moneys recovered for costs paid from the hazardous waste 46589
clean-up fund created in section 3734.28 of the Revised Code shall 46590
be credited to the hazardous waste clean-up fund. 46591

Sec. 3746.04. Within one year after September 28, 1994, the 46592
director of environmental protection, in accordance with Chapter 46593
119. of the Revised Code and with the advice of the 46594
multidisciplinary council appointed under section 3746.03 of the 46595
Revised Code, shall adopt, and subsequently may amend, suspend, or 46596
rescind, rules that do both of the following: 46597

(A) Revise the rules adopted under Chapters 3704., 3714., 46598
3734., 6109., and 6111. of the Revised Code to incorporate the 46599
provisions necessary to conform those rules to the requirements of 46600
this chapter. The amended rules adopted under this division also 46601
shall establish response times for all submittals to the 46602
environmental protection agency required under this chapter or 46603
rules adopted under it. 46604

(B) Establish requirements and procedures that are reasonably 46605
necessary for the implementation and administration of this 46606
chapter, including, without limitation, all of the following: 46607

(1) Appropriate generic numerical clean-up standards for the 46608
treatment or removal of soils, sediments, and water media for 46609
hazardous substances and petroleum. The rules shall establish 46610
separate generic numerical clean-up standards based upon the 46611
intended use of properties after the completion of voluntary 46612
actions, including industrial, commercial, and residential uses 46613

and such other categories of land use as the director considers to be appropriate. The generic numerical clean-up standards established for each category of land use shall be the concentration of each contaminant that may be present on a property that shall ensure protection of public health and safety and the environment for the reasonable exposure for that category of land use. When developing the standards, the director shall consider such factors as all of the following:

(a) Scientific information, including, without limitation, toxicological information and realistic assumptions regarding human and environmental exposure to hazardous substances or petroleum;

(b) Climatic factors;

(c) Human activity patterns;

(d) Current statistical techniques;

(e) For petroleum at industrial property, alternatives to the use of total petroleum hydrocarbons.

The generic numerical clean-up standards established in the rules adopted under division (B)(1) of this section shall be consistent with and equivalent in scope, content, and coverage to any applicable standard established by federal environmental laws and regulations adopted under them, including, without limitation, the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended; the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended; the "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended; the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as amended; and the "Safe Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C.A. 300f, as amended.

In order for the rules adopted under division (B)(1) of this section to require that any such federal environmental standard apply to a property, the property shall meet the requirements of the particular federal statute or regulation involved in the manner specified by the statute or regulation.

The generic numerical clean-up standards for petroleum at commercial or residential property shall be the standards established in rules adopted under division (B) of section 3737.882 of the Revised Code.

(2)(a) Procedures for performing property-specific risk assessments that would be performed at a property to demonstrate that the remedy evaluated in a risk assessment results in protection of public health and safety and the environment instead of complying with the generic numerical clean-up standards established in the rules adopted under division (B)(1) of this section. The risk assessment procedures shall describe a methodology to establish, on a property-specific basis, allowable levels of contamination to remain at a property to ensure protection of public health and safety and the environment on the property and off the property when the contamination is emanating off the property, taking into account all of the following:

(i) The implementation of treatment, storage, or disposal, or a combination thereof, of hazardous substances or petroleum;

(ii) The existence of institutional controls or activity and use limitations that eliminate or mitigate exposure to hazardous substances or petroleum through the restriction of access to hazardous substances or petroleum;

(iii) The existence of engineering controls that eliminate or mitigate exposure to hazardous substances or petroleum through containment of, control of, or restrictions of access to hazardous substances or petroleum, including, without limitation, fences,

cap systems, cover systems, and landscaping. 46676

(b) The risk assessment procedures and levels of acceptable 46677
risk set forth in the rules adopted under division (B)(2) of this 46678
section shall be based upon all of the following: 46679

(i) Scientific information, including, without limitation, 46680
toxicological information and actual or proposed human and 46681
environmental exposure; 46682

(ii) Locational and climatic factors; 46683

(iii) Surrounding land use and human activities; 46684

(iv) Differing levels of remediation that may be required 46685
when an existing land use is continued compared to when a 46686
different land use follows the remediation. 46687

(c) Any standards established pursuant to rules adopted under 46688
division (B)(2) of this section shall be no more stringent than 46689
standards established under the environmental statutes of this 46690
state and rules adopted under them for the same contaminant in the 46691
same environmental medium that are in effect at the time the risk 46692
assessment is conducted. 46693

(3) Minimum standards for phase I property assessments. The 46694
standards shall specify the information needed to demonstrate that 46695
there is no reason to believe that contamination exists on a 46696
property. The rules adopted under division (B)(3) of this section, 46697
at a minimum, shall require that a phase I property assessment 46698
include all of the following: 46699

(a) A review and analysis of deeds, mortgages, easements of 46700
record, and similar documents relating to the chain of title to 46701
the property that are publicly available or that are known to and 46702
reasonably available to the owner or operator; 46703

(b) A review and analysis of any previous environmental 46704
assessments, property assessments, environmental studies, or 46705

geologic studies of the property and any land within two thousand feet of the boundaries of the property that are publicly available or that are known to and reasonably available to the owner or operator;

(c) A review of current and past environmental compliance histories of persons who owned or operated the property;

(d) A review of aerial photographs of the property that indicate prior uses of the property;

(e) Interviews with managers of activities conducted at the property who have knowledge of environmental conditions at the property;

(f) Conducting an inspection of the property consisting of a walkover;

(g) Identifying the current and past uses of the property, adjoining tracts of land, and the area surrounding the property, including, without limitation, interviews with persons who reside or have resided, or who are or were employed, within the area surrounding the property regarding the current and past uses of the property and adjacent tracts of land.

The rules adopted under division (B)(3) of this section shall establish criteria to determine when a phase II property assessment shall be conducted when a phase I property assessment reveals facts that establish a reason to believe that hazardous substances or petroleum have been treated, stored, managed, or disposed of on the property if the person undertaking the phase I property assessment wishes to obtain a covenant not to sue under section 3746.12 of the Revised Code.

(4) Minimum standards for phase II property assessments. The standards shall specify the information needed to demonstrate that any contamination present at the property does not exceed applicable standards or that the remedial activities conducted at

the property have achieved compliance with applicable standards. 46737
The rules adopted under division (B)(4) of this section, at a 46738
minimum, shall require that a phase II property assessment include 46739
all of the following: 46740

(a) A review and analysis of all documentation prepared in 46741
connection with a phase I property assessment conducted within the 46742
one hundred eighty days before the phase II property assessment 46743
begins. The rules adopted under division (B)(4)(a) of this section 46744
shall require that if a period of more than one hundred eighty 46745
days has passed between the time that the phase I assessment of 46746
the property was completed and the phase II assessment begins, the 46747
phase II assessment shall include a reasonable inquiry into the 46748
change in the environmental condition of the property during the 46749
intervening period. 46750

(b) Quality assurance objectives for measurements taken in 46751
connection with a phase II assessment; 46752

(c) Sampling procedures to ensure the representative sampling 46753
of potentially contaminated environmental media; 46754

(d) Quality assurance and quality control requirements for 46755
samples collected in connection with phase II assessments; 46756

(e) Analytical and data assessment procedures; 46757

(f) Data objectives to ensure that samples collected in 46758
connection with phase II assessments are biased toward areas where 46759
information indicates that contamination by hazardous substances 46760
or petroleum is likely to exist. 46761

(5) Standards governing the conduct of certified 46762
professionals, criteria and procedures for the certification of 46763
professionals to issue no further action letters under section 46764
3746.11 of the Revised Code, and criteria for the suspension and 46765
revocation of those certifications. The director shall take an 46766
action regarding a certification as a final action. The issuance, 46767

denial, renewal, suspension, and revocation of those 46768
certifications are subject to Chapter 3745. of the Revised Code, 46769
~~and the director shall take any such action regarding a~~ 46770
~~certification as a final action~~ except that, in lieu of publishing 46771
an action regarding a certification in a newspaper of general 46772
circulation as required in section 3745.07 of the Revised Code, 46773
such an action shall be published on the environmental protection 46774
agency's web site and in the agency's weekly review not later than 46775
fifteen days after the date of the issuance, denial, renewal, 46776
suspension, or revocation of the certification and not later than 46777
thirty days before a hearing or public meeting concerning the 46778
action. 46779

The rules adopted under division (B)(5) of this section shall 46780
do all of the following: 46781

(a) Provide for the certification of environmental 46782
professionals to issue no further action letters pertaining to 46783
investigations and remedies in accordance with the criteria and 46784
procedures set forth in the rules. The rules adopted under 46785
division (B)(5)(a) of this section shall do at least all of the 46786
following: 46787

(i) Authorize the director to consider such factors as an 46788
environmental professional's previous performance record regarding 46789
such investigations and remedies and the environmental 46790
professional's environmental compliance history when determining 46791
whether to certify the environmental professional; 46792

(ii) Ensure that an application for certification is reviewed 46793
in a timely manner; 46794

(iii) Require the director to certify any environmental 46795
professional who the director determines complies with those 46796
criteria; 46797

(iv) Require the director to deny certification for any 46798

environmental professional who does not comply with those 46799
criteria. 46800

(b) Establish an annual fee to be paid by environmental 46801
professionals certified pursuant to the rules adopted under 46802
division (B)(5)(a) of this section. The fee shall be established 46803
at an amount calculated to defray the costs to the ~~environmental~~ 46804
~~protection~~ agency for the required reviews of the qualifications 46805
of environmental professionals for certification and for the 46806
issuance of the certifications. 46807

(c) Develop a schedule for and establish requirements 46808
governing the review by the director of the credentials of 46809
environmental professionals who were deemed to be certified 46810
professionals under division (D) of section 3746.07 of the Revised 46811
Code in order to determine if they comply with the criteria 46812
established in rules adopted under division (B)(5) of this 46813
section. The rules adopted under division (B)(5)(c) of this 46814
section shall do at least all of the following: 46815

(i) Ensure that the review is conducted in a timely fashion; 46816

(ii) Require the director to certify any such environmental 46817
professional who the director determines complies with those 46818
criteria; 46819

(iii) Require any such environmental professional initially 46820
to pay the fee established in the rules adopted under division 46821
(B)(5)(b) of this section at the time that the environmental 46822
professional is so certified by the director; 46823

(iv) Establish a time period within which any such 46824
environmental professional who does not comply with those criteria 46825
may obtain the credentials that are necessary for certification; 46826

(v) Require the director to deny certification for any such 46827
environmental professional who does not comply with those criteria 46828
and who fails to obtain the necessary credentials within the 46829

established time period. 46830

(d) Require that any information submitted to the director 46831
for the purposes of the rules adopted under division (B)(5)(a) or 46832
(c) of this section comply with division (A) of section 3746.20 of 46833
the Revised Code; 46834

(e) Authorize the director to suspend or revoke the 46835
certification of an environmental professional if the director 46836
finds that the environmental professional's performance has 46837
resulted in the issuance of no further action letters under 46838
section 3746.11 of the Revised Code that are not consistent with 46839
applicable standards or finds that the certified environmental 46840
professional has not substantially complied with section 3746.31 46841
of the Revised Code; 46842

(f) Authorize the director to suspend for a period of not 46843
more than five years or to permanently revoke a certified 46844
environmental professional's certification for any violation of or 46845
failure to comply with an ethical standard established in rules 46846
adopted under division (B)(5) of this section-; 46847

(g) Require the director to revoke the certification of an 46848
environmental professional if the director finds that the 46849
environmental professional falsified any information on the 46850
environmental professional's application for certification 46851
regarding the environmental professional's credentials or 46852
qualifications or any other information generated for the purposes 46853
of or use under this chapter or rules adopted under it; 46854

(h) Require the director permanently to revoke the 46855
certification of an environmental professional who has violated or 46856
is violating division (A) of section 3746.18 of the Revised Code; 46857

(i) Preclude the director from revoking the certification of 46858
an environmental professional who only conducts investigations and 46859
remedies at property contaminated solely with petroleum unless the 46860

director first consults with the director of commerce. 46861

(6) Criteria and procedures for the certification of 46862
laboratories to perform analyses under this chapter and rules 46863
adopted under it. The issuance, denial, suspension, and revocation 46864
of those certifications are subject to Chapter 3745. of the 46865
Revised Code, and the director of environmental protection shall 46866
take any such action regarding a certification as a final action. 46867

The rules adopted under division (B)(6) of this section shall 46868
do all of the following: 46869

(a) Provide for the certification to perform analyses of 46870
laboratories in accordance with the criteria and procedures 46871
established in the rules adopted under division (B)(6)(a) of this 46872
section and establish an annual fee to be paid by those 46873
laboratories. The fee shall be established at an amount calculated 46874
to defray the costs to the agency for the review of the 46875
qualifications of those laboratories for certification and for the 46876
issuance of the certifications. The rules adopted under division 46877
(B)(6)(a) of this section may provide for the certification of 46878
those laboratories to perform only particular types or categories 46879
of analyses, specific test parameters or group of test parameters, 46880
or a specific matrix or matrices under this chapter. 46881

(b) Develop a schedule for and establish requirements 46882
governing the review by the director of the operations of 46883
laboratories that were deemed to be certified laboratories under 46884
division (E) of section 3746.07 of the Revised Code in order to 46885
determine if they comply with the criteria established in rules 46886
adopted under division (B)(6) of this section. The rules adopted 46887
under division (B)(6)(b) of this section shall do at least all of 46888
the following: 46889

(i) Ensure that the review is conducted in a timely fashion; 46890

(ii) Require the director to certify any such laboratory that 46891

the director determines complies with those criteria; 46892

(iii) Require any such laboratory initially to pay the fee 46893
established in the rules adopted under division (B)(6)(a) of this 46894
section at the time that the laboratory is so certified by the 46895
director; 46896

(iv) Establish a time period within which any such laboratory 46897
that does not comply with those criteria may make changes in its 46898
operations necessary for the performance of analyses under this 46899
chapter and rules adopted under it in order to be certified by the 46900
director; 46901

(v) Require the director to deny certification for any such 46902
laboratory that does not comply with those criteria and that fails 46903
to make the necessary changes in its operations within the 46904
established time period. 46905

(c) Require that any information submitted to the director 46906
for the purposes of the rules adopted under division (B)(6)(a) or 46907
(b) of this section comply with division (A) of section 3746.20 of 46908
the Revised Code; 46909

(d) Authorize the director to suspend or revoke the 46910
certification of a laboratory if the director finds that the 46911
laboratory's performance has resulted in the issuance of no 46912
further action letters under section 3746.11 of the Revised Code 46913
that are not consistent with applicable standards; 46914

(e) Authorize the director to suspend or revoke the 46915
certification of a laboratory if the director finds that the 46916
laboratory falsified any information on its application for 46917
certification regarding its credentials or qualifications; 46918

(f) Require the director permanently to revoke the 46919
certification of a laboratory that has violated or is violating 46920
division (A) of section 3746.18 of the Revised Code. 46921

(7) Information to be included in a no further action letter prepared under section 3746.11 of the Revised Code, including, without limitation, all of the following:

(a) A summary of the information required to be submitted to the certified environmental professional preparing the no further action letter under division (C) of section 3746.10 of the Revised Code;

(b) Notification that a risk assessment was performed in accordance with rules adopted under division (B)(2) of this section if such an assessment was used in lieu of generic numerical clean-up standards established in rules adopted under division (B)(1) of this section;

(c) The contaminants addressed at the property, if any, their source, if known, and their levels prior to remediation;

(d) The identity of any other person who performed work to support the request for the no further action letter as provided in division (B)(2) of section 3746.10 of the Revised Code and the nature and scope of the work performed by that person;

(e) A list of the data, information, records, and documents relied upon by the certified environmental professional in preparing the no further action letter.

(8) Methods for determining fees to be paid for the following services provided by the agency under this chapter and rules adopted under it:

(a) Site- or property-specific technical assistance in developing or implementing plans in connection with a voluntary action;

(b) Reviewing applications for and issuing consolidated standards permits under section 3746.15 of the Revised Code and monitoring compliance with those permits;

(c) Negotiating, preparing, and entering into agreements 46952
necessary for the implementation and administration of this 46953
chapter and rules adopted under it; 46954

(d) Reviewing no further action letters, issuing covenants 46955
not to sue, and monitoring compliance with any terms and 46956
conditions of those covenants and with operation and maintenance 46957
agreements entered into pursuant to those covenants, including, 46958
without limitation, conducting audits of properties where 46959
voluntary actions are being or were conducted under this chapter 46960
and rules adopted under it. 46961

The fees established pursuant to the rules adopted under 46962
division (B)(8) of this section shall be at a level sufficient to 46963
defray the direct and indirect costs incurred by the agency for 46964
the administration and enforcement of this chapter and rules 46965
adopted under it other than the provisions regarding the 46966
certification of professionals and laboratories. 46967

(9) Criteria for selecting the no further action letters 46968
issued under section 3746.11 of the Revised Code that will be 46969
audited under section 3746.17 of the Revised Code, and the scope 46970
and procedures for conducting those audits. The rules adopted 46971
under division (B)(9) of this section, at a minimum, shall require 46972
the director to establish priorities for auditing no further 46973
action letters to which any of the following applies: 46974

(a) The letter was prepared by an environmental professional 46975
who was deemed to be a certified professional under division (D) 46976
of section 3746.07 of the Revised Code, but who does not comply 46977
with the criteria established in rules adopted under division 46978
(B)(5) of this section as determined pursuant to rules adopted 46979
under division (B)(5)(d) of this section—i 46980

(b) The letter was submitted fraudulently—i 46981

(c) The letter was prepared by a certified environmental 46982

professional whose certification subsequently was revoked in 46983
accordance with rules adopted under division (B)(5) of this 46984
section, or analyses were performed for the purposes of the no 46985
further action letter by a certified laboratory whose 46986
certification subsequently was revoked in accordance with rules 46987
adopted under division (B)(6) of this section-; 46988

(d) A covenant not to sue that was issued pursuant to the 46989
letter was revoked under this chapter-; 46990

(e) The letter was for a voluntary action that was conducted 46991
pursuant to a risk assessment in accordance with rules adopted 46992
under division (B)(2) of this section-; 46993

(f) The letter was for a voluntary action that included as 46994
remedial activities engineering controls or institutional controls 46995
or activity and use limitations authorized under section 3746.05 46996
of the Revised Code. 46997

The rules adopted under division (B)(9) of this section shall 46998
provide for random audits of no further action letters to which 46999
the rules adopted under divisions (B)(9)(a) to (f) of this section 47000
do not apply. 47001

(10) A classification system to characterize ground water 47002
according to its capability to be used for human use and its 47003
impact on the environment and a methodology that shall be used to 47004
determine when ground water that has become contaminated from 47005
sources on a property for which a covenant not to sue is requested 47006
under section 3746.11 of the Revised Code shall be remediated to 47007
the standards established in the rules adopted under division 47008
(B)(1) or (2) of this section. 47009

(a) In adopting rules under division (B)(10) of this section 47010
to characterize ground water according to its capability for human 47011
use, the director shall consider all of the following: 47012

(i) The presence of legally enforceable, reliable 47013

| | |
|---|-------|
| restrictions on the use of ground water, including, without | 47014 |
| limitation, local rules or ordinances; | 47015 |
| (ii) The presence of regional commingled contamination from | 47016 |
| multiple sources that diminishes the quality of ground water; | 47017 |
| (iii) The natural quality of ground water; | 47018 |
| (iv) Regional availability of ground water and reasonable | 47019 |
| alternative sources of drinking water; | 47020 |
| (v) The productivity of the aquifer; | 47021 |
| (vi) The presence of restrictions on the use of ground water | 47022 |
| implemented under this chapter and rules adopted under it; | 47023 |
| (vii) The existing use of ground water. | 47024 |
| (b) In adopting rules under division (B)(10) of this section | 47025 |
| to characterize ground water according to its impacts on the | 47026 |
| environment, the director shall consider both of the following: | 47027 |
| (i) The risks posed to humans, fauna, surface water, | 47028 |
| sediments, soil, air, and other resources by the continuing | 47029 |
| presence of contaminated ground water; | 47030 |
| (ii) The availability and feasibility of technology to remedy | 47031 |
| ground water contamination. | 47032 |
| (11) Governing the application for and issuance of variances | 47033 |
| under section 3746.09 of the Revised Code; | 47034 |
| (12)(a) In the case of voluntary actions involving | 47035 |
| contaminated ground water, specifying the circumstances under | 47036 |
| which the generic numerical clean-up standards established in | 47037 |
| rules adopted under division (B)(1) of this section and standards | 47038 |
| established through a risk assessment conducted pursuant to rules | 47039 |
| adopted under division (B)(2) of this section shall be | 47040 |
| inapplicable to the remediation of contaminated ground water and | 47041 |
| under which the standards for remediating contaminated ground | 47042 |
| water shall be established on a case-by-case basis prior to the | 47043 |

commencement of the voluntary action pursuant to rules adopted 47044
under division (B)(12)(b) of this section; 47045

(b) Criteria and procedures for the case-by-case 47046
establishment of standards for the remediation of contaminated 47047
ground water under circumstances in which the use of the generic 47048
numerical clean-up standards and standards established through a 47049
risk assessment are precluded by the rules adopted under division 47050
(B)(12)(a) of this section. The rules governing the procedures for 47051
the case-by-case development of standards for the remediation of 47052
contaminated ground water shall establish application, public 47053
participation, adjudication, and appeals requirements and 47054
procedures that are equivalent to the requirements and procedures 47055
established in section 3746.09 of the Revised Code and rules 47056
adopted under division (B)(11) of this section, except that the 47057
procedural rules shall not require an applicant to make the 47058
demonstrations set forth in divisions (A)(1) to (3) of section 47059
3746.09 of the Revised Code. 47060

(13) A definition of the evidence that constitutes sufficient 47061
evidence for the purpose of division (A)(5) of section 3746.02 of 47062
the Revised Code. 47063

At least thirty days before filing the proposed rules 47064
required to be adopted under this section with the secretary of 47065
state, director of the legislative service commission, and joint 47066
committee on agency rule review in accordance with divisions (B) 47067
and (H) of section 119.03 of the Revised Code, the director of 47068
environmental protection shall hold at least one public meeting on 47069
the proposed rules in each of the five districts into which the 47070
agency has divided the state for administrative purposes. 47071

Sec. 3746.071. (A) As used in this section, "certified 47072
professional" means a certified professional deemed to be 47073
certified under division (D) of section 3746.07 of the Revised 47074

Code. 47075

(B) A certified professional shall do all of the following: 47076

(1) Protect the safety, health, and welfare of the public in 47077
the performance of ~~his~~ professional duties. If a circumstance 47078
arises where the certified professional faces a situation where 47079
the safety, health, or welfare of the public would not be 47080
protected, ~~he~~ the certified professional shall do all of the 47081
following: 47082

(a) Sever ~~his~~ the relationship with ~~his~~ the certified 47083
professional's employer or client; 47084

(b) Refuse to accept responsibility for the design, report, 47085
or statement involved; 47086

(c) Notify the director of environmental protection if, in 47087
the opinion of the certified professional, the situation is 47088
sufficiently important. 47089

(2) Undertake to perform assignments only when ~~he~~ the 47090
certified professional or ~~his~~ the certified professional's 47091
consulting support is qualified by training and experience in the 47092
specific technical fields involved; 47093

(3) Be completely objective in any professional report, 47094
statement, or testimony. ~~He~~ The certified professional shall 47095
include all relevant and pertinent information in the report, 47096
statement, or testimony when the result of an omission would or 47097
reasonably could lead to a fallacious conclusion. 47098

(4) Express an opinion as a technical or expert witness 47099
before any court, commission, or other tribunal only when it is 47100
founded upon adequate knowledge of the facts in issue, upon a 47101
background of technical competence in the subject matter, and upon 47102
honest conviction of the accuracy and propriety of ~~his~~ the 47103
testimony. 47104

(C) A certified professional shall not issue statements, 47105
criticisms, or arguments on matters connected with public policy 47106
that are inspired or paid for by an interested party, unless ~~he~~ 47107
the certified professional has prefaced ~~his~~ the remarks by 47108
explicitly identifying ~~himself~~ the certified professional, by 47109
disclosing the identity of the parties on whose behalf ~~he~~ the 47110
certified professional is speaking, and by revealing the existence 47111
of any pecuniary interest ~~he~~ the certified professional may have 47112
in the instant matters. 47113

(D)(1) A certified professional shall conscientiously avoid 47114
any conflict of interest with ~~his~~ the certified professional's 47115
employer or client. 47116

(2) A certified professional promptly shall inform ~~his~~ the 47117
certified professional's employer or client of any business 47118
association, interests, or circumstances that could influence ~~his~~ 47119
the certified professional's judgment or the quality of ~~his~~ the 47120
certified professional's service to ~~his~~ the employer or client. 47121

(3) A certified professional shall not accept compensation, 47122
financial or otherwise, from more than one party for services on 47123
or pertaining to the same project, unless the circumstances are 47124
fully disclosed to, and agreed to, by all interested parties or 47125
their duly authorized agents. 47126

(4) A certified professional shall not solicit or accept 47127
financial or other valuable considerations from material or 47128
equipment suppliers for specifying their products. 47129

(5) A certified professional shall not solicit or accept 47130
gratuities, directly or indirectly, from contractors, their 47131
agents, or other parties dealing directly with ~~his~~ the certified 47132
professional's employer or client in connection with the work for 47133
which ~~he~~ the certified professional is responsible. 47134

(E)(1) A certified professional shall not pay, solicit, or 47135

offer, directly or indirectly, any bribe or commission for 47136
professional employment with the exception of ~~his~~ payment of the 47137
usual commission for securing salaried positions through licensed 47138
employment agencies. 47139

(2) A certified professional shall seek professional 47140
employment on the basis of qualification and competence for proper 47141
accomplishment of the work. A certified professional may submit 47142
proposed fee information prior to ~~his~~ selection to serve as a 47143
certified professional under this chapter and rules adopted under 47144
it. 47145

(3) A certified professional shall not falsify or permit 47146
misrepresentation of ~~his~~ the certified professional's or ~~his~~ the 47147
certified professional's associates' academic or professional 47148
qualifications. ~~He~~ The certified professional shall not 47149
misrepresent or exaggerate ~~his~~ the certified professional's degree 47150
of responsibility in or for the subject matter of prior 47151
assignments. 47152

(4) Brochures or other presentations incident to the 47153
solicitation of employment by a certified professional shall not 47154
misrepresent pertinent facts concerning ~~his~~ the certified 47155
professional's employers, employees, associates, or joint 47156
ventures, or ~~his or their~~ the past accomplishments of any of them, 47157
with the intent and purpose of enhancing ~~his~~ the certified 47158
professional's qualifications for ~~his~~ the certified professional's 47159
work. 47160

(F)(1) A certified professional shall not sign or seal 47161
professional work for which ~~he~~ the certified professional does not 47162
have personal professional knowledge and direct supervisory 47163
control and responsibility. 47164

(2) A certified professional shall not knowingly associate 47165
with, or permit the use of ~~his~~ the certified professional's own 47166

name or ~~his firm's~~ the name of the certified professional's firm 47167
in, a business venture by any person or firm that ~~he~~ the certified 47168
professional knows, or has reason to believe, is engaging in 47169
business or professional practices of a fraudulent or dishonest 47170
nature. 47171

(3) If a certified professional has knowledge or reason to 47172
believe that another person or firm has violated any of the 47173
provisions of this chapter or any requirement of this section, ~~he~~ 47174
the certified professional shall present the information to the 47175
director in writing. 47176

(G) The director, in accordance with ~~Chapter 3745-~~ rules 47177
adopted under section 3746.04 of the Revised Code, may suspend for 47178
a period of not more than five years or permanently revoke a 47179
certified professional's certification for a violation of or 47180
failure to comply with any requirement or obligation set forth in 47181
this section. 47182

Sec. 3748.07. (A) Every facility that proposes to handle 47183
radioactive material or radiation-generating equipment for which 47184
licensure or registration, respectively, by its handler is 47185
required shall apply in writing to the director of health on forms 47186
prescribed and provided by the director for licensure or 47187
registration. Terms and conditions of licenses and certificates of 47188
registration may be amended in accordance with rules adopted under 47189
section 3748.04 of the Revised Code or orders issued by the 47190
director pursuant to section 3748.05 of the Revised Code. 47191

(B) Until rules are adopted under section 3748.04 of the 47192
Revised Code, an application for a certificate of registration 47193
shall be accompanied by a biennial registration fee of two hundred 47194
eighteen dollars. On and after the effective date of those rules, 47195
an applicant for a license, registration certificate, or renewal 47196
of either shall pay the appropriate fee established in those 47197

rules. 47198

All fees collected under this section shall be deposited in 47199
the state treasury to the credit of the general operations fund 47200
created in section 3701.83 of the Revised Code. The fees shall be 47201
used solely to administer and enforce this chapter and rules 47202
adopted under it. 47203

Any fee required under this section that has not been paid 47204
within ninety days after the invoice date shall be assessed at two 47205
times the original invoiced fee. Any fee that has not been paid 47206
within one hundred eighty days after the invoice date shall be 47207
assessed at five times the original invoiced fee. 47208

(C) The director shall grant a license or registration to any 47209
applicant who has paid the required fee and is in compliance with 47210
this chapter and rules adopted under it. 47211

Until rules are adopted under section 3748.04 of the Revised 47212
Code, certificates of registration shall be effective for two 47213
years from the date of issuance. On and after the effective date 47214
of those rules, licenses and certificates of registration shall be 47215
effective for the applicable period established in those rules. 47216
Licenses and certificates of registration shall be renewed in 47217
accordance with the standard renewal procedure established in 47218
Chapter 4745. of the Revised Code. 47219

Sec. 3748.13. (A) The director of health shall inspect 47220
sources of radiation for which licensure or registration by the 47221
handler is required, and the sources' shielding and surroundings, 47222
according to the schedule established in rules adopted under 47223
division (D) of section 3748.04 of the Revised Code. In accordance 47224
with rules adopted under that section, the director shall inspect 47225
all records and operating procedures of handlers that install 47226
sources of radiation and all sources of radiation for which 47227
licensure of radioactive material or registration of 47228

radiation-generating equipment by the handler is required. The 47229
director may make other inspections upon receiving complaints or 47230
other evidence of violation of this chapter or rules adopted under 47231
it. 47232

The director shall require any hospital registered under 47233
division (A) of section 3701.07 of the Revised Code to develop and 47234
maintain a quality assurance program for all sources of 47235
radiation-generating equipment. A certified radiation expert shall 47236
conduct oversight and maintenance of the program and shall file a 47237
report of audits of the program with the director on forms 47238
prescribed by the director. The audit reports shall become part of 47239
the inspection record. 47240

(B) Until rules are adopted under division (A)(8) of section 47241
3748.04 of the Revised Code, a facility shall pay inspection fees 47242
according to the following schedule and categories: 47243

| | | |
|---|------------------------------------|-------|
| First dental x-ray tube | \$ 118.00 <u>129.00</u> | 47244 |
| Each additional dental x-ray tube at the same location | \$ 59.00 <u>64.00</u> | 47245 |
| First medical x-ray tube | \$ 235.00 <u>256.00</u> | 47246 |
| Each additional medical x-ray tube at the same location | \$ 125.00 <u>136.00</u> | 47247 |
| Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak | \$ 466.00 <u>508.00</u> | 47248 |
| First nonionizing radiation-generating equipment of any kind | \$ 235.00 <u>256.00</u> | 47249 |
| Each additional nonionizing radiation-generating equipment of any kind at the same location | \$ 125.00 <u>136.00</u> | 47250 |
| Assembler-maintainer inspection | \$ 291.00 <u>317.00</u> | 47251 |

consisting of an inspection of
records and operating procedures
of handlers that install sources
of radiation

Until rules are adopted under division (A)(8) of section 47252
3748.04 of the Revised Code, the fee for an inspection to 47253
determine whether violations cited in a previous inspection have 47254
been corrected is fifty per cent of the fee applicable under the 47255
schedule in this division. Until those rules are adopted, the fee 47256
for the inspection of a facility that is not licensed or 47257
registered and for which no license or registration application is 47258
pending at the time of inspection is three hundred ~~sixty-three~~ 47259
ninety-five dollars plus the fee applicable under the schedule in 47260
this division. 47261

The director may conduct a review of shielding plans or the 47262
adequacy of shielding on the request of a licensee or registrant 47263
or an applicant for licensure or registration or during an 47264
inspection when the director considers a review to be necessary. 47265
Until rules are adopted under division (A)(8) of section 3748.04 47266
of the Revised Code, the fee for the review is ~~five~~ six hundred 47267
~~eighty-three~~ thirty-five dollars for each room where a source of 47268
radiation is used and is in addition to any other fee applicable 47269
under the schedule in this division. 47270

All fees shall be paid to the department of health no later 47271
than thirty days after the invoice for the fee is mailed. Fees 47272
shall be deposited in the general operations fund created in 47273
section 3701.83 of the Revised Code. The fees shall be used solely 47274
to administer and enforce this chapter and rules adopted under it. 47275

Any fee required under this section that has not been paid 47276
within ninety days after the invoice date shall be assessed at two 47277
times the original invoiced fee. Any fee that has not been paid 47278
within one hundred eighty days after the invoice date shall be 47279

assessed at five times the original invoiced fee. 47280

(C) If the director determines that a board of health of a 47281
city or general health district is qualified to conduct 47282
inspections of radiation-generating equipment, the director may 47283
delegate to the board, by contract, the authority to conduct such 47284
inspections. In making a determination of the qualifications of a 47285
board of health to conduct those inspections, the director shall 47286
evaluate the credentials of the individuals who are to conduct the 47287
inspections of radiation-generating equipment and the radiation 47288
detection and measuring equipment available to them for that 47289
purpose. If a contract is entered into, the board shall have the 47290
same authority to make inspections of radiation-generating 47291
equipment as the director has under this chapter and rules adopted 47292
under it. The contract shall stipulate that only individuals 47293
approved by the director as qualified shall be permitted to 47294
inspect radiation-generating equipment under the contract's 47295
provisions. The contract shall provide for such compensation for 47296
services as is agreed to by the director and the board of health 47297
of the contracting health district. The director may reevaluate 47298
the credentials of the inspection personnel and their radiation 47299
detecting and measuring equipment as often as the director 47300
considers necessary and may terminate any contract with the board 47301
of health of any health district that, in the director's opinion, 47302
is not satisfactorily performing the terms of the contract. 47303

(D) The director may enter at all reasonable times upon any 47304
public or private property to determine compliance with this 47305
chapter and rules adopted under it. 47306

Sec. 3770.061. There is hereby created in the state treasury 47307
the charitable gaming oversight fund. The state lottery commission 47308
shall credit to the fund any money it receives from the office of 47309
the attorney general under any agreement the commission and the 47310

office have entered into under division (I) of section 2915.08 of 47311
the Revised Code. The commission shall use money in the fund to 47312
provide oversight, licensing, and monitoring of charitable gaming 47313
activities in this state in accordance with the agreement and 47314
Chapter 2915. of the Revised Code. Not later than the first day of 47315
July of each fiscal year, or as soon as possible thereafter, the 47316
commission may certify to the office of budget and management any 47317
unobligated fund balances not necessary to be used under this 47318
section. The commission may request the office of budget and 47319
management to transfer these balances to the lottery profits 47320
education fund for use in accordance with section 3770.06 of the 47321
Revised Code. 47322

Sec. 3773.34. (A) The Ohio athletic commission shall adopt 47323
and may amend or rescind rules in accordance with Chapter 119. of 47324
the Revised Code, prescribing the conditions under which prize 47325
fights and public boxing or wrestling matches or exhibitions may 47326
be conducted, classifying professional boxers by weight, and 47327
providing for the administration of sections 3773.31 to 3773.57 of 47328
the Revised Code. The rules may require that an applicant for a 47329
contestant's license to participate in a public boxing match or 47330
exhibition take an HIV test, as defined in section 3701.24 of the 47331
Revised Code, before being issued the contestant's license and may 47332
require that a licensed contestant take such an HIV test before 47333
participating in a public boxing match or exhibition. The 47334
commission, or the commission's executive director when authorized 47335
by the commission, may issue, deny, suspend, or revoke permits to 47336
hold prize fights and public boxing or wrestling matches or 47337
exhibitions,~~and~~. The commission may issue, deny, suspend, or 47338
revoke licenses to persons engaged in any public boxing match or 47339
exhibition as authorized by sections 3773.31 to 3773.57 of the 47340
Revised Code. 47341

(B) In addition to the duties set forth in this chapter, the Ohio athletic commission shall take action as necessary to carry out the provisions of Chapter 4771. of the Revised Code governing athlete agents.

(C) On or before the thirty-first day of December of each year, the commission shall make a report to the governor of its proceedings for the year ending on the first day of December of that calendar year, and may include in the report any recommendations pertaining to its duties.

Sec. 3773.38. Each person who holds a promoter's license issued under section 3773.36 of the Revised Code who desires to conduct a public boxing or wrestling match or exhibition where one or more contests are to be held shall obtain a permit from the Ohio athletic commission or the commission's executive director when the executive director is authorized by the commission to issue those types of permits. Application for such a permit shall be made in writing and on forms prescribed by the commission, shall be filed with the commission, and shall be accompanied by the permit fee prescribed in section 3773.43 of the Revised Code.

The application for a permit issued under this section shall include the date and starting time of the match or exhibition, the address of the place where the match or exhibition is to be held, the names of the contestants, the seating capacity of the building or hall where the exhibition is to be held, the admission charge or any other charges, the amount of compensation or the percentage of gate receipts to be paid to each contestant, the name and address of the applicant, a copy of the current official rules that govern the particular sport, and the serial number of the applicant's promoter's license.

The commission, or the commission's executive director when authorized by the commission, may require the applicant to deposit

with the commission before a public boxing match or exhibition a 47373
cash bond, certified check, bank draft, or surety bond in an 47374
amount equal to five per cent of the estimated gross receipts from 47375
the match or exhibition. 47376

Sec. 3773.39. (A) Upon receipt of an application for a permit 47377
to hold a public boxing or wrestling match or exhibition under 47378
section 3773.38 of the Revised Code, the Ohio athletic commission, 47379
or the commission's executive director when authorized by the 47380
commission, shall determine if the applicant holds a valid 47381
promoter's license issued pursuant to section 3773.36 of the 47382
Revised Code. Upon receipt of an application for a permit to hold 47383
a public boxing match or exhibition, the commission, or the 47384
commission's executive director when authorized by the commission, 47385
also shall determine if the contestants are evenly and fairly 47386
matched according to skill, experience, and weight so as to 47387
produce a fair and sportsmanlike contest, and whether the 47388
applicant is financially responsible and is able to pay to each 47389
contestant the compensation or percentage of the gate receipts 47390
named in the application. The commission, or the commission's 47391
executive director when authorized by the commission, may, if 47392
applicable, require the applicant to deposit with it within 47393
forty-eight hours before the match or exhibition the total 47394
compensation or estimated portion of gate receipts to be paid all 47395
contestants named in the application made under section 3773.38 of 47396
the Revised Code. 47397

(B) If the commission, or the commission's executive director 47398
when authorized by the commission, determines that the applicant 47399
has met all the requirements specified in division (A) of this 47400
section, ~~it~~ the commission or executive director shall issue the 47401
applicant a permit to conduct the match or exhibition. If the 47402
applicant fails to deposit any compensation or portion of gate 47403
receipts required by the commission, or executive director before 47404

the first contest of the match or exhibition is held, the 47405
commission, or the commission's executive director when authorized 47406
by the commission, may revoke the permit and order the applicant 47407
not to conduct the match or exhibition described in the permit. 47408

(C) Each permit issued pursuant to this section shall bear 47409
the name and post office address of the applicant, the address of 47410
the place where the public boxing or wrestling match or exhibition 47411
is to be held, the date and starting time of the match or 47412
exhibition, and a serial number designated by the commission. 47413

A permit issued under this section shall allow the permit 47414
holder to conduct only the match or exhibition named in the 47415
permit. A permit is not transferable. 47416

Sec. 3773.40. No person who holds a promoter's license to 47417
conduct a public boxing match or exhibition under section 3773.36 47418
of the Revised Code shall: 47419

(A) Hold any match or exhibition at any time or place other 47420
than that stated on a permit issued under section 3773.38 of the 47421
Revised Code; 47422

(B) Allow any contestant to participate in the match or 47423
exhibition unless the contestant is the licensed contestant named 47424
in the application for such permit or a licensed contestant 47425
authorized to compete as a substitute for such a contestant by the 47426
inspector assigned to the facility where the match or exhibition 47427
is held for that match or exhibition; 47428

(C) Charge a higher admission price for a match or exhibition 47429
than that stated in the application; 47430

(D) Pay a greater compensation or percentage of the gate 47431
receipts to any contestant than that stated in the application. 47432

The Ohio athletic commission, or the commission's executive 47433
director when authorized by the commission, upon application by a 47434

holder of a permit under section 3773.38 of the Revised Code, may 47435
allow the permit holder to hold the match or exhibition for which 47436
the permit was issued at an alternative site that is within the 47437
same municipal corporation or township and that offers 47438
substantially similar seating facilities, or allow the permit 47439
holder to substitute contestants or seconds, provided that the 47440
substitute contestants are evenly matched with their opponents in 47441
skill, experience, and weight. 47442

Sec. 3773.57. The Ohio athletic commission and the 47443
commission's executive director shall not issue a license or 47444
permit to conduct public boxing or wrestling matches or 47445
exhibitions in a municipal corporation or the unincorporated 47446
portion of a township if the commission or the commission's 47447
executive director determines that the legislative authority of 47448
the municipal corporation or board of township trustees has in 47449
effect an ordinance or resolution prohibiting such matches or 47450
exhibitions. 47451

Sec. 3781.07. There is hereby established in the department 47452
of commerce a board of building standards consisting of ~~ten~~ eleven 47453
members appointed by the governor with the advice and consent of 47454
the senate. The board shall appoint a secretary who shall serve in 47455
the unclassified civil service for a term of six years at a salary 47456
fixed pursuant to Chapter 124. of the Revised Code. The board may 47457
employ additional staff in the classified civil service. The 47458
secretary may be removed by the board under the rules the board 47459
adopts. Terms of office shall be for four years, commencing on the 47460
fourteenth day of October and ending on the thirteenth day of 47461
October. Each member shall hold office from the date of 47462
appointment until the end of the term for which the member was 47463
appointed. Any member appointed to fill a vacancy occurring prior 47464
to the expiration of the term for which the member's predecessor 47465

was appointed shall hold office for the remainder of such term. 47466
Any member shall continue in office subsequent to the expiration 47467
date of the member's term until the member's successor takes 47468
office, or until a period of sixty days has elapsed, whichever 47469
occurs first. One of the members appointed to the board shall be 47470
an attorney at law, admitted to the bar of this state; two shall 47471
be registered architects; two shall be professional engineers, one 47472
in the field of mechanical and one in the field of structural 47473
engineering, each of whom shall be duly licensed to practice such 47474
profession in this state; one shall be a person of recognized 47475
ability, broad training, and fifteen years experience in problems 47476
and practice incidental to the construction and equipment of 47477
buildings specified in section 3781.06 of the Revised Code; one 47478
shall be a person with recognized ability and experience in the 47479
manufacture and construction of industrialized units as defined in 47480
section 3781.06 of the Revised Code; one shall be a member of the 47481
fire service with recognized ability and broad training in the 47482
field of fire protection and suppression; one shall be a person 47483
with at least ten years of experience and recognized expertise in 47484
building codes and standards and the manufacture of construction 47485
materials; ~~and~~ one shall be a general contractor with experience 47486
in residential and commercial construction; and one, chosen from a 47487
list of three names the Ohio municipal league submits to the 47488
governor, shall be the mayor of a municipal corporation in which 47489
the Ohio residential and nonresidential building codes are being 47490
enforced in the municipal corporation by a certified building 47491
department. Each member of the board, not otherwise required to 47492
take an oath of office, shall take the oath prescribed by the 47493
constitution. Each member shall receive as compensation an amount 47494
fixed pursuant to division (J) of section 124.15 of the Revised 47495
Code, and shall receive actual and necessary expenses in the 47496
performance of official duties. The amount of such expenses shall 47497
be certified by the secretary of the board and paid in the same 47498

manner as the expenses of employees of the department of commerce 47499
are paid. 47500

Sec. 3781.10. (A)(1) The board of building standards shall 47501
formulate and adopt rules governing the erection, construction, 47502
repair, alteration, and maintenance of all buildings or classes of 47503
buildings specified in section 3781.06 of the Revised Code, 47504
including land area incidental to those buildings, the 47505
construction of industrialized units, the installation of 47506
equipment, and the standards or requirements for materials used in 47507
connection with those buildings. The board shall incorporate those 47508
rules into separate residential and nonresidential building codes. 47509
The standards shall relate to the conservation of energy and the 47510
safety and sanitation of those buildings. 47511

(2) The rules governing nonresidential buildings are the 47512
lawful minimum requirements specified for those buildings and 47513
industrialized units, except that no rule other than as provided 47514
in division (C) of section 3781.108 of the Revised Code that 47515
specifies a higher requirement than is imposed by any section of 47516
the Revised Code is enforceable. The rules governing residential 47517
buildings are uniform requirements for residential buildings in 47518
any area with a building department certified to enforce the state 47519
residential building code. In no case shall any local code or 47520
regulation differ from the state residential building code unless 47521
that code or regulation addresses subject matter not addressed by 47522
the state residential building code or is adopted pursuant to 47523
section 3781.01 of the Revised Code. 47524

(3) The rules adopted pursuant to this section are complete, 47525
lawful alternatives to any requirements specified for buildings or 47526
industrialized units in any section of the Revised Code. The board 47527
shall, on its own motion or on application made under sections 47528
3781.12 and 3781.13 of the Revised Code, formulate, propose, 47529

adopt, modify, amend, or repeal the rules to the extent necessary 47530
or desirable to effectuate the purposes of sections 3781.06 to 47531
3781.18 of the Revised Code. 47532

(B) The board shall report to the general assembly proposals 47533
for amendments to existing statutes relating to the purposes 47534
declared in section 3781.06 of the Revised Code that public health 47535
and safety and the development of the arts require and shall 47536
recommend any additional legislation to assist in carrying out 47537
fully, in statutory form, the purposes declared in that section. 47538
The board shall prepare and submit to the general assembly a 47539
summary report of the number, nature, and disposition of the 47540
petitions filed under sections 3781.13 and 3781.14 of the Revised 47541
Code. 47542

(C) On its own motion or on application made under sections 47543
3781.12 and 3781.13 of the Revised Code, and after thorough 47544
testing and evaluation, the board shall determine by rule that any 47545
particular fixture, device, material, process of manufacture, 47546
manufactured unit or component, method of manufacture, system, or 47547
method of construction complies with performance standards adopted 47548
pursuant to section 3781.11 of the Revised Code. The board shall 47549
make its determination with regard to adaptability for safe and 47550
sanitary erection, use, or construction, to that described in any 47551
section of the Revised Code, wherever the use of a fixture, 47552
device, material, method of manufacture, system, or method of 47553
construction described in that section of the Revised Code is 47554
permitted by law. The board shall amend or annul any rule or issue 47555
an authorization for the use of a new material or manufactured 47556
unit on any like application. No department, officer, board, or 47557
commission of the state other than the board of building standards 47558
or the board of building appeals shall permit the use of any 47559
fixture, device, material, method of manufacture, newly designed 47560
product, system, or method of construction at variance with what 47561

is described in any rule the board of building standards adopts or 47562
issues or that is authorized by any section of the Revised Code. 47563
Nothing in this section shall be construed as requiring approval, 47564
by rule, of plans for an industrialized unit that conforms with 47565
the rules the board of building standards adopts pursuant to 47566
section 3781.11 of the Revised Code. 47567

(D) The board shall recommend rules, codes, and standards to 47568
help carry out the purposes of section 3781.06 of the Revised Code 47569
and to help secure uniformity of state administrative rulings and 47570
local legislation and administrative action to the bureau of 47571
workers' compensation, the director of commerce, any other 47572
department, officer, board, or commission of the state, and to 47573
legislative authorities and building departments of counties, 47574
townships, and municipal corporations, and shall recommend that 47575
they audit those recommended rules, codes, and standards by any 47576
appropriate action that they are allowed pursuant to law or the 47577
constitution. 47578

(E)(1) The board shall certify municipal, township, and 47579
county building departments and the personnel of those building 47580
departments, and persons and employees of individuals, firms, or 47581
corporations as described in division (E)(7) of this section to 47582
exercise enforcement authority, to accept and approve plans and 47583
specifications, and to make inspections, pursuant to sections 47584
3781.03, 3791.04, and 4104.43 of the Revised Code. 47585

(2) The board shall certify departments, personnel, and 47586
persons to enforce the state residential building code, to enforce 47587
the nonresidential building code, or to enforce both the 47588
residential and the nonresidential building codes. Any department, 47589
personnel, or person may enforce only the type of building code 47590
for which certified. 47591

(3) The board shall not require a building department, its 47592
personnel, or any persons that it employs to be certified for 47593

residential building code enforcement if that building department 47594
does not enforce the state residential building code. The board 47595
shall specify, in rules adopted pursuant to Chapter 119. of the 47596
Revised Code, the requirements for certification for residential 47597
and nonresidential building code enforcement, which shall be 47598
consistent with this division. The requirements for residential 47599
and nonresidential certification may differ. Except as otherwise 47600
provided in this division, the requirements shall include, but are 47601
not limited to, the satisfactory completion of an initial 47602
examination and, to remain certified, the completion of a 47603
specified number of hours of continuing building code education 47604
within each three-year period following the date of certification 47605
which shall be not less than thirty hours. The rules shall provide 47606
that continuing education credits and certification issued by the 47607
council of American building officials, national model code 47608
organizations, and agencies or entities the board recognizes are 47609
acceptable for purposes of this division. The rules shall specify 47610
requirements that are compatible, to the extent possible, with 47611
requirements the council of American building officials and 47612
national model code organizations establish. 47613

(4) The board shall establish and collect a certification and 47614
renewal fee for building department personnel, and persons and 47615
employees of persons, firms, or corporations as described in this 47616
section, who are certified pursuant to this division. 47617

(5) Any individual certified pursuant to this division shall 47618
complete the number of hours of continuing building code education 47619
that the board requires or, for failure to do so, forfeit 47620
certification. 47621

(6) This division does not require or authorize the board to 47622
certify personnel of municipal, township, and county building 47623
departments, and persons and employees of persons, firms, or 47624
corporations as described in this section, whose responsibilities 47625

do not include the exercise of enforcement authority, the approval 47626
of plans and specifications, or making inspections under the state 47627
residential and nonresidential building codes. 47628

(7) Enforcement authority for approval of plans and 47629
specifications and enforcement authority for inspections may be 47630
exercised, and plans and specifications may be approved and 47631
inspections may be made on behalf of a municipal corporation, 47632
township, or county, by any of the following who the board of 47633
building standards certifies: 47634

(a) Officers or employees of the municipal corporation, 47635
township, or county; 47636

(b) Persons, or employees of persons, firms, or corporations, 47637
pursuant to a contract to furnish architectural ~~or~~ engineering, 47638
or other services to the municipal corporation, township, or 47639
county; 47640

(c) Officers or employees of, and persons under contract 47641
with, a municipal corporation, township, county, health district, 47642
or other political subdivision, pursuant to a contract to furnish 47643
architectural ~~or~~ engineering, or other services. 47644

(8) Municipal, township, and county building departments have 47645
jurisdiction within the meaning of sections 3781.03, 3791.04, and 47646
4104.43 of the Revised Code, only with respect to the types of 47647
buildings and subject matters for which they are certified under 47648
this section. 47649

(9) Certification shall be granted upon application by the 47650
municipal corporation, the board of township trustees, or the 47651
board of county commissioners and approval of that application by 47652
the board of building standards. The application shall set forth: 47653

(a) Whether the certification is requested for residential or 47654
nonresidential buildings, or both; 47655

(b) The number and qualifications of the staff composing the building department; 47656
47657

(c) The names, addresses, and qualifications of persons, firms, or corporations contracting to furnish work or services pursuant to division (E)(7)(b) of this section; 47658
47659
47660

(d) The names of any other municipal corporation, township, county, health district, or political subdivision under contract to furnish work or services pursuant to division (E)(7) of this section; 47661
47662
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(e) The proposed budget for the operation of the building department. 47665
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(10) The board of building standards shall adopt rules governing all of the following: 47667
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(a) The certification of building department personnel and persons and employees of persons, firms, or corporations exercising authority pursuant to division (E)(7) of this section. 47669
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(b) The minimum services to be provided by a certified building department. 47683
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(11) The board of building standards may revoke or suspend certification to enforce the residential and nonresidential 47685
47686

building codes, on petition to the board by any person affected by 47687
that enforcement or approval of plans, or by the board on its own 47688
motion. Hearings shall be held and appeals permitted on any 47689
proceedings for certification or revocation or suspension of 47690
certification in the same manner as provided in section 3781.101 47691
of the Revised Code for other proceedings of the board of building 47692
standards. 47693

(12) Upon certification, and until that authority is revoked, 47694
any county or township building department shall enforce the 47695
residential and nonresidential building codes for which it is 47696
certified without regard to limitation upon the authority of 47697
boards of county commissioners under Chapter 307. of the Revised 47698
Code or boards of township trustees under Chapter 505. of the 47699
Revised Code. 47700

(F) In addition to hearings sections 3781.06 to 3781.18 and 47701
3791.04 of the Revised Code require, the board of building 47702
standards shall make investigations and tests, and require from 47703
other state departments, officers, boards, and commissions 47704
information the board considers necessary or desirable to assist 47705
it in the discharge of any duty or the exercise of any power 47706
mentioned in this section or in sections 3781.06 to 3781.18, 47707
3791.04, and 4104.43 of the Revised Code. 47708

(G) The board shall adopt rules and establish reasonable fees 47709
for the review of all applications submitted where the applicant 47710
applies for authority to use a new material, assembly, or product 47711
of a manufacturing process. The fee shall bear some reasonable 47712
relationship to the cost of the review or testing of the 47713
materials, assembly, or products and for the notification of 47714
approval or disapproval as provided in section 3781.12 of the 47715
Revised Code. 47716

(H) The residential construction advisory committee shall 47717
provide the board with a proposal for a state residential building 47718

code that the committee recommends pursuant to division (C)(1) of 47719
section 4740.14 of the Revised Code. Upon receiving a 47720
recommendation from the committee that is acceptable to the board, 47721
the board shall adopt rules establishing that code as the state 47722
residential building code. 47723

(I) The board shall cooperate with the director of job and 47724
family services when the director promulgates rules pursuant to 47725
section 5104.05 of the Revised Code regarding safety and 47726
sanitation in type A family day-care homes. 47727

(J) The board shall adopt rules to implement the requirements 47728
of section 3781.108 of the Revised Code. 47729

Sec. 3781.102. (A) Any county or municipal building 47730
department certified pursuant to division (E) of section 3781.10 47731
of the Revised Code as of September 14, 1970, and that, as of that 47732
date, was inspecting single-family, two-family, and three-family 47733
residences, and any township building department certified 47734
pursuant to division (E) of section 3781.10 of the Revised Code, 47735
is hereby declared to be certified to inspect single-family, 47736
two-family, and three-family residences containing industrialized 47737
units, and shall inspect the buildings or classes of buildings 47738
subject to division (E) of section 3781.10 of the Revised Code. 47739

(B) Each board of county commissioners may adopt, by 47740
resolution, rules establishing standards and providing for the 47741
licensing of electrical and heating, ventilating, and air 47742
conditioning contractors who are not required to hold a valid and 47743
unexpired license pursuant to Chapter 4740. of the Revised Code. 47744

Rules adopted by a board of county commissioners pursuant to 47745
this division may be enforced within the unincorporated areas of 47746
the county and within any municipal corporation where the 47747
legislative authority of the municipal corporation has contracted 47748
with the board for the enforcement of the county rules within the 47749

municipal corporation pursuant to section 307.15 of the Revised Code. The rules shall not conflict with rules adopted by the board of building standards pursuant to section 3781.10 of the Revised Code or by the department of commerce pursuant to Chapter 3703. of the Revised Code. This division does not impair or restrict the power of municipal corporations under Section 3 of Article XVIII, Ohio Constitution, to adopt rules concerning the erection, construction, repair, alteration, and maintenance of buildings and structures or of establishing standards and providing for the licensing of specialty contractors pursuant to section 715.27 of the Revised Code.

A board of county commissioners, pursuant to this division, may require all electrical contractors and heating, ventilating, and air conditioning contractors, other than those who hold a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code, to successfully complete an examination, test, or demonstration of technical skills, and may impose a fee and additional requirements for a license to engage in their respective occupations within the jurisdiction of the board's rules under this division.

(C) No board of county commissioners shall require any specialty contractor who holds a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code to successfully complete an examination, test, or demonstration of technical skills in order to engage in the type of contracting for which the license is held, within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to section 307.15 of the Revised Code.

(D) A board may impose a fee for registration of a specialty contractor who holds a valid and unexpired license issued pursuant

to Chapter 4740. of the Revised Code before that specialty 47782
contractor may engage in the type of contracting for which the 47783
license is held within the unincorporated areas of the county and 47784
within any municipal corporation whose legislative authority has 47785
contracted with the board for the enforcement of county 47786
regulations within the municipal corporation, pursuant to section 47787
307.15 of the Revised Code, provided that the fee is the same for 47788
all specialty contractors who wish to engage in that type of 47789
contracting. If a board imposes such a fee, the board immediately 47790
shall permit a specialty contractor who presents proof of holding 47791
a valid and unexpired license and pays the required fee to engage 47792
in the type of contracting for which the license is held within 47793
the unincorporated areas of the county and within any municipal 47794
corporation whose legislative authority has contracted with the 47795
board for the enforcement of county regulations within the 47796
municipal corporation, pursuant to section 307.15 of the Revised 47797
Code. 47798

(E) The political subdivision associated with each municipal, 47799
township, and county building department the board of building 47800
standards certifies pursuant to division (E) of section 3781.10 of 47801
the Revised Code may prescribe fees to be paid by persons, 47802
political subdivisions, or any department, agency, board, 47803
commission, or institution of the state, for the acceptance and 47804
approval of plans and specifications, and for the making of 47805
inspections, pursuant to sections 3781.03 and 3791.04 of the 47806
Revised Code. 47807

(F) Each political subdivision that prescribes fees pursuant 47808
to division (E) of this section shall collect, on behalf of the 47809
board of building standards, fees equal to the following: 47810

(1) Three per cent of the fees the political subdivision 47811
collects in connection with nonresidential buildings; 47812

(2) One per cent of the fees the political subdivision 47813

collects in connection with residential buildings. 47814

(G)(1) The board shall adopt rules, in accordance with 47815
Chapter 119. of the Revised Code, specifying the manner in which 47816
the fee assessed pursuant to division (F) of this section shall be 47817
collected and remitted monthly to the board. The board shall pay 47818
the fees into the state treasury to the credit of the industrial 47819
compliance operating fund created in section 121.084 of the 47820
Revised Code. 47821

(2) All money credited to the industrial compliance operating 47822
fund under this division shall be used exclusively for the 47823
following: 47824

(a) Operating costs of the board; 47825

(b) Providing services, including educational programs, for 47826
the building departments that are certified by the board pursuant 47827
to division (E) of section 3781.10 of the Revised Code; 47828

(c) Paying the expenses of the residential construction 47829
advisory committee, including the expenses of committee members as 47830
provided in section 4740.14 of the Revised Code. 47831

(H) A board of county commissioners that adopts rules 47832
providing for the licensing of electrical and heating, 47833
ventilating, and air conditioning contractors, pursuant to 47834
division (B) of this section, may accept, for purposes of 47835
satisfying the requirements of rules adopted under that division, 47836
a valid and unexpired license issued pursuant to Chapter 4740. of 47837
the Revised Code that is held by an electrical or heating, 47838
ventilating, and air conditioning contractor, for the 47839
construction, replacement, maintenance, or repair of one-family, 47840
two-family, or three-family dwelling houses or accessory 47841
structures incidental to those dwelling houses. 47842

(I) A board of county commissioners shall not register a 47843
specialty contractor who is required to hold a license under 47844

Chapter 4740. of the Revised Code but does not hold a valid 47845
license issued under that chapter. 47846

(J) As used in this section, "specialty contractor" means a 47847
heating, ventilating, and air conditioning contractor, 47848
refrigeration contractor, electrical contractor, plumbing 47849
contractor, or hydronics contractor, as those contractors are 47850
described in Chapter 4740. of the Revised Code. 47851

Sec. 3781.191. The Ohio board of building appeals has no 47852
authority to hear any case based on the Ohio residential building 47853
code or to grant any variance to the Ohio residential building 47854
code. 47855

Sec. 3793.09. (A) There is hereby created the council on 47856
alcohol and drug addiction services which shall consist of the 47857
public officials specified in division (B) of this section, or 47858
their designees, and thirteen members appointed by the governor 47859
with the advice and consent of the senate. The members appointed 47860
by the governor shall be representatives of the following: boards 47861
of alcohol, drug addiction, and mental health services; the 47862
criminal and juvenile justice systems; and alcohol and drug 47863
addiction programs. At least four of the appointed members shall 47864
be persons who have received or are receiving alcohol or drug 47865
addiction services or are parents or other relatives of such 47866
persons; of these at least two shall be women and at least one 47867
shall be a member of a minority group. 47868

The governor shall make initial appointments to the council 47869
not later than thirty days after October 10, 1989. Of the initial 47870
appointments, six shall be for terms ending July 31, 1991, and 47871
seven shall be for terms ending July 31, 1992. Thereafter, terms 47872
of office shall be two years, with each term ending on the same 47873
day of the same month as the term it succeeds. Each member shall 47874

hold office from the date of the member's appointment until the 47875
end of the term for which the member was appointed. Members may be 47876
reappointed. Vacancies shall be filled in the same manner as 47877
original appointments. Any member appointed to fill a vacancy 47878
occurring prior to the expiration of the term for which the 47879
member's predecessor was appointed shall hold office as a member 47880
for the remainder of the term. A member shall continue in office 47881
subsequent to the expiration of the member's term until the 47882
member's successor takes office or until a period of sixty days 47883
has elapsed, whichever occurs first. 47884

(B) The directors of health, public safety, mental health, 47885
rehabilitation and correction, and youth services; the 47886
superintendents of public instruction and liquor control; the 47887
attorney general; the adjutant general; and the executive director 47888
of the ~~office~~ division of criminal justice services in the 47889
department of public safety shall be voting members of the 47890
council, except that any of these officials may designate an 47891
individual to serve in the official's place as a voting member of 47892
the council. The director of alcohol and drug addiction services 47893
shall serve as a nonvoting member of the council. 47894

(C) The governor shall annually appoint a ~~chairman~~ 47895
chairperson from among the members of the council. The council 47896
shall meet quarterly and at other times the ~~chairman~~ chairperson 47897
considers necessary. In addition to other duties specified in this 47898
chapter, the council shall review the development of the 47899
comprehensive statewide plan for alcohol and drug addiction 47900
services, revisions of the plan, and other actions taken to 47901
implement the purposes of this chapter by the department of 47902
alcohol and drug addiction services and shall act as an advisory 47903
council to the director of alcohol and drug addiction services. 47904

(D) Members of the council shall serve without compensation, 47905
but shall be paid actual and necessary expenses incurred in the 47906

performance of their duties. 47907

Sec. 3901.021. (A) Three-fourths of all appointment and other 47908
fees collected under section 3905.10, ~~and~~ division (B) of section 47909
3905.20, ~~and division (A)(6) of section 3905.40~~ of the Revised 47910
Code shall be paid into the state treasury to the credit of the 47911
department of insurance operating fund, which is hereby created. 47912
The remaining one-fourth shall be credited to the general revenue 47913
fund. ~~All~~ Other revenues collected by the superintendent of 47914
insurance, such as registration fees for sponsored seminars or 47915
conferences and grants from private entities, shall be paid into 47916
the state treasury to the credit of the department of insurance 47917
operating fund. 47918

(B) Seven-tenths of all fees collected under divisions 47919
(A)(2), (A)(3), and (A)(6) of section 3905.40 of the Revised Code 47920
shall be paid into the state treasury to the credit of the 47921
department of insurance operating fund. The remaining three-tenths 47922
shall be credited to the general revenue fund. 47923

(C) All operating expenses of the department of insurance 47924
except those expenses defined under section 3901.07 of the Revised 47925
Code shall be paid from the department of insurance operating 47926
fund. 47927

Sec. 3901.17. (A) As used in this section: 47928

(1) "Captive insurer" has the meaning defined in section 47929
3905.36 of the Revised Code. 47930

(2) "Insurer" includes, but is not limited to, any person 47931
that is an affiliate of or affiliated with the insurer, as defined 47932
in division (A) of section 3901.32 of the Revised Code, and any 47933
person that is a subsidiary of the insurer as defined in division 47934
(F) of section 3901.32 of the Revised Code. 47935

~~(2)~~(3) "Laws of this state relating to insurance" has the 47936

meaning defined in division (A)(1) of section 3901.04 of the Revised Code. 47937
47938

~~(3)~~(4) "Person" has the meaning defined in division (A) of section 3901.19 of the Revised Code. 47939
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(B) Any of the following acts in this state, effected by mail or otherwise, by any foreign or alien insurer not authorized to transact business within this state, any nonresident person acting on behalf of an insurer, or any nonresident insurance agent subjects the insurer, person, or agent to the exercise of personal jurisdiction over the insurer, person, or agent to the extent permitted by the constitutions of this state and of the United States: 47941
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(1) Issuing or delivering contracts of insurance to residents of this state or to corporations authorized to do business therein; 47949
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(2) Making or proposing to make any insurance contracts; 47952

(3) Soliciting, taking, or receiving any application for insurance; 47953
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(4) Receiving or collecting any premium, commission, membership fee, assessment, dues, or other consideration for any insurance contract or any part thereof; 47955
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47957

(5) Disseminating information as to coverage or rates, forwarding applications, inspecting risks, fixing rates, investigating or adjusting claims or losses, transacting any matters subsequent to effecting a contract of insurance and arising out of it; 47958
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(6) Doing any kind of business recognized as constituting the doing of an insurance business under Title XXXIX of the Revised Code or subject to regulation by the superintendent of insurance under the laws of this state relating to insurance. 47963
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Any such act shall be considered to be the doing of an 47967
insurance business in this state by such insurer, person, or agent 47968
and shall be its agreement that service of any lawful subpoena, 47969
notice, order, or process is of the same legal force and validity 47970
as personal service of the subpoena, notice, order, or process in 47971
this state upon the insurer, person, or agent. 47972

(C) Service of process in judicial proceedings shall be as 47973
provided by the Rules of Civil Procedure. Service in or out of 47974
this state of notice, orders, or subpoenas in administrative 47975
proceedings before the superintendent shall be as provided in 47976
section 3901.04 of the Revised Code. 47977

(D) Service of any notice, order, subpoena, or process in any 47978
such action, suit, or proceeding shall, in addition to the manner 47979
provided in division (C) of this section, be valid if served upon 47980
any person within this state who, in this state on behalf of such 47981
insurer, person, or agent is or has been: 47982

(1) Soliciting, procuring, effecting, or negotiating for 47983
insurance; 47984

(2) Making, issuing, or delivering any contract of insurance; 47985

(3) Collecting or receiving any premium, membership fees, 47986
assessment, dues, or other consideration for insurance; 47987

(4) Disseminating information as to coverage or rates, 47988
forwarding applications, inspecting risks, fixing rates, 47989
investigating or adjusting claims or losses, or transacting any 47990
matters subsequent to effecting a contract of insurance and 47991
arising out of it. 47992

(E) Nothing in this section shall limit or abridge the right 47993
to serve any subpoena, order, process, notice, or demand upon any 47994
insurer, person, or agent in any other manner permitted by law. 47995

(F) Every person investigating or adjusting any loss or claim 47996

under a policy of insurance not excepted under division (I) of 47997
this section and issued by any such insurer and covering a subject 47998
of insurance that was resident, located, or to be performed in 47999
this state at the time of issuance shall immediately report the 48000
policy to the superintendent. 48001

(G) Each such insurer that does any of the acts set forth in 48002
division (B) of this section in this state by mail or otherwise 48003
shall be subject to a tax of five per cent on the gross premiums, 48004
membership fees, assessments, dues, and other considerations 48005
received on all contracts of insurance covering subjects of 48006
insurance resident, located, or to be performed within this state. 48007
Such insurer shall annually, on or before the first day of July, 48008
pay such tax to the treasurer of state, as calculated on a form 48009
prescribed by the treasurer of state. If the tax is not paid when 48010
due, the tax shall be increased by a penalty of twenty-five per 48011
cent. An interest charge computed as set forth in section 5725.221 48012
of the Revised Code shall be made on the entire sum of the tax 48013
plus penalty, which interest shall be computed from the date the 48014
tax is due until it is paid. The treasurer of state shall 48015
determine and report all claims for penalties and interest 48016
accruing under this section to the attorney general for 48017
collection. 48018

For purposes of this division, payment is considered made 48019
when it is received by the treasurer of state, irrespective of any 48020
United States postal service marking or other stamp or mark 48021
indicating the date on which the payment may have been mailed. 48022

(H) No contract of insurance effected in this state by mail 48023
or otherwise by any such insurer is enforceable by the insurer. 48024

(I) This section does not apply to: 48025

(1) Insurance obtained pursuant to sections 3905.30 to 48026
3905.36 of the Revised Code; 48027

| | |
|---|---|
| (2) The transaction of reinsurance by insurers; | 48028 |
| (3) Transactions in this state involving a policy solicited, written, and delivered outside this state covering only subjects of insurance not resident, located, or to be performed in this state at the time of issuance, provided such transactions are subsequent to the issuance of the policy; | 48029 48030 48031 48032 48033 |
| (4) Transactions in this state involving a policy of group life or group accident and sickness insurance solicited, written, and delivered outside this state; | 48034 48035 48036 |
| (5) Transactions involving contracts of insurance independently procured through negotiations occurring entirely outside this state which are reported to the superintendent and with respect to which the tax provided by section 3905.36 of the Revised Code is paid; | 48037 48038 48039 48040 48041 |
| (6) An attorney at law acting on behalf of the attorney's clients in the adjustment of claims or losses; | 48042 48043 |
| (7) Any <u>Except as provided in division (G) of this section,</u> <u>any</u> insurance company underwriter issuing contracts of insurance to employer insureds or contracts of insurance issued to an employer insured. For purposes of this section, an "employer insured" is an insured to whom all of the following apply: | 48044 48045 48046 48047 48048 |
| (a) The insured procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly and continuously qualified insurance consultant. As used in division (I)(7)(a) of this section, a "regularly and continuously qualified insurance consultant" does not include any person licensed under Chapter 3905. of the Revised Code. | 48049 48050 48051 48052 48053 48054 48055 |
| (b) The insured's aggregate annual premiums for insurance on all risks total at least twenty-five thousand dollars; and | 48056 48057 |

| | |
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| (c) The insured has at least twenty-five full-time employees. | 48058 |
| (8) Ocean marine insurance; | 48059 |
| <u>(9) Transactions involving policies issued by a captive insurer.</u> | 48060 48061 |
| Sec. 3901.3814. Sections 3901.38 and 3901.381 to 3901.3813 of the Revised Code do not apply to the following: | 48062 48063 |
| (A) Policies offering coverage that is regulated under Chapters 3935. and 3937. of the Revised Code; | 48064 48065 |
| (B) An employer's self-insurance plan and any of its administrators, as defined in section 3959.01 of the Revised Code, to the extent that federal law supersedes, preempts, prohibits, or otherwise precludes the application of any provisions of those sections to the plan and its administrators; | 48066 48067 48068 48069 48070 |
| (C) <u>(1)</u> A third-party payer for coverage provided under the medicare plus choice or medicaid programs <u>advantage program</u> operated under Title XVIII and XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended; | 48071 48072 48073 48074 |
| <u>(2) A third-party payer for coverage provided under the medicaid program operated under Title XIX of the Social Security Act, except that if a federal waiver applied for under section 5101.93 of the Revised Code is granted or the director of job and family services determines that this provision can be implemented without a waiver, sections 3901.38 and 3901.381 to 3901.3813 of the Revised Code apply to claims submitted electronically or non-electronically that are made with respect to coverage of medicaid recipients by health insuring corporations licensed under Chapter 1751. of the Revised Code.</u> | 48075 48076 48077 48078 48079 48080 48081 48082 48083 48084 |
| (D) A third-party payer for coverage provided under the tricare program offered by the United States department of defense. | 48085 48086 48087 |

~~Sec. 3901.78. Upon the filing of each of its annual~~ 48088
~~statements, or as soon thereafter as practicable, the~~ 48089
~~superintendent of insurance shall issue to each insurance company~~ 48090
~~or association authorized to do business in this state but not~~ 48091
~~incorporated under the laws of this state a certificate of~~ 48092
~~compliance, an original of which must be published in accordance~~ 48093
~~with section 3901.781 of the Revised Code in every county where~~ 48094
~~the insurance company or association has an agency. Upon request~~ 48095
or in any other circumstance that the superintendent of insurance 48096
determines to be appropriate, the superintendent may issue ~~other~~ 48097
certificates of compliance, ~~which certificates are not subject to~~ 48098
~~section 3901.781 of the Revised Code,~~ to insurance companies and 48099
associations authorized to do business in this state. ~~Certificates~~ 48100
~~of compliance either must,~~ which shall be on either forms 48101
established by the national association of insurance commissioners 48102
or on such other forms as the superintendent may prescribe. 48103

Sec. 3903.14. (A) The superintendent of insurance as 48104
rehabilitator may appoint one or more special deputies, who shall 48105
have all the powers and responsibilities of the rehabilitator 48106
granted under this section, and the superintendent may employ such 48107
clerks and assistants as considered necessary. The compensation of 48108
the special deputies, clerks, and assistants and all expenses of 48109
taking possession of the insurer and of conducting the proceedings 48110
shall be fixed by the superintendent, with the approval of the 48111
court and shall be paid out of the funds or assets of the insurer. 48112
The persons appointed under this section shall serve at the 48113
pleasure of the superintendent. In the event that the property of 48114
the insurer does not contain sufficient cash or liquid assets to 48115
defray the costs incurred, the superintendent may advance the 48116
costs so incurred out of any appropriation for the maintenance of 48117
the department of insurance. Any amounts so advanced for expenses 48118

of administration shall be repaid to the superintendent for the 48119
use of the department out of the first available money of the 48120
insurer. 48121

(B) The rehabilitator may take such action as ~~he~~ the 48122
rehabilitator considers necessary or appropriate to reform and 48123
revitalize the insurer. ~~He~~ The rehabilitator shall have all the 48124
powers of the directors, officers, and managers, whose authority 48125
shall be suspended, except as they are redelegated by the 48126
rehabilitator. ~~He~~ The rehabilitator shall have full power to 48127
direct and manage, to hire and discharge employees subject to any 48128
contract rights they may have, and to deal with the property and 48129
business of the insurer. 48130

(C) If it appears to the rehabilitator that there has been 48131
criminal or tortious conduct, or breach of any contractual or 48132
fiduciary obligation detrimental to the insurer by any officer, 48133
manager, agent, director, trustee, broker, employee, or other 48134
person, ~~he~~ the rehabilitator may pursue all appropriate legal 48135
remedies on behalf of the insurer. 48136

(D) If the rehabilitator determines that reorganization, 48137
consolidation, conversion, reinsurance, merger, or other 48138
transformation of the insurer is appropriate, ~~he~~ the rehabilitator 48139
shall prepare a plan to effect such changes. Upon application of 48140
the rehabilitator for approval of the plan, and after such notice 48141
and hearings as the court may prescribe, the court may either 48142
approve or disapprove the plan proposed, or may modify it and 48143
approve it as modified. Any plan approved under this section shall 48144
be, in the judgment of the court, fair and equitable to all 48145
parties concerned. If the plan is approved, the rehabilitator 48146
shall carry out the plan. In the case of a life insurer, the plan 48147
proposed may include the imposition of liens upon the policies of 48148
the company, if all rights of shareholders are first relinquished. 48149
A plan for a life insurer may also propose imposition of a 48150

moratorium upon loan and cash surrender rights under policies, for 48151
such period and to such an extent as may be necessary. 48152

(E) In the case of a medicaid health insuring corporation 48153
that has posted a bond or deposited securities in accordance with 48154
section 1751.271 of the Revised Code, the plan proposed under 48155
division (D) of this section may include the use of the proceeds 48156
of the bond or securities to first pay the claims of contracted 48157
providers for covered health care services provided to medicaid 48158
recipients, then next to pay other claimants with any remaining 48159
funds, consistent with the priorities set forth in sections 48160
3903.421 and 3903.42 of the Revised Code. 48161

(F) The rehabilitator shall have the power under sections 48162
3903.26 and 3903.27 of the Revised Code to avoid fraudulent 48163
transfers. 48164

(G) As used in this section: 48165

(1) "Contracted provider" means a provider with a contract 48166
with a medicaid health insuring corporation to provide covered 48167
health care services to medicaid recipients. 48168

(2) "Medicaid recipient" means a person eligible for 48169
assistance under the medicaid program operated pursuant to Chapter 48170
5111. of the Revised Code. 48171

Sec. 3903.42. The priority of distribution of claims from the 48172
insurer's estate shall be in accordance with the order in which 48173
each class of claims is set forth in this section. Every claim in 48174
each class shall be paid in full or adequate funds retained for 48175
such payment before the members of the next class receive any 48176
payment. No subclasses shall be established within any class. The 48177
order of distribution of claims shall be: 48178

(A) Class 1. The costs and expenses of administration, 48179
including but not limited to the following: 48180

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| (1) The actual and necessary costs of preserving or recovering the assets of the insurer; | 48181 |
| | 48182 |
| (2) Compensation for all services rendered in the liquidation; | 48183 |
| | 48184 |
| (3) Any necessary filing fees; | 48185 |
| (4) The fees and mileage payable to witnesses; | 48186 |
| (5) Reasonable attorney's fees; | 48187 |
| (6) The reasonable expenses of a guaranty association or foreign guaranty association in handling claims. | 48188 |
| | 48189 |
| (B) Class 2. All claims under policies for losses incurred, including third party claims, <u>all claims of contracted providers against a medicaid health insuring corporation for covered health care services provided to medicaid recipients</u> , all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property that are not under policies, and all claims of a guaranty association or foreign guaranty association. All claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values, shall be treated as loss claims. That portion of any loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment by an employer to an employee shall be treated as a gratuity. Claims under nonassessable policies for unearned premium or other premium refunds. | 48190 |
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| (C) Class 3. Claims of the federal government. | 48208 |
| (D) Class 4. Debts due to employees for services performed to the extent that they do not exceed one thousand dollars and | 48209 |
| | 48210 |

represent payment for services performed within one year before 48211
the filing of the complaint for liquidation. Officers and 48212
directors shall not be entitled to the benefit of this priority. 48213
Such priority shall be in lieu of any other similar priority that 48214
may be authorized by law as to wages or compensation of employees. 48215

(E) Class 5. Claims of general creditors. 48216

(F) Class 6. Claims of any state or local government. Claims, 48217
including those of any state or local governmental body for a 48218
penalty or forfeiture, shall be allowed in this class only to the 48219
extent of the pecuniary loss sustained from the act, transaction, 48220
or proceeding out of which the penalty or forfeiture arose, with 48221
reasonable and actual costs occasioned thereby. The remainder of 48222
such claims shall be postponed to the class of claims under 48223
division (I) of this section. 48224

(G) Class 7. Claims filed late or any other claims other than 48225
claims under divisions (H) and (I) of this section. 48226

(H) Class 8. Surplus or contribution notes, or similar 48227
obligations, and premium refunds on assessable policies. Payments 48228
to members of domestic mutual insurance companies shall be limited 48229
in accordance with law. 48230

(I) Class 9. The claims of shareholders or other owners. 48231

If any provision of this section or the application of any 48232
provision of this section to any person or circumstance is held 48233
invalid, the invalidity does not affect other provisions or 48234
applications of this section, and to this end the provisions are 48235
severable. 48236

(J) As used in sections 3903.42 and 3903.421 of the Revised 48237
Code, "contracted provider" and "medicaid recipient" have the same 48238
meanings as in section 3903.14 of the Revised Code. 48239

Sec. 3903.421. (A) Notwithstanding section 3903.42 of the 48240

Revised Code, both of the following apply to medicaid health 48241
insuring corporation performance bonds and securities: 48242

(1) Proceeds from the bond issued or securities held pursuant 48243
to section 1751.271 of the Revised Code that have been paid to or 48244
deposited with the department of insurance shall be considered 48245
special deposits for purposes of satisfying claims of contracted 48246
providers for covered health care services provided to medicaid 48247
recipients; 48248

(2) Contracted providers that have claims against a health 48249
insuring corporation for covered health care services provided to 48250
medicaid recipients shall be given first priority against the 48251
proceeds of the bond or securities held pursuant to section 48252
1751.27 of the Revised Code, to the exclusion of other creditors, 48253
except as provided for in this section. 48254

(B) If the amount of the proceeds of the bond or securities 48255
are not sufficient to satisfy all of the allowed claims of 48256
contracted providers for covered health care services provided to 48257
medicaid recipients, payment shall proceed as follows: 48258

(1) Contracted providers shall share in the proceeds of the 48259
bond or securities pro rata based on the allowed amount of the 48260
providers' claims against the health insuring corporation for 48261
covered health care services provided to medicaid recipients; 48262

(2) After payments are made under division (B)(1) of this 48263
section, the net unpaid balance of the claims of contracted 48264
providers shall be allowed for payment from the general assets of 48265
the estate in accordance with the priorities set forth in section 48266
3903.42 of the Revised Code. 48267

(C) If the amount of the proceeds of the bond or securities 48268
exceeds the allowed claims of contracted providers for covered 48269
health care services provided to medicaid recipients, the excess 48270
amount shall be considered a general asset of the health insuring 48271

corporation's estate to be distributed to other claimants in 48272
accordance with the priorities set forth in section 3903.42 of the 48273
Revised Code. 48274

Sec. 3905.04. (A) Except as otherwise provided in section 48275
3905.041 of the Revised Code, a resident individual applying for 48276
an insurance agent license for any of the lines of authority 48277
described in division (B) of this section shall take a written 48278
examination. The examination shall test the knowledge of the 48279
individual with respect to the lines of authority for which 48280
application is made, the duties and responsibilities of an 48281
insurance agent, and the insurance laws of this state. Before 48282
admission to the examination, each individual shall pay the 48283
nonrefundable fee required under division ~~(D)~~(C) of section 48284
3905.40 of the Revised Code. 48285

(B) The examination described in division (A) of this section 48286
shall be required for the following lines of authority: 48287

(1) Any of the lines of authority set forth in divisions 48288
(B)(1) to (6) of section 3905.06 of the Revised Code; 48289

(2) Title insurance; 48290

(3) Surety bail bonds as provided in sections 3905.83 to 48291
3905.95 of the Revised Code; 48292

(4) Any other line of authority designated by the 48293
superintendent of insurance. 48294

(C) An individual shall not be permitted to take the 48295
examination described in division (A) of this section unless one 48296
or both of the following apply: 48297

(1) The individual has earned a bachelor's or associate's 48298
degree in insurance from an accredited institution. 48299

(2) The individual has completed, for each line of authority 48300
for which the individual has applied, twenty hours of study in a 48301

program of insurance education approved by the superintendent, in 48302
consultation with the insurance agent education advisory council, 48303
under criteria established by the superintendent. Division (C) of 48304
this section does not apply with respect to title insurance or any 48305
other line of authority designated by the superintendent. 48306

(D) An individual who fails to appear for an examination as 48307
scheduled, or fails to pass an examination, may reapply for the 48308
examination if the individual pays the required fee and submits 48309
any necessary forms prior to being rescheduled for the 48310
examination. 48311

(E)(1) The superintendent may, in accordance with Chapter 48312
119. of the Revised Code, adopt any rule necessary for the 48313
implementation of this section. 48314

(2) The superintendent may make any necessary arrangements, 48315
including contracting with an outside testing service, for the 48316
administration of the examinations and the collection of the fees 48317
required by this section. 48318

Sec. 3905.36. ~~Every~~ (A) Except as provided in divisions (B) 48319
and (C) of this section, every insured association, company, 48320
corporation, or other person that enters, directly or indirectly, 48321
into any agreements with any insurance company, association, 48322
individual, firm, underwriter, or Lloyd, not authorized to do 48323
business in this state, whereby the insured shall procure, 48324
continue, or renew contracts of insurance covering subjects of 48325
insurance resident, located, or to be performed within this state, 48326
with such unauthorized insurance company, association, individual, 48327
firm, underwriter, or Lloyd, for which insurance there is a gross 48328
premium, membership fee, assessment, dues, or other consideration 48329
charged or collected, shall annually, on or before the 48330
thirty-first day of January, return to the superintendent of 48331
insurance a statement under oath showing the name and address of 48332

the insured, name and address of the insurer, subject of the 48333
insurance, general description of the coverage, and amount of 48334
gross premium, fee, assessment, dues, or other consideration for 48335
such insurance for the preceding twelve-month period and shall at 48336
the same time pay to the treasurer of state a tax of five per cent 48337
of such gross premium, fee, assessment, dues, or other 48338
consideration, after a deduction for return premium, if any, as 48339
calculated on a form prescribed by the treasurer of state. All 48340
taxes collected under this section by the treasurer of state shall 48341
be paid into the general revenue fund. If the tax is not paid when 48342
due, the tax shall be increased by a penalty of twenty-five per 48343
cent. An interest charge computed as set forth in section 5725.221 48344
of the Revised Code shall be made on the entire sum of the tax 48345
plus penalty, which interest shall be computed from the date the 48346
tax is due until it is paid. For purposes of this section, payment 48347
is considered made when it is received by the treasurer of state, 48348
irrespective of any United States postal service marking or other 48349
stamp or mark indicating the date on which the payment may have 48350
been mailed. ~~This~~ 48351

(B) This section does not apply to: 48352

~~(A) Insurance obtained pursuant to sections 3905.30 to 48353
3905.35 of the Revised Code;~~ 48354

~~(B)(1)~~ Transactions in this state involving a policy 48355
solicited, written, and delivered outside this state covering only 48356
subjects of insurance not resident, located, or to be performed in 48357
this state at the time of issuance, provided such transactions are 48358
subsequent to the issuance of the policy; 48359

~~(C)(2)~~ Attorneys-at-law acting on behalf of their clients in 48360
the adjustment of claims or losses; 48361

~~(D) Any insurance company underwriter issuing contracts of 48362
insurance to employer insureds or contracts of insurance issued to 48363~~

~~an employer insured. For purposes of this section an "employer
insured" is an insured:~~ 48364
48365

~~(1) Who procures the insurance of any risk or risks by use of
the services of a full time employee acting as an insurance
manager or buyer or the services of a regularly and continuously
qualified insurance consultant. As used in division (D)(1) of this
section, a "regularly and continuously qualified insurance
consultant" does not include any person licensed under Chapter
3905. of the Revised Code.~~ 48366
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~~(2) Whose aggregate annual premiums for insurance on all
risks total at least twenty five thousand dollars; and~~ 48373
48374

~~(3) Who has at least twenty five full time employees.~~ 48375

(3) Transactions involving policies issued by a captive
insurer. For this purpose, a "captive insurer" means any of the
following: 48376
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48378

(a) An insurer owned by one or more individuals or
organizations, whose exclusive purpose is to insure risks of one
or more of the parent organizations or individual owners and risks
of one or more affiliates of the parent organizations or
individual owners; 48379
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(b) In the case of groups and associations, insurers owned by
the group or association whose exclusive purpose is to insure
risks of members of the group or association and affiliates of the
members; 48384
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(c) Other types of insurers, licensed and operated in
accordance with the captive insurance laws of their jurisdictions
of domicile and operated in a manner so as to self-insure risks of
their owners and insureds. 48388
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(4) Professional or medical liability insurance procured by a
hospital organized under Chapter 3701. of the Revised Code. 48392
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~~Each (C) In transactions that are subject to sections 3905.30~~ 48394
~~to 3905.35 of the Revised Code, each~~ person licensed under section 48395
3905.30 of the Revised Code shall pay to the treasurer of state, 48396
on or before the thirty-first day of January of each year, five 48397
per cent of the balance of the gross premiums charged for 48398
insurance placed or procured under the license after a deduction 48399
for return premiums, as reported on a form prescribed by the 48400
treasurer of state. The tax shall be collected from the insured by 48401
the surplus line broker who placed or procured the policy of 48402
insurance at the time the policy is delivered to the insured. No 48403
license issued under section 3905.30 of the Revised Code shall be 48404
renewed until payment is made. If the tax is not paid when due, 48405
the tax shall be increased by a penalty of twenty-five per cent. 48406
An interest charge computed as set forth in section 5725.221 of 48407
the Revised Code shall be made on the entire sum of the tax plus 48408
penalty, which interest shall be computed from the date the tax is 48409
due until it is paid. For purposes of this section, payment is 48410
considered made when it is received by the treasurer of state, 48411
irrespective of any United States postal service marking or other 48412
stamp or mark indicating the date on which the payment may have 48413
been mailed. 48414

Sec. 3905.40. There shall be paid to the superintendent of 48415
insurance the following fees: 48416

(A) Each insurance company doing business in this state shall 48417
pay: 48418

(1) For filing a copy of its charter or deed of settlement, 48419
two hundred fifty dollars; 48420

(2) For filing each statement, ~~twenty-five~~ one hundred 48421
seventy-five dollars; 48422

(3) For each certificate of authority or license, one hundred 48423
seventy-five, and for each certified copy thereof, five dollars; 48424

| | |
|--|--|
| (4) For each copy of a paper filed in the superintendent's office, twenty cents per page; | 48425 48426 |
| (5) For issuing certificates of deposits or certified copies thereof, five dollars for the first certificate or copy and one dollar for each additional certificate or copy; | 48427 48428 48429 |
| (6) For issuing certificates of compliance or certified copies thereof, twenty <u>sixty</u> dollars; | 48430 48431 |
| (7) For affixing the seal of office and certifying documents, other than those enumerated herein, two dollars. | 48432 48433 |
| (B) Each domestic life insurance company doing business in this state shall pay for annual valuation of its policies, one cent on every one thousand dollars of insurance. | 48434 48435 48436 |
| (C) Each foreign insurance company doing business in this state shall pay for making and forwarding annually, semiannually, and quarterly the interest checks and coupons accruing upon bonds and securities deposited, fifty dollars each year on each one hundred thousand dollars deposited. | 48437 48438 48439 48440 48441 |
| (D) Each applicant for licensure as an insurance agent shall pay ten dollars before admission to any examination required by the superintendent. Such fee shall not be paid by the appointing insurance company. | 48442 48443 48444 48445 |
| (E) <u>(D)</u> Each domestic mutual life insurance company shall pay for verifying that any amendment to its articles of incorporation was regularly adopted, two hundred fifty dollars with each application for verification. Any such amendment shall be considered to have been regularly adopted when approved by the affirmative vote of two-thirds of the policyholders present in person or by proxy at any annual meeting of policyholders or at a special meeting of policyholders called for that purpose. | 48446 48447 48448 48449 48450 48451 48452 48453 |
| Sec. 3923.27. No policy of sickness and accident insurance | 48454 |

delivered, issued for delivery, or renewed in this state after ~~the~~ 48455
~~effective date of this section~~ August 26, 1976, including both 48456
individual and group policies, that provides hospitalization 48457
coverage for mental illness shall exclude such coverage for the 48458
reason that the insured is hospitalized in an institution or 48459
facility receiving tax support from the state, any municipal 48460
corporation, county, or joint county board, whether such 48461
institution or facility is deemed charitable or otherwise, 48462
provided the institution or facility or portion thereof is fully 48463
accredited by the joint commission on accreditation of hospitals 48464
or certified under Titles XVIII and XIX of the "Social Security 48465
Act of 1935," 79 Stat. 291, 42 U.S.C.A. 1395, as amended. The 48466
insurance coverage shall provide payment amounting to the lesser 48467
of either the full amount of the statutory charge for the cost of 48468
the services pursuant to ~~division (B)(8) of section 5121.04~~ 48469
section 5121.33 of the Revised Code or the benefits payable for 48470
the services under the applicable insurance policy. Insurance 48471
benefits for the coverage shall be paid so long as patients and 48472
their liable relatives retain their statutory liability pursuant 48473
to ~~the requirements of sections 5121.01 to 5121.10~~ section 5121.33 48474
of the Revised Code. Only that portion or per cent of the benefits 48475
shall be payable that has been assigned, or ordered to be paid, to 48476
the state or other appropriate provider for services rendered by 48477
the institution or facility. 48478

Sec. 4112.12. (A) There is hereby created the commission on 48479
African-American males, which shall consist of not more than 48480
forty-one members as follows: the directors or their designees of 48481
the departments of health, development, alcohol and drug addiction 48482
services, job and family services, rehabilitation and correction, 48483
mental health, and youth services; the adjutant general or the 48484
adjutant general's designee; the equal employment opportunity 48485
officer of the department of administrative services or the equal 48486

employment opportunity officer's designee; the executive director 48487
or the executive director's designee of the Ohio civil rights 48488
commission; the executive director or the executive director's 48489
designee of the office division of criminal justice services in 48490
the department of public safety; the superintendent of public 48491
instruction; the chancellor or the chancellor's designee of the 48492
Ohio board of regents; two members of the house of representatives 48493
appointed by the speaker of the house of representatives; three 48494
members of the senate appointed by the president of the senate; 48495
and not more than twenty-three members appointed by the governor. 48496
The members appointed by the governor shall include an additional 48497
member of the governor's cabinet and at least one representative 48498
of each of the following: the national association for the 48499
advancement of colored people; the urban league; an organization 48500
representing black elected officials; an organization representing 48501
black attorneys; the black religious community; the black business 48502
community; the nonminority business community; and organized 48503
labor; at least one black medical doctor, one black elected member 48504
of a school board, and one black educator; and at least two 48505
representatives of local private industry councils. The remaining 48506
members that may be appointed by the governor shall be selected 48507
from elected officials, civic and community leaders, and 48508
representatives of the employment, criminal justice, education, 48509
and health communities. 48510

(B) Terms of office shall be for three years, with each term 48511
ending on the same day of the same month as did the term that it 48512
succeeds. Each member shall hold office from the date of 48513
appointment until the end of the term for which the member was 48514
appointed. Members may be reappointed. Vacancies shall be filled 48515
in the manner provided for original appointments. Any member 48516
appointed to fill a vacancy occurring prior to the expiration date 48517
of the term for which the member's predecessor was appointed shall 48518
hold office as a member for the remainder of that term. A member 48519

shall continue in office subsequent to the expiration date of the 48520
member's term until the member's successor takes office or until a 48521
period of sixty days has elapsed, whichever occurs first. 48522

The commission annually shall elect a chairperson from among 48523
its members. 48524

(C) Members of the commission and members of subcommittees 48525
appointed under division (B) of section 4112.13 of the Revised 48526
Code shall not be compensated, but shall be reimbursed for their 48527
necessary and actual expenses incurred in the performance of their 48528
official duties. 48529

(D)(1) The Ohio civil rights commission shall serve as the 48530
commission on African-American males' fiscal agent and shall 48531
perform all of the following services: 48532

(a) Prepare and process payroll and other personnel documents 48533
that the commission on African-American males approves; 48534

(b) Maintain ledgers of accounts and reports of account 48535
balances, and monitor budgets and allotment plans in consultation 48536
with the commission on African-American males; 48537

(c) Perform other routine support services that the executive 48538
director of the Ohio civil rights commission or the executive 48539
director's designee and the Commission on African-American males 48540
or its designee consider appropriate to achieve efficiency. 48541

(2) The Ohio civil rights commission shall not approve any 48542
payroll or other personnel-related documents or any biennial 48543
budget, grant, expenditure, audit, or fiscal-related document 48544
without the advice and consent of the commission on 48545
African-American males. 48546

(3) The Ohio civil rights commission shall determine fees to 48547
be charged to the commission on African-American males for 48548
services performed under this division, which shall be in 48549

proportion to the services performed for the commission on 48550
African-American males. 48551

(4) The commission on African-American males or its designee 48552
has: 48553

(a) Sole authority to draw funds for any federal program in 48554
which the commission is authorized to participate; 48555

(b) Sole authority to expend funds from accounts for programs 48556
and any other necessary expenses the commission on 48557
African-American males may incur; 48558

(c) The duty to cooperate with the Ohio civil rights 48559
commission to ensure that the Ohio civil rights commission is 48560
fully apprised of all financial transactions. 48561

(E) The commission on African-American males shall appoint an 48562
executive director, who shall be in the unclassified civil 48563
service. The executive director shall supervise the commission's 48564
activities and report to the commission on the progress of those 48565
activities. The executive director shall do all things necessary 48566
for the efficient and effective implementation of the duties of 48567
the commission. 48568

The responsibilities assigned to the executive director do 48569
not relieve the members of the commission from final 48570
responsibility for the proper performance of the requirements of 48571
this division. 48572

(F) The commission on African-American males shall: 48573

(1) Employ, promote, supervise, and remove all employees, as 48574
needed, in connection with the performance of its duties under 48575
this section; 48576

(2) Maintain its office in Columbus; 48577

(3) Acquire facilities, equipment, and supplies necessary to 48578
house the commission, its employees, and files and records under 48579

its control, and to discharge any duty imposed upon it by law. The 48580
expense of these acquisitions shall be audited and paid for in the 48581
same manner as other state expenses. 48582

(4) Prepare and submit to the office of budget and management 48583
a budget for each biennium in accordance with sections 101.55 and 48584
107.03 of the Revised Code. The budget submitted shall cover the 48585
costs of the commission and its staff in the discharge of any duty 48586
imposed upon the commission by law. The commission shall pay its 48587
own payroll and other operating expenses from appropriation items 48588
designated by the general assembly. The commission shall not 48589
delegate any authority to obligate funds. 48590

(5) Establish the overall policy and management of the 48591
commission in accordance with this chapter; 48592

(6) Follow all state procurement requirements; 48593

(7) Pay fees owed to the Ohio civil rights commission under 48594
division (D) of this section from the commission on 48595
African-American males' general revenue fund or from any other 48596
fund from which the operating expenses of the commission on 48597
African-American males are paid. Any amounts set aside for a 48598
fiscal year for the payment of such fees shall be used only for 48599
the services performed for the commission on African-American 48600
males by the Ohio civil rights commission in that fiscal year. 48601

(G) The commission on African-American males may: 48602

(1) Hold sessions at any place within the state; 48603

(2) Establish, change, or abolish positions, and assign and 48604
reassign duties and responsibilities of any employee of the 48605
commission on African-American males as necessary to achieve the 48606
most efficient performance of its functions. 48607

Sec. 4115.32. (A) ~~There~~ Subject to section 4115.36 of the 48608
Revised Code, there is hereby created the state committee for the 48609

purchase of products and services provided by persons with severe 48610
disabilities. The committee shall be composed ex officio of the 48611
following persons, or their designees: 48612

(1) The directors of administrative services, mental health, 48613
mental retardation and developmental disabilities, transportation, 48614
natural resources, and commerce; 48615

(2) The administrators of the rehabilitation services 48616
commission and the bureau of workers' compensation; 48617

(3) The secretary of state; 48618

(4) One representative of a purchasing department of a 48619
political subdivision who is designated by the governor. 48620

The governor shall appoint two representatives of a qualified 48621
nonprofit agency for persons with severe disabilities, and a 48622
person with a severe disability to the committee. 48623

(B) Within thirty days after September 29, 1995, the governor 48624
shall appoint the representatives of a qualified nonprofit agency 48625
for persons with severe disabilities to the committee for a term 48626
ending August 31, 1996. Thereafter, terms for such representatives 48627
are for three years, each term ending on the same day of the same 48628
month of the year as did the term that it succeeds. Each committee 48629
member shall serve from the date of the member's appointment until 48630
the end of the term for which the member was appointed. Vacancies 48631
shall be filled in the same manner provided for original 48632
appointments. Any member appointed to fill a vacancy occurring 48633
prior to the expiration date of the term for which the member's 48634
predecessor was appointed shall serve as a member for the 48635
remainder of that term. A member shall serve subsequent to the 48636
expiration of the member's term and shall continue to serve until 48637
the member's successor takes office. 48638

(C) Members of the committee shall serve without 48639
compensation. Except as otherwise provided in divisions (C)(1) and 48640

(2) of this section, members shall be reimbursed for actual and 48641
necessary expenses, including travel expenses, incurred while away 48642
from their homes or regular places of business and incurred while 48643
performing services for the committee. 48644

(1) The members listed in divisions (A)(1) to (3) of this 48645
section, or their designees, shall not be reimbursed for any 48646
expenses. 48647

(2) No member of the committee who is entitled to receive 48648
reimbursement for the performance of services for the committee 48649
from another agency or entity shall receive reimbursement from the 48650
committee. 48651

(D) The committee shall elect from among its members a 48652
chairperson. The committee may request from any agency of the 48653
state, political subdivision, or instrumentality of the state any 48654
information necessary to enable it to carry out the intent of 48655
sections 4115.31 to 4115.35 of the Revised Code. Upon request of 48656
the committee, the agency, subdivision, or instrumentality shall 48657
furnish the information to the chairperson of the committee. 48658

(E) The committee shall not later than one hundred eighty 48659
days following the close of each fiscal year transmit to the 48660
governor, the general assembly, and each qualified nonprofit 48661
agency for persons with severe disabilities a report that includes 48662
the names of the committee members serving during the preceding 48663
fiscal year, the dates of committee meetings in that year, and any 48664
recommendations for changes in sections 4115.31 to 4115.35 of the 48665
Revised Code that the committee determines are necessary. 48666

(F) The director of ~~mental retardation and developmental~~ 48667
~~disabilities~~ administrative services shall designate a subordinate 48668
to act as executive director of the committee and shall furnish 48669
other staff and clerical assistance, office space, and supplies 48670
required by the committee. 48671

Sec. 4115.34. (A) ~~If~~ Except as provided in section 4115.36 of 48672
the Revised Code, if any state agency, political subdivision, or 48673
instrumentality of the state intends to procure any product or 48674
service, it shall determine whether the product or service is on 48675
the procurement list published pursuant to section 4115.33 of the 48676
Revised Code; and it shall, in accordance with rules of the state 48677
committee for the purchase of products and services provided by 48678
persons with severe disabilities, procure such product or service 48679
at the fair market price established by the committee from a 48680
qualified nonprofit agency for persons with severe disabilities, 48681
if the product or service is on the procurement list and is 48682
available within the period required by that agency, subdivision, 48683
or instrumentality, notwithstanding any law requiring the purchase 48684
of products and services on a competitive bid basis. Sections 48685
4115.31 to 4115.35 of the Revised Code do not apply if the 48686
products or services are available for procurement from any state 48687
agency, political subdivision, or instrumentality of the state and 48688
procurement from such agency, subdivision, or instrumentality is 48689
required under any law in effect on August 13, 1976. 48690

(B) The committee and any state agency, political 48691
subdivision, or instrumentality of the state may enter into 48692
contractual agreements, cooperative working relationships, or 48693
other arrangements determined necessary for effective coordination 48694
and efficient realization of the objectives of sections 4115.31 to 48695
4115.35 of the Revised Code and any other law requiring 48696
procurement of products or services from any state agency, 48697
political subdivision, or instrumentality of the state. 48698

(C) Notwithstanding any other section of the Revised Code, or 48699
any appropriations act, that may require a state agency, political 48700
subdivision, or instrumentality of the state to purchase supplies, 48701
services, or materials by means of a competitive bid procedure, 48702
state agencies, political subdivisions, or instrumentalities of 48703

the state need not utilize the required bidding procedures if the 48704
supplies, services, or materials are to be purchased from a 48705
qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 48706
of the Revised Code. 48707

Sec. 4115.36. Sections 4115.31 to 4115.35 of the Revised Code 48708
have no effect after the director of administrative services 48709
abolishes the state committee for the purchase of products and 48710
services provided by persons with severe disabilities. Upon 48711
abolishment of the committee, sections 125.60 to 125.6012 of the 48712
Revised Code shall govern the procurement of products and services 48713
provided by persons with work-limiting disabilities from qualified 48714
nonprofit agencies. 48715

Sec. 4117.03. (A) Public employees have the right to: 48716

(1) Form, join, assist, or participate in, or refrain from 48717
forming, joining, assisting, or participating in, except as 48718
otherwise provided in Chapter 4117. of the Revised Code, any 48719
employee organization of their own choosing; 48720

(2) Engage in other concerted activities for the purpose of 48721
collective bargaining or other mutual aid and protection; 48722

(3) Representation by an employee organization; 48723

(4) Bargain collectively with their public employers to 48724
determine wages, hours, terms and other conditions of employment 48725
and the continuation, modification, or deletion of an existing 48726
provision of a collective bargaining agreement, and enter into 48727
collective bargaining agreements; 48728

(5) Present grievances and have them adjusted, without the 48729
intervention of the bargaining representative, as long as the 48730
adjustment is not inconsistent with the terms of the collective 48731
bargaining agreement then in effect and as long as the bargaining 48732
representatives have the opportunity to be present at the 48733

adjustment. 48734

(B) Persons on active duty or acting in any capacity as 48735
members of the organized militia do not have collective bargaining 48736
rights. 48737

(C) Except as provided in division (D) of this section, 48738
nothing in Chapter 4117. of the Revised Code prohibits public 48739
employers from electing to engage in collective bargaining, to 48740
meet and confer, to hold discussions, or to engage in any other 48741
form of collective negotiations with public employees who are not 48742
subject to Chapter 4117. of the Revised Code pursuant to division 48743
(C) of section 4117.01 of the Revised Code. 48744

(D) A public employer shall not engage in collective 48745
bargaining or other forms of collective negotiations with the 48746
employees of county boards of elections referred to in division 48747
(C)(12) of section 4117.01 of the Revised Code. 48748

(E)(1) Employees of public school may bargain collectively 48749
for health care benefits; however, all health care benefits shall 48750
be provided through school employees health care board medical 48751
plans, in accordance with section 9.901 of the Revised Code. If a 48752
school district provides its employees with health care benefits 48753
pursuant to collective bargaining, the employees shall be 48754
permitted to choose a plan option from among the school employees 48755
health care board plans agreed to during collective bargaining. 48756

(2) During collective bargaining, employees of public schools 48757
may agree to pay a higher percentage of the premium for health 48758
benefit coverage under the plans designed by the school employees 48759
health care board pursuant to section 9.901 of the Revised Code 48760
than the percentage designated as the employees' contribution 48761
level by the board. A collective bargaining agreement, however, 48762
shall not permit the employees to contribute a lesser percentage 48763
of the premium than that set as the employees' contribution level 48764

by the school employees health care board, unless, in so doing, 48765
the participating school board is able to remain in compliance 48766
with the aggregate goal set pursuant to division (G)(3) of section 48767
9.901 of the Revised Code. 48768

Sec. 4117.08. (A) All matters pertaining to wages, hours, or 48769
terms and other conditions of employment and the continuation, 48770
modification, or deletion of an existing provision of a collective 48771
bargaining agreement are subject to collective bargaining between 48772
the public employer and the exclusive representative, except as 48773
otherwise specified in this section and division (E) of section 48774
4117.03 of the Revised Code. 48775

(B) The conduct and grading of civil service examinations, 48776
the rating of candidates, the establishment of eligible lists from 48777
the examinations, and the original appointments from the eligible 48778
lists are not appropriate subjects for collective bargaining. 48779

(C) Unless a public employer agrees otherwise in a collective 48780
bargaining agreement, nothing in Chapter 4117. of the Revised Code 48781
impairs the right and responsibility of each public employer to: 48782

(1) Determine matters of inherent managerial policy which 48783
include, but are not limited to areas of discretion or policy such 48784
as the functions and programs of the public employer, standards of 48785
services, its overall budget, utilization of technology, and 48786
organizational structure; 48787

(2) Direct, supervise, evaluate, or hire employees; 48788

(3) Maintain and improve the efficiency and effectiveness of 48789
governmental operations; 48790

(4) Determine the overall methods, process, means, or 48791
personnel by which governmental operations are to be conducted; 48792

(5) Suspend, discipline, demote, or discharge for just cause, 48793
or lay off, transfer, assign, schedule, promote, or retain 48794

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| employees; | 48795 |
| (6) Determine the adequacy of the work force; | 48796 |
| (7) Determine the overall mission of the employer as a unit of government; | 48797 48798 |
| (8) Effectively manage the work force; | 48799 |
| (9) Take actions to carry out the mission of the public employer as a governmental unit. | 48800 48801 |
| The employer is not required to bargain on subjects reserved to the management and direction of the governmental unit except as affect wages, hours, terms and conditions of employment, and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement. A public employee or exclusive representative may raise a legitimate complaint or file a grievance based on the collective bargaining agreement. | 48802 48803 48804 48805 48806 48807 48808 |
| Sec. 4117.10. (A) An agreement between a public employer and an exclusive representative entered into pursuant to this chapter governs the wages, hours, and terms and conditions of public employment covered by the agreement. If the agreement provides for a final and binding arbitration of grievances, public employers, employees, and employee organizations are subject solely to that grievance procedure and the state personnel board of review or civil service commissions have no jurisdiction to receive and determine any appeals relating to matters that were the subject of a final and binding grievance procedure. Where no agreement exists or where an agreement makes no specification about a matter, the public employer and public employees are subject to all applicable state or local laws or ordinances pertaining to the wages, hours, and terms and conditions of employment for public employees. Laws pertaining to civil rights, affirmative action, unemployment compensation, workers' compensation, the retirement of public | 48809 48810 48811 48812 48813 48814 48815 48816 48817 48818 48819 48820 48821 48822 48823 48824 |

employees, and residency requirements, the minimum educational 48825
requirements contained in the Revised Code pertaining to public 48826
education including the requirement of a certificate by the fiscal 48827
officer of a school district pursuant to section 5705.41 of the 48828
Revised Code, the provisions of division (A) of section 124.34 of 48829
the Revised Code governing the disciplining of officers and 48830
employees who have been convicted of a felony, and the minimum 48831
standards promulgated by the state board of education pursuant to 48832
division (D) of section 3301.07 of the Revised Code prevail over 48833
conflicting provisions of agreements between employee 48834
organizations and public employers. The law pertaining to the 48835
leave of absence and compensation provided under section 5923.05 48836
of the Revised Code prevails over any conflicting provisions of 48837
such agreements if the terms of the agreement contain benefits 48838
which are less than those contained in that section or the 48839
agreement contains no such terms and the public authority is the 48840
state or any agency, authority, commission, or board of the state 48841
or if the public authority is another entity listed in division 48842
(B) of section 4117.01 of the Revised Code that elects to provide 48843
leave of absence and compensation as provided in section 5923.05 48844
of the Revised Code. Except for sections 306.08, 306.12, 306.35, 48845
and 4981.22 of the Revised Code and arrangements entered into 48846
thereunder, and section 4981.21 of the Revised Code as necessary 48847
to comply with section 13(c) of the "Urban Mass Transportation Act 48848
of 1964," 87 Stat. 295, 49 U.S.C.A. 1609(c), as amended, and 48849
arrangements entered into thereunder, this chapter prevails over 48850
any and all other conflicting laws, resolutions, provisions, 48851
present or future, except as otherwise specified in this chapter 48852
or as otherwise specified by the general assembly. Nothing in this 48853
section prohibits or shall be construed to invalidate the 48854
provisions of an agreement establishing supplemental workers' 48855
compensation or unemployment compensation benefits or exceeding 48856
minimum requirements contained in the Revised Code pertaining to 48857

public education or the minimum standards promulgated by the state 48858
board of education pursuant to division (D) of section 3301.07 of 48859
the Revised Code. 48860

(B) The public employer shall submit a request for funds 48861
necessary to implement an agreement and for approval of any other 48862
matter requiring the approval of the appropriate legislative body 48863
to the legislative body within fourteen days of the date on which 48864
the parties finalize the agreement, unless otherwise specified, 48865
but if the appropriate legislative body is not in session at the 48866
time, then within fourteen days after it convenes. The legislative 48867
body must approve or reject the submission as a whole, and the 48868
submission is deemed approved if the legislative body fails to act 48869
within thirty days after the public employer submits the 48870
agreement. The parties may specify that those provisions of the 48871
agreement not requiring action by a legislative body are effective 48872
and operative in accordance with the terms of the agreement, 48873
provided there has been compliance with division (C) of this 48874
section. If the legislative body rejects the submission of the 48875
public employer, either party may reopen all or part of the entire 48876
agreement. 48877

As used in this section, "legislative body" includes ~~the~~ 48878
~~general assembly~~, the governing board of a municipal corporation, 48879
school district, college or university, village, township, or 48880
board of county commissioners or any other body that has authority 48881
to approve the budget of their public jurisdiction and, with 48882
regard to the state, "legislative body" means the controlling 48883
board. 48884

(C) The chief executive officer, or the chief executive 48885
officer's representative, of each municipal corporation, the 48886
designated representative of the board of education of each school 48887
district, college or university, or any other body that has 48888
authority to approve the budget of their public jurisdiction, the 48889

designated representative of the board of county commissioners and 48890
of each elected officeholder of the county whose employees are 48891
covered by the collective negotiations, and the designated 48892
representative of the village or the board of township trustees of 48893
each township is responsible for negotiations in the collective 48894
bargaining process; except that the legislative body may accept or 48895
reject a proposed collective bargaining agreement. When the 48896
matters about which there is agreement are reduced to writing and 48897
approved by the employee organization and the legislative body, 48898
the agreement is binding upon the legislative body, the employer, 48899
and the employee organization and employees covered by the 48900
agreement. 48901

(D) There is hereby established an office of collective 48902
bargaining in the department of administrative services for the 48903
purpose of negotiating with and entering into written agreements 48904
between state agencies, departments, boards, and commissions and 48905
the exclusive representative on matters of wages, hours, terms and 48906
other conditions of employment and the continuation, modification, 48907
or deletion of an existing provision of a collective bargaining 48908
agreement. Nothing in any provision of law to the contrary shall 48909
be interpreted as excluding the bureau of workers' compensation 48910
and the industrial commission from the preceding sentence. This 48911
office shall not negotiate on behalf of other statewide elected 48912
officials or boards of trustees of state institutions of higher 48913
education who shall be considered as separate public employers for 48914
the purposes of this chapter; however, the office may negotiate on 48915
behalf of these officials or trustees where authorized by the 48916
officials or trustees. The staff of the office of collective 48917
bargaining are in the unclassified service. The director of 48918
administrative services shall fix the compensation of the staff. 48919

The office of collective bargaining shall: 48920

(1) Assist the director in formulating management's 48921

philosophy for public collective bargaining as well as planning 48922
bargaining strategies; 48923

(2) Conduct negotiations with the exclusive representatives 48924
of each employee organization; 48925

(3) Coordinate the state's resources in all mediation, 48926
fact-finding, and arbitration cases as well as in all labor 48927
disputes; 48928

(4) Conduct systematic reviews of collective bargaining 48929
agreements for the purpose of contract negotiations; 48930

(5) Coordinate the systematic compilation of data by all 48931
agencies that is required for negotiating purposes; 48932

(6) Prepare and submit an annual report and other reports as 48933
requested to the governor and the general assembly on the 48934
implementation of this chapter and its impact upon state 48935
government. 48936

Sec. 4117.103. Notwithstanding any provision of section 48937
4117.08 or 4117.10 of the Revised Code to the contrary, no 48938
agreement entered into under this chapter on or after the 48939
effective date of this section shall prohibit a school district 48940
board of education from utilizing volunteers to assist the 48941
district and its schools in performing any of their functions, 48942
other than functions for which a license, permit, or certificate 48943
issued by the state board of education under section 3301.074 or 48944
Chapter 3319. of the Revised Code or a certificate issued under 48945
division (A) or (B) of section 3327.10 of the Revised Code is 48946
required. 48947

Sec. 4117.24. The training and, publications, and grants fund 48948
is hereby created in the state treasury. The state employment 48949
relations board shall deposit into the training and, publications, 48950
and grants fund all ~~payments~~ moneys received from the following 48951

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| <u>sources:</u> | 48952 |
| <u>(A) Payments received by the board for copies of documents, rulebooks, and other publications; fees</u> | 48953 48954 |
| <u>(B) Fees received from seminar participants; and receipts</u> | 48955 |
| <u>(C) Receipts from the sale of clearinghouse data;</u> | 48956 |
| <u>(D) Moneys received from grants, donations, awards, bequests, gifts, reimbursements, and similar funds;</u> | 48957 48958 |
| <u>(E) Reimbursement received for professional services and expenses related to professional services;</u> | 48959 48960 |
| <u>(F) Funds received to support the development of labor relations services and programs. The state employment relations board shall use all moneys deposited into the training and, publications, and grants fund to defray the costs of furnishing and making available copies of documents, rulebooks, and other publications; the costs of planning, organizing, and conducting training seminars; the costs associated with grant projects, innovative labor-management cooperation programs, research projects related to these grants and programs, and the advancement in professionalism of public sector relations; the professional development of board employees; and the costs of compiling clearinghouse data.</u> | 48961 48962 48963 48964 48965 48966 48967 48968 48969 48970 48971 48972 |
| <u>The board may seek, solicit, apply for, receive, and accept grants, gifts, and contributions of money, property, labor, and other things of value to be held for, used for, and applied to only the purpose for which the grants, gifts, and contributions are made, from individuals, private and public corporations, the United States or any agency thereof, the state or any agency thereof, and any political subdivision of the state, and may enter into any contract with any such public or private source in connection therewith to be held for, used for, and applied to only the purposes for which such grants are made and contracts are</u> | 48973 48974 48975 48976 48977 48978 48979 48980 48981 48982 |

entered into, all subject to and in accordance with the purposes 48983
of this chapter. Any money received from the grants, gifts, 48984
contributions, or contracts shall be deposited into the training, 48985
publications, and grants fund. 48986

Sec. 4121.12. (A) There is hereby created the workers' 48987
compensation oversight commission consisting of ~~nine~~ eleven 48988
members, of which members the governor shall appoint five with the 48989
advice and consent of the senate. Of the five members the governor 48990
appoints, two shall be individuals who, on account of their 48991
previous vocation, employment, or affiliations, can be classed as 48992
representative of employees, at least one of whom is 48993
representative of employees who are members of an employee 48994
organization; two shall be individuals who, on account of their 48995
previous vocation, employment, or affiliations, can be classed as 48996
representative of employers, one of whom represents self-insuring 48997
employers and one of whom has experience as an employer in 48998
compliance with section 4123.35 of the Revised Code other than a 48999
self-insuring employer, and one of those two representatives also 49000
shall represent employers whose employees are not members of an 49001
employee organization; and one shall represent the public and also 49002
be an individual who, on account of the individual's previous 49003
vocation, employment, or affiliations, cannot be classed as either 49004
predominantly representative of employees or of employers. The 49005
governor shall select the chairperson of the commission who shall 49006
serve as chairperson at the pleasure of the governor. No more than 49007
three members appointed by the governor shall belong to or be 49008
affiliated with the same political party. 49009

Each of these five members shall have at least three years' 49010
experience in the field of insurance, finance, workers' 49011
compensation, law, accounting, actuarial, personnel, investments, 49012
or data processing, or in the management of an organization whose 49013
size is commensurate with that of the bureau of workers' 49014

compensation. At least one of these five members shall be an attorney licensed under Chapter 4705. of the Revised Code to practice law in this state.

(B) Of the initial appointments made to the commission, the governor shall appoint one member who represents employees to a term ending one year after September 1, 1995, one member who represents employers to a term ending two years after September 1, 1995, the member who represents the public to a term ending three years after September 1, 1995, one member who represents employees to a term ending four years after September 1, 1995, and one member who represents employers to a term ending five years after September 1, 1995. Thereafter, terms of office shall be for ~~five~~ three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed.

The governor shall not appoint any person to more than two full terms of office on the commission. This restriction does not prevent the governor from appointing a person to fill a vacancy caused by the death, resignation, or removal of a commission member and also appointing that person twice to full terms on the commission, or from appointing a person previously appointed to fill less than a full term twice to full terms on the commission. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until a successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(C) In making appointments to the commission, the governor shall select the members from the list of names submitted by the

workers' compensation oversight commission nominating committee 49047
pursuant to this division. Within fourteen days after the governor 49048
calls the initial meeting of the nominating committee pursuant to 49049
division (C) of section 4121.123 of the Revised Code, the 49050
nominating committee shall submit to the governor, for the initial 49051
appointments, a list containing four separate names for each of 49052
the members on the commission. Within fourteen days after the 49053
submission of the list, the governor shall appoint individuals 49054
from the list. 49055

For the appointment of the member who is representative of 49056
employees who are members of an employee organization, both for 49057
initial appointments and for the filling of vacancies, the list of 49058
four names submitted by the nominating committee shall be 49059
comprised of four individuals who are members of the executive 49060
committee of the largest statewide labor federation. 49061

Thereafter, within sixty days after a vacancy occurring as a 49062
result of the expiration of a term and within thirty days after 49063
other vacancies occurring on the commission, the nominating 49064
committee shall submit a list containing four names for each 49065
vacancy. Within fourteen days after the submission of the list, 49066
the governor shall appoint individuals from the list. With respect 49067
to the filling of vacancies, the nominating committee shall 49068
provide the governor with a list of four individuals who are, in 49069
the judgment of the nominating committee, the most fully qualified 49070
to accede to membership on the commission. The nominating 49071
committee shall not include the name of an individual upon the 49072
list for the filling of vacancies if the appointment of that 49073
individual by the governor would result in more than three members 49074
of the commission belonging to or being affiliated with the same 49075
political party. The committee shall include on the list for the 49076
filling of vacancies only the names of attorneys admitted to 49077
practice law in this state if, to fulfill the requirement of 49078

division (A) of section 4121.12 of the Revised Code, the vacancy 49079
must be filled by an attorney. 49080

In order for the name of an individual to be submitted to the 49081
governor under this division, the nominating committee shall 49082
approve the individual by an affirmative vote of a majority of its 49083
members. 49084

(D) The commission shall also consist of two members, known 49085
as the investment expert members. One investment expert member 49086
shall be appointed by the treasurer of state and one investment 49087
expert member shall be jointly appointed by the speaker of the 49088
house of representatives and the president of the senate. Each 49089
investment expert member shall have the following qualifications: 49090

(1) Be a resident of this state: 49091

(2) Within the three years immediately preceding the 49092
appointment, not have been employed by the bureau of workers' 49093
compensation or by any person, partnership, or corporation that 49094
has provided to the bureau services of a financial or investment 49095
nature, including the management, analysis, supervision, or 49096
investment of assets; 49097

(3) Have direct experience in the management, analysis, 49098
supervision, or investment of assets. 49099

Terms of office of the investment expert members shall be for 49100
three years, with each term ending on the same day of the same 49101
month as did the term that it succeeds. Each member shall hold 49102
office for the date of the member's appointment until the end of 49103
the term for which the member was appointed. The president, 49104
speaker, and treasurer shall not appoint any person to more than 49105
two full terms of office on the commission. This restriction does 49106
not prevent the president, speaker, and treasurer from appointing 49107
a person to fill a vacancy caused by the death, resignation, or 49108
removal of a commission member and also appointing that person 49109

twice to full terms on the commission, or from appointing a person 49110
previously appointed to fill less than a full term twice to full 49111
terms on the commission. Any investment expert member appointed to 49112
fill a vacancy occurring prior to the expiration of the term for 49113
which the member's predecessor was appointed shall hold office 49114
until the end of that term. The member shall continue in office 49115
subsequent to the expiration date of the member's term until the 49116
member's successor takes office or until a period of sixty days 49117
has elapsed, whichever occurs first. 49118

The investment expert members of the oversight commission 49119
shall vote only on investment matters. 49120

(E) The remaining four members of the commission shall be the 49121
chairperson and ranking minority member of the standing committees 49122
of the house of representatives and of the senate to which 49123
legislation concerning this chapter and Chapters 4123., 4127., and 49124
4131. of the Revised Code normally are referred, or a designee of 49125
the chairperson or ranking minority member, provided that the 49126
designee is a member of the standing committee. Legislative 49127
members shall serve during the session of the general assembly to 49128
which they are elected and for as long as they are members of the 49129
general assembly. Legislative members shall serve in an advisory 49130
capacity to the commission and shall have no voting rights on 49131
matters coming before the commission. Membership on the commission 49132
by legislative members shall not be deemed as holding a public 49133
office. 49134

~~(E)~~(F) All members of the commission shall receive their 49135
reasonable and necessary expenses pursuant to section 126.31 of 49136
the Revised Code while engaged in the performance of their duties 49137
as members. ~~Legislative members also shall receive fifty dollars~~ 49138
~~per meeting that they attend.~~ Members appointed by the governor 49139
and the investment expert members also shall receive an annual 49140
salary ~~as follows:~~ 49141

~~(1) On and before August 31, 1998, not to exceed six thousand
dollars payable at the rate of five hundred dollars per month. A
member shall receive the monthly five hundred dollar salary only
if the member has attended at least one meeting of the commission
during that month. A member may receive no more than the monthly
five hundred dollar salary regardless of the number of meetings
held by the commission during a month or the number of meetings in
excess of one within a month that the member attends.~~

~~(2) After August 31, 1998, not to exceed eighteen thousand
dollars payable on the following basis:~~

~~(a)(1) Except as provided in division (E)(F)(2)(b) of this
section, a member shall receive two thousand dollars during a
month in which the member attends one or more meetings of the
commission and shall receive no payment during a month in which
the member attends no meeting of the commission.~~

~~(b)(2) A member may receive no more than the annual eighteen
thousand dollar salary regardless of the number of meetings held
by the commission during a year or the number of meetings in
excess of nine within a year that the member attends.~~

The chairperson of the commission shall set the meeting dates
of the commission as necessary to perform the duties of the
commission under this chapter and Chapters 4123., 4127., and 4131.
of the Revised Code. The commission shall meet at least nine times
during the period commencing on the first day of September and
ending on the thirty-first day of August of the following year.
The administrator of workers' compensation shall provide
professional and clerical assistance to the commission, as the
commission considers appropriate.

~~(F)(G) The commission shall:~~

(1) Review progress of the bureau in meeting its cost and
quality objectives and in complying with this chapter and Chapters

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| 4123., 4127., and 4131. of the Revised Code; | 49173 |
| (2) Issue an annual report on the cost and quality objectives of the bureau to the president of the senate, the speaker of the house of representatives, and the governor; | 49174 49175 49176 |
| (3) Review all independent financial audits of the bureau. The administrator shall provide access to records of the bureau to facilitate the review required under this division. | 49177 49178 49179 |
| (4) Study issues as requested by the administrator or the governor; | 49180 49181 |
| (5) Contract with an independent actuarial firm to assist the commission in making recommendations to the administrator regarding premium rates; | 49182 49183 49184 |
| (6) Establish objectives, policies, and criteria for the administration of the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines, and monitor the administrator's progress in implementing the objectives, policies, and criteria on a quarterly basis. The commission shall <u>review and</u> publish the objectives, policies, and criteria no less than annually and shall make copies available to interested parties. The commission shall prohibit, on a prospective basis, <u>any</u> specific investment activity it finds to be contrary to its investment objectives, policies, and criteria. | 49185 49186 49187 49188 49189 49190 49191 49192 49193 49194 49195 49196 |
| The investment policy in existence on March 7, 1997, shall continue until the commission approves objectives, policies, and criteria for the administration of the investment program pursuant to this section. | 49197 49198 49199 49200 |
| <u>The objectives, policies, and criteria adopted by the commission for the operation of the investment program shall prohibit investing assets of funds, directly or indirectly, in</u> | 49201 49202 49203 |

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| <u>vehicles that target any of the following:</u> | 49204 |
| <u>(a) Coins;</u> | 49205 |
| <u>(b) Artwork;</u> | 49206 |
| <u>(c) Horses;</u> | 49207 |
| <u>(d) Jewelry or gems;</u> | 49208 |
| <u>(e) Stamps;</u> | 49209 |
| <u>(f) Antiques;</u> | 49210 |
| <u>(g) Artifacts;</u> | 49211 |
| <u>(h) Collectibles;</u> | 49212 |
| <u>(i) Memorabilia;</u> | 49213 |
| <u>(j) Similar unregulated investments that are not commonly</u> | 49214 |
| <u>part of an institutional portfolio, that lack liquidity, and that</u> | 49215 |
| <u>lack readily determinable valuation.</u> | 49216 |
| <u>(7) Specify in the objectives, policies, and criteria for the</u> | 49217 |
| <u>investment program that the administrator is permitted to invest</u> | 49218 |
| <u>in an investment class only if the commission, by a majority vote,</u> | 49219 |
| <u>opens that class. After the commission opens a class but prior to</u> | 49220 |
| <u>the administrator investing in that class, the commission shall</u> | 49221 |
| <u>adopt rules establishing due diligence standards for employees' of</u> | 49222 |
| <u>the bureau to follow when investing in that class and shall</u> | 49223 |
| <u>establish policies and procedures to review and monitor the</u> | 49224 |
| <u>performance and value of each investment class. The commission</u> | 49225 |
| <u>shall submit a report annually on the performance and value of</u> | 49226 |
| <u>each investment class to the governor, the president and minority</u> | 49227 |
| <u>leader of the senate, and the speaker and minority leader of the</u> | 49228 |
| <u>house of representatives. The commission may vote to close any</u> | 49229 |
| <u>investment class.</u> | 49230 |
| <u>(8) Advise and consent on all of the following:</u> | 49231 |
| <u>(a) Administrative rules the administrator submits to it</u> | 49232 |

pursuant to division (B)(5) of section 4121.121 of the Revised Code for the classification of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating;

(b) The overall policy of the bureau of workers' compensation as set by the administrator;

(c) The duties and authority conferred upon the administrator pursuant to section 4121.37 of the Revised Code;

(d) Rules the administrator adopts for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code;

(e) Rules the administrator submits to it pursuant to Chapter 4167. of the Revised Code regarding the public employment risk reduction program and the protection of public health care workers from exposure incidents.

As used in this division, "public health care worker" and "exposure incident" have the same meanings as in section 4167.25 of the Revised Code.

~~(8)~~(9) Perform all duties required under section 4121.125 of the Revised Code.

~~(G)~~(H) The office of a member of the commission who is convicted of or pleads guilty to a felony, a theft offense as defined in section 2913.01 of the Revised Code, or a violation of section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be deemed vacant. The vacancy shall be filled in the same manner as the original appointment. A person who has pleaded guilty to or been convicted of an offense of that nature is ineligible to be a member of the commission. A member who receives a bill of indictment for any of the offenses specified in this

section shall be automatically suspended from the commission 49264
pending resolution of the criminal matter. 49265

(I) As used in this section, "employee organization" means 49266
any labor or bona fide organization in which employees participate 49267
and which exists for the purpose, in whole or in part, of dealing 49268
with employers concerning grievances, labor disputes, wages, 49269
hours, terms and other conditions of employment. 49270

Sec. 4121.121. (A) There is hereby created the bureau of 49271
workers' compensation, which shall be administered by the 49272
administrator of workers' compensation. A person appointed to the 49273
position of administrator shall possess significant management 49274
experience in effectively managing an organization or 49275
organizations of substantial size and complexity. The governor 49276
shall appoint the administrator as provided in section 121.03 of 49277
the Revised Code, and the administrator shall serve at the 49278
pleasure of the governor. The governor shall fix the 49279
administrator's salary on the basis of the administrator's 49280
experience and the administrator's responsibilities and duties 49281
under this chapter and Chapters 4123., 4127., 4131., and 4167. of 49282
the Revised Code. The governor shall not appoint to the position 49283
of administrator any person who has, or whose spouse has, given a 49284
contribution to the campaign committee of the governor in an 49285
amount greater than one thousand dollars during the two-year 49286
period immediately preceding the date of the appointment of the 49287
administrator. 49288

The administrator shall hold no other public office and shall 49289
devote full time to the duties of administrator. Before entering 49290
upon the duties of the office, the administrator shall take an 49291
oath of office as required by sections 3.22 and 3.23 of the 49292
Revised Code, and shall file in the office of the secretary of 49293
state, a bond signed by the administrator and by surety approved 49294

by the governor, for the sum of fifty thousand dollars payable to 49295
the state, conditioned upon the faithful performance of the 49296
administrator's duties. 49297

(B) The administrator is responsible for the management of 49298
the bureau of workers' compensation and for the discharge of all 49299
administrative duties imposed upon the administrator in this 49300
chapter and Chapters 4123., 4127., 4131., and 4167. of the Revised 49301
Code, and in the discharge thereof shall do all of the following: 49302

(1) Establish the overall administrative policy of the bureau 49303
for the purposes of this chapter and Chapters 4123., 4127., 4131., 49304
and 4167. of the Revised Code, and perform all acts and exercise 49305
all authorities and powers, discretionary and otherwise that are 49306
required of or vested in the bureau or any of its employees in 49307
this chapter and Chapters 4123., 4127., 4131., and 4167. of the 49308
Revised Code, except the acts and the exercise of authority and 49309
power that is required of and vested in the oversight commission 49310
or the industrial commission pursuant to those chapters. The 49311
treasurer of state shall honor all warrants signed by the 49312
administrator, or by one or more of the administrator's employees, 49313
authorized by the administrator in writing, or bearing the 49314
facsimile signature of the administrator or such employee under 49315
sections 4123.42 and 4123.44 of the Revised Code. 49316

(2) Employ, direct, and supervise all employees required in 49317
connection with the performance of the duties assigned to the 49318
bureau by this chapter and Chapters 4123., 4127., 4131., and 4167. 49319
of the Revised Code, and may establish job classification plans 49320
and compensation for all employees of the bureau provided that 49321
this grant of authority shall not be construed as affecting any 49322
employee for whom the state employment relations board has 49323
established an appropriate bargaining unit under section 4117.06 49324
of the Revised Code. All positions of employment in the bureau are 49325
in the classified civil service except those employees the 49326

administrator may appoint to serve at the administrator's pleasure 49327
in the unclassified civil service pursuant to section 124.11 of 49328
the Revised Code. The administrator shall fix the salaries of 49329
employees the administrator appoints to serve at the 49330
administrator's pleasure, including the chief operating officer, 49331
staff physicians, and other senior management personnel of the 49332
bureau and shall establish the compensation of staff attorneys of 49333
the bureau's legal section and their immediate supervisors, and 49334
take whatever steps are necessary to provide adequate compensation 49335
for other staff attorneys. 49336

The administrator may appoint a person holding a certified 49337
position in the classified service to any state position in the 49338
unclassified service of the bureau of workers' compensation. A 49339
person so appointed shall retain the right to resume the position 49340
and status held by the person in the classified service 49341
immediately prior to the person's appointment in the unclassified 49342
service. If the position the person previously held has been 49343
filled or placed in the unclassified service, or is otherwise 49344
unavailable, the person shall be appointed to a position in the 49345
classified service within the bureau that the department of 49346
administrative services certifies is comparable in compensation to 49347
the position the person previously held. Reinstatement to a 49348
position in the classified service shall be to a position 49349
substantially equal to that held previously, as certified by the 49350
department of administrative services. Service in the position in 49351
the unclassified service shall be counted as service in the 49352
position in the classified service held by the person immediately 49353
prior to the person's appointment in the unclassified service. 49354
When a person is reinstated to a position in the classified 49355
service as provided in this section, the person is entitled to all 49356
rights, status, and benefits accruing to the position during the 49357
person's time of service in the position in the unclassified 49358
service. 49359

(3) Reorganize the work of the bureau, its sections, departments, and offices to the extent necessary to achieve the most efficient performance of its functions and to that end may establish, change, or abolish positions and assign and reassign duties and responsibilities of every employee of the bureau. All persons employed by the commission in positions that, after November 3, 1989, are supervised and directed by the administrator under this section are transferred to the bureau in their respective classifications but subject to reassignment and reclassification of position and compensation as the administrator determines to be in the interest of efficient administration. The civil service status of any person employed by the commission is not affected by this section. Personnel employed by the bureau or the commission who are subject to Chapter 4117. of the Revised Code shall retain all of their rights and benefits conferred pursuant to that chapter as it presently exists or is hereafter amended and nothing in this chapter or Chapter 4123. of the Revised Code shall be construed as eliminating or interfering with Chapter 4117. of the Revised Code or the rights and benefits conferred under that chapter to public employees or to any bargaining unit.

(4) Provide offices, equipment, supplies, and other facilities for the bureau.

(5) Prepare and submit to the oversight commission information the administrator considers pertinent or the oversight commission requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the oversight commission, for classifications of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating. The administrator shall obtain, prepare, and submit any

other information the oversight commission requires for the prompt 49392
and efficient discharge of its duties. 49393

(6) Keep the accounts required by division (A) of section 49394
4123.34 of the Revised Code and all other accounts and records 49395
necessary to the collection, administration, and distribution of 49396
the workers' compensation funds and shall obtain the statistical 49397
and other information required by section 4123.19 of the Revised 49398
Code. 49399

(7) Exercise the investment powers vested in the 49400
administrator by section 4123.44 of the Revised Code in accordance 49401
with the investment objectives, policies, and criteria established 49402
by the oversight commission pursuant to section 4121.12 of the 49403
Revised Code and in consultation with the chief investment officer 49404
of the bureau of workers' compensation. The administrator shall 49405
not engage in any prohibited investment activity specified by the 49406
oversight commission pursuant to division ~~(F)~~(G)(6) of section 49407
4121.12 of the Revised Code and shall not invest in any type of 49408
investment specified in division (G)(6)(a) to (j) of that section. 49409
All business shall be transacted, all funds invested, all warrants 49410
for money drawn and payments made, and all cash and securities and 49411
other property held, in the name of the bureau, or in the name of 49412
its nominee, provided that nominees are authorized by the 49413
administrator solely for the purpose of facilitating the transfer 49414
of securities, and restricted to the administrator and designated 49415
employees. 49416

(8) Make contracts for and supervise the construction of any 49417
project or improvement or the construction or repair of buildings 49418
under the control of the bureau. 49419

(9) Purchase supplies, materials, equipment, and services; 49420
make contracts for, operate, and superintend the telephone, other 49421
telecommunication, and computer services for the use of the 49422
bureau; and make contracts in connection with office reproduction, 49423

forms management, printing, and other services. Notwithstanding 49424
sections 125.12 to 125.14 of the Revised Code, the administrator 49425
may transfer surplus computers and computer equipment directly to 49426
an accredited public school within the state. The computers and 49427
computer equipment may be repaired or refurbished prior to the 49428
transfer. 49429

(10) Separately from the budget the industrial commission 49430
submits, prepare and submit to the director of budget and 49431
management a budget for each biennium. The budget submitted shall 49432
include estimates of the costs and necessary expenditures of the 49433
bureau in the discharge of any duty imposed by law. 49434

(11) As promptly as possible in the course of efficient 49435
administration, decentralize and relocate such of the personnel 49436
and activities of the bureau as is appropriate to the end that the 49437
receipt, investigation, determination, and payment of claims may 49438
be undertaken at or near the place of injury or the residence of 49439
the claimant and for that purpose establish regional offices, in 49440
such places as the administrator considers proper, capable of 49441
discharging as many of the functions of the bureau as is 49442
practicable so as to promote prompt and efficient administration 49443
in the processing of claims. All active and inactive lost-time 49444
claims files shall be held at the service office responsible for 49445
the claim. A claimant, at the claimant's request, shall be 49446
provided with information by telephone as to the location of the 49447
file pertaining to the claimant's claim. The administrator shall 49448
ensure that all service office employees report directly to the 49449
director for their service office. 49450

(12) Provide a written binder on new coverage where the 49451
administrator considers it to be in the best interest of the risk. 49452
The administrator, or any other person authorized by the 49453
administrator, shall grant the binder upon submission of a request 49454
for coverage by the employer. A binder is effective for a period 49455

of thirty days from date of issuance and is nonrenewable. Payroll 49456
reports and premium charges shall coincide with the effective date 49457
of the binder. 49458

(13) Set standards for the reasonable and maximum handling 49459
time of claims payment functions, ensure, by rules, the impartial 49460
and prompt treatment of all claims and employer risk accounts, and 49461
establish a secure, accurate method of time stamping all incoming 49462
mail and documents hand delivered to bureau employees. 49463

(14) Ensure that all employees of the bureau follow the 49464
orders and rules of the commission as such orders and rules relate 49465
to the commission's overall adjudicatory policy-making and 49466
management duties under this chapter and Chapters 4123., 4127., 49467
and 4131. of the Revised Code. 49468

(15) Manage and operate a data processing system with a 49469
common data base for the use of both the bureau and the commission 49470
and, in consultation with the commission, using electronic data 49471
processing equipment, shall develop a claims tracking system that 49472
is sufficient to monitor the status of a claim at any time and 49473
that lists appeals that have been filed and orders or 49474
determinations that have been issued pursuant to section 4123.511 49475
or 4123.512 of the Revised Code, including the dates of such 49476
filings and issuances. 49477

(16) Establish and maintain a medical section within the 49478
bureau. The medical section shall do all of the following: 49479

(a) Assist the administrator in establishing standard medical 49480
fees, approving medical procedures, and determining eligibility 49481
and reasonableness of the compensation payments for medical, 49482
hospital, and nursing services, and in establishing guidelines for 49483
payment policies which recognize usual, customary, and reasonable 49484
methods of payment for covered services; 49485

(b) Provide a resource to respond to questions from claims 49486

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| examiners for employees of the bureau; | 49487 |
| (c) Audit fee bill payments; | 49488 |
| (d) Implement a program to utilize, to the maximum extent possible, electronic data processing equipment for storage of information to facilitate authorizations of compensation payments for medical, hospital, drug, and nursing services; | 49489 49490 49491 49492 |
| (e) Perform other duties assigned to it by the administrator. | 49493 |
| (17) Appoint, as the administrator determines necessary, panels to review and advise the administrator on disputes arising over a determination that a health care service or supply provided to a claimant is not covered under this chapter or Chapter 4123. of the Revised Code or is medically unnecessary. If an individual health care provider is involved in the dispute, the panel shall consist of individuals licensed pursuant to the same section of the Revised Code as such health care provider. | 49494 49495 49496 49497 49498 49499 49500 49501 |
| (18) Pursuant to section 4123.65 of the Revised Code, approve applications for the final settlement of claims for compensation or benefits under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code as the administrator determines appropriate, except in regard to the applications of self-insuring employers and their employees. | 49502 49503 49504 49505 49506 49507 |
| (19) Comply with section 3517.13 of the Revised Code, and except in regard to contracts entered into pursuant to the authority contained in section 4121.44 of the Revised Code, comply with the competitive bidding procedures set forth in the Revised Code for all contracts into which the administrator enters provided that those contracts fall within the type of contracts and dollar amounts specified in the Revised Code for competitive bidding and further provided that those contracts are not otherwise specifically exempt from the competitive bidding procedures contained in the Revised Code. | 49508 49509 49510 49511 49512 49513 49514 49515 49516 49517 |

(20) Adopt, with the advice and consent of the oversight 49518
commission, rules for the operation of the bureau. 49519

(21) Prepare and submit to the oversight commission 49520
information the administrator considers pertinent or the oversight 49521
commission requires, together with the administrator's 49522
recommendations, in the form of administrative rules, for the 49523
advice and consent of the oversight commission, for the health 49524
partnership program and the qualified health plan system, as 49525
provided in sections 4121.44, 4121.441, and 4121.442 of the 49526
Revised Code. 49527

(C) The administrator, with the advice and consent of the 49528
senate, shall appoint a chief operating officer who has 49529
significant experience in the field of workers' compensation 49530
insurance or other similar insurance industry experience if the 49531
administrator does not possess such experience. The chief 49532
operating officer shall not commence the chief operating officer's 49533
duties until after the senate consents to the chief operating 49534
officer's appointment. The chief operating officer shall serve in 49535
the unclassified civil service of the state. 49536

Sec. 4121.125. (A) The workers' compensation oversight 49537
commission may contract with one or more outside actuarial firms 49538
and other professional persons, as the oversight commission 49539
determines necessary, to assist the oversight commission in 49540
measuring the performance of Ohio's workers' compensation system 49541
and in comparing Ohio's workers' compensation system to other 49542
state and private workers' compensation systems. The oversight 49543
commission, actuarial firm or firms, and professional persons 49544
shall make such measurements and comparisons using accepted 49545
insurance industry standards, including, but not limited to, 49546
standards promulgated by the National Council on Compensation 49547
Insurance. 49548

(B) The oversight commission may contract with one or more outside firms to conduct management and financial audits of the workers' compensation system, including audits of the reserve fund belonging to the state insurance fund, and to establish objective quality management principles and methods by which to review the performance of the workers' compensation system.

(C) The administrator and the industrial commission shall compile information and provide access to records of the bureau and the industrial commission to the oversight commission to the extent necessary for fulfillment of both of the following requirements:

(1) Conduct of the measurements and comparisons described in division (A) of this section;

(2) Conduct of the management and financial audits and establishment of the principles and methods described in division (B) of this section.

(D) The oversight commission shall have an independent auditor, at least once every ten years, conduct a fiduciary performance audit of the investment program of the bureau of workers' compensation. That audit shall include an audit of the investment policies of the oversight commission and investment procedures of the bureau. The oversight commission shall submit a copy of that audit to the auditor of state.

(E) The bureau of workers' compensation, with the advice and consent of the oversight commission, shall employ an internal auditor who shall report directly to the oversight commission on investment matters. The oversight commission may request and review internal audits conducted by the internal auditor.

(F) The administrator shall pay the expenses incurred by the oversight commission to effectively fulfill its duties and exercise its powers under this section as the administrator pays

other operating expenses of the bureau. 49580

Sec. 4121.126. Except as provided in this chapter, no member 49581
of the workers' compensation oversight commission or employee of 49582
the bureau of workers' compensation shall have any direct or 49583
indirect interest in the gains or profits of any investment made 49584
by the administrator of workers' compensation or shall receive 49585
directly or indirectly any pay or emolument for the member's or 49586
employee's services. No member or person connected with the bureau 49587
directly or indirectly, for self or as an agent or partner of 49588
others, shall borrow any of its funds or deposits or in any manner 49589
use the funds or deposits except to make current and necessary 49590
payments that are authorized by the administrator. No member of 49591
the oversight commission or employee of the bureau shall become an 49592
indorser or surety or become in any manner an obligor for moneys 49593
loaned by or borrowed from the bureau. 49594

The administrator shall make no investments through or 49595
purchases from, or otherwise do any business with, any individual 49596
who is, or any partnership, association, or corporation that is 49597
owned or controlled by, a person who within the preceding three 49598
years was employed by the bureau, a board member of, or an officer 49599
of the oversight commission, or a person who within the preceding 49600
three years was employed by or was an officer holding a fiduciary, 49601
administrative, supervisory, or trust position, or any other 49602
position in which such person would be involved, on behalf of the 49603
person's employer, in decisions or recommendations affecting the 49604
investment policy of the bureau, and in which such person would 49605
benefit by any monetary gain. 49606

Sec. 4121.127. (A) Except as provided in division (B) of this 49607
section, a fiduciary shall not cause the bureau of workers' 49608
compensation to engage in a transaction, if the fiduciary knows or 49609
should know that such transaction constitutes any of the 49610

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|---|-------|
| <u>following, whether directly or indirectly:</u> | 49611 |
| <u>(1) The sale, exchange, or leasing of any property between</u> | 49612 |
| <u>the bureau and a party in interest;</u> | 49613 |
| <u>(2) Lending of money or other extension of credit between the</u> | 49614 |
| <u>bureau and a party in interest;</u> | 49615 |
| <u>(3) Furnishing of goods, services, or facilities between the</u> | 49616 |
| <u>bureau and a party in interest;</u> | 49617 |
| <u>(4) Transfer to, or use by or for the benefit of a party in</u> | 49618 |
| <u>interest, of any assets of the bureau;</u> | 49619 |
| <u>(5) Acquisition, on behalf of the bureau, of any employer</u> | 49620 |
| <u>security or employer real property.</u> | 49621 |
| <u>(B) Nothing in this section shall prohibit any transaction</u> | 49622 |
| <u>between the bureau and any fiduciary or party in interest if both</u> | 49623 |
| <u>of the following occur:</u> | 49624 |
| <u>(1) All the terms and conditions of the transaction are</u> | 49625 |
| <u>comparable to the terms and conditions that might reasonably be</u> | 49626 |
| <u>expected in a similar transaction between similar parties who are</u> | 49627 |
| <u>not parties in interest.</u> | 49628 |
| <u>(2) The transaction is consistent with fiduciary duties under</u> | 49629 |
| <u>this chapter and Chapters 4123., 4127., and 4131. of the Revised</u> | 49630 |
| <u>Code.</u> | 49631 |
| <u>(C) A fiduciary shall not do any of the following:</u> | 49632 |
| <u>(1) Deal with the assets of the bureau in the fiduciary's own</u> | 49633 |
| <u>interest or for the fiduciary's own account;</u> | 49634 |
| <u>(2) In the fiduciary's individual capacity or in any other</u> | 49635 |
| <u>capacity, act in any transaction involving the bureau on behalf of</u> | 49636 |
| <u>a party, or represent a party, whose interests are adverse to the</u> | 49637 |
| <u>interests of the bureau or to the injured employees served by the</u> | 49638 |
| <u>bureau;</u> | 49639 |

(3) Receive any consideration for the fiduciary's own 49640
personal account from any party dealing with the bureau in 49641
connection with a transaction involving the assets of the bureau. 49642

(D) In addition to any liability that a fiduciary may have 49643
under any other provision, a fiduciary, with respect to bureau, 49644
shall be liable for a breach of fiduciary responsibility in any 49645
the following circumstances: 49646

(1) If the fiduciary knowingly participates in or knowingly 49647
undertakes to conceal an act or omission of another fiduciary, 49648
knowing such act or omission is a breach; 49649

(2) If, by the fiduciary's failure to comply with this 49650
chapter or Chapter 4123., 4127., or 4131. of the Revised Code, the 49651
fiduciary has enabled another fiduciary to commit a breach; 49652

(3) If the fiduciary has knowledge of a breach by another 49653
fiduciary of that fiduciary's duties under this chapter and 49654
Chapters 4123., 4127., and 4131. of the Revised Code, unless the 49655
fiduciary makes reasonable efforts under the circumstances to 49656
remedy the breach. 49657

(E) Every fiduciary of the bureau shall be bonded or insured 49658
for an amount of not less than one million dollars for loss by 49659
reason of acts of fraud or dishonesty. 49660

(F) As used in this section, "fiduciary" means a person who 49661
does any of the following: 49662

(1) Exercises discretionary authority or control with respect 49663
to the management of the bureau or with respect to the management 49664
or disposition of its assets; 49665

(2) Renders investment advice for a fee, directly or 49666
indirectly, with respect to money or property of the bureau; 49667

(3) Has discretionary authority or responsibility in the 49668
administration of the bureau. 49669

Sec. 4121.128. The attorney general shall be the legal 49670
adviser of the workers' compensation oversight commission. 49671

Sec. 4123.27. Information contained in the annual statement 49672
provided for in section 4123.26 of the Revised Code, and such 49673
other information as may be furnished to the bureau of workers' 49674
compensation by employers in pursuance of that section, is for the 49675
exclusive use and information of the bureau in the discharge of 49676
its official duties, and shall not be open to the public nor be 49677
used in any court in any action or proceeding pending therein 49678
unless the bureau is a party to the action or proceeding; but the 49679
information contained in the statement may be tabulated and 49680
published by the bureau in statistical form for the use and 49681
information of other state departments and the public. No person 49682
in the employ of the bureau, except those who are authorized by 49683
the administrator of workers' compensation, shall divulge any 49684
information secured by the person while in the employ of the 49685
bureau in respect to the transactions, property, claim files, 49686
records, or papers of the bureau or in respect to the business or 49687
mechanical, chemical, or other industrial process of any company, 49688
firm, corporation, person, association, partnership, or public 49689
utility to any person other than the administrator or to the 49690
superior of such employee of the bureau. 49691

Notwithstanding the restrictions imposed by this section, the 49692
governor, select or standing committees of the general assembly, 49693
the auditor of state, the attorney general, or their designees, 49694
pursuant to the authority granted in this chapter and Chapter 49695
4121. of the Revised Code, may examine any records, claim files, 49696
or papers in possession of the industrial commission or the 49697
bureau. They also are bound by the privilege that attaches to 49698
these papers. 49699

The administrator shall report to the director of job and 49700

family services or to the county director of job and family 49701
services the name, address, and social security number or other 49702
identification number of any person receiving workers' 49703
compensation whose name or social security number or other 49704
identification number is the same as that of a person required by 49705
a court or child support enforcement agency to provide support 49706
payments to a recipient or participant of public assistance, and 49707
whose name is submitted to the administrator by the director under 49708
section 5101.36 of the Revised Code. The administrator also shall 49709
inform the director of the amount of workers' compensation paid to 49710
the person during such period as the director specifies. 49711

Within fourteen days after receiving from the director of job 49712
and family services a list of the names and social security 49713
numbers of recipients or participants of public assistance 49714
pursuant to section 5101.181 of the Revised Code, the 49715
administrator shall inform the auditor of state of the name, 49716
current or most recent address, and social security number of each 49717
person receiving workers' compensation pursuant to this chapter 49718
whose name and social security number are the same as that of a 49719
person whose name or social security number was submitted by the 49720
director. The administrator also shall inform the auditor of state 49721
of the amount of workers' compensation paid to the person during 49722
such period as the director specifies. 49723

The bureau and its employees, except for purposes of 49724
furnishing the auditor of state with information required by this 49725
section, shall preserve the confidentiality of recipients or 49726
participants of public assistance in compliance with division (A) 49727
of section 5101.181 of the Revised Code. 49728

For the purposes of this section, "public assistance" means 49729
medical assistance provided through the medical assistance program 49730
established under section 5111.01 of the Revised Code, Ohio works 49731
first provided under Chapter 5107. of the Revised Code, 49732

prevention, retention, and contingency benefits and services 49733
provided under Chapter 5108. of the Revised Code, or disability 49734
financial assistance provided under Chapter 5115. of the Revised 49735
Code, ~~or disability medical assistance provided under Chapter~~ 49736
~~5115. of the Revised Code.~~ 49737

Sec. 4123.44. The voting members of the workers' compensation 49738
oversight commission, the administrator of workers' compensation, 49739
and the bureau of workers' compensation chief investment officer 49740
are the trustees of the state insurance fund. The administrator of 49741
workers' compensation, in accordance with sections 4121.126 and 49742
4121.127 of the Revised Code and the investment objectives, 49743
policies, and criteria established by the workers' compensation 49744
oversight commission pursuant to section 4121.12 of the Revised 49745
Code, and in consultation with the bureau of workers' compensation 49746
chief investment officer, may invest any of the surplus or reserve 49747
belonging to the state insurance fund. 49748

The administrator shall not invest in any type of investment 49749
specified in divisions (G)(6)(a) to (j) of section 4121.12 of the 49750
Revised Code. 49751

The administrator and other fiduciaries shall discharge their 49752
duties with respect to the funds with the care, skill, prudence, 49753
and diligence under the circumstances then prevailing that a 49754
prudent person acting in a like capacity and familiar with such 49755
matters would use in the conduct of an enterprise of a like 49756
character and with like aims, and by diversifying the investments 49757
of the assets of the funds so as to minimize the risk of large 49758
losses, unless under the circumstances it is clearly prudent not 49759
to do so. 49760

To facilitate investment of the funds, the administrator may 49761
establish a partnership, trust, limited liability company, 49762
corporation, including a corporation exempt from taxation under 49763

the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as 49764
amended, or any other legal entity authorized to transact business 49765
in this state. 49766

When reporting on the performance of investments, the 49767
administrator shall comply with the performance presentation 49768
standards established by the association for investment management 49769
and research. 49770

All investments shall be purchased at current market prices 49771
and the evidences of title to the investments shall be placed in 49772
the custody of the treasurer of state, who is hereby designated as 49773
custodian, or in the custody of the treasurer of state's 49774
authorized agent. Evidences of title of the investments so 49775
purchased may be deposited by the treasurer of state for 49776
safekeeping with an authorized agent selected by the treasurer of 49777
state who is a qualified trustee under section 135.18 of the 49778
Revised Code. The treasurer of state or the agent shall collect 49779
the principal, dividends, distributions, and interest as they 49780
become due and payable and place them when collected into the 49781
state insurance fund. 49782

The treasurer of state shall pay for investments purchased by 49783
the administrator on receipt of written or electronic instructions 49784
from the administrator or the administrator's designated agent 49785
authorizing the purchase, and pending receipt of the evidence of 49786
title of the investment by the treasurer of state or the treasurer 49787
of state's authorized agent. The administrator may sell 49788
investments held by the administrator, and the treasurer of state 49789
or the treasurer of state's authorized agent shall accept payment 49790
from the purchaser and deliver evidence of title of the investment 49791
to the purchaser, on receipt of written or electronic instructions 49792
from the administrator or the administrator's designated agent 49793
authorizing the sale, and pending receipt of the moneys for the 49794
investments. The amount received shall be placed in the state 49795

insurance fund. The administrator and the treasurer of state may 49796
enter into agreements to establish procedures for the purchase and 49797
sale of investments under this division and the custody of the 49798
investments. 49799

No purchase or sale of any investment shall be made under 49800
this section, except as authorized by the administrator. 49801

Any statement of financial position distributed by the 49802
administrator shall include the fair value, as of the statement 49803
date, of all investments held by the administrator under this 49804
section. 49805

When in the judgment of the administrator it is necessary to 49806
provide available funds for the payment of compensation or 49807
benefits under this chapter, the administrator may borrow money 49808
from any available source and pledge as security a sufficient 49809
amount of bonds or other securities in which the state insurance 49810
fund is invested. The aggregate unpaid amount of loans existing at 49811
any one time for money so borrowed shall not exceed ten million 49812
dollars. The bonds or other securities so pledged as security for 49813
such loans to the administrator shall be the sole security for the 49814
payment of the principal and interest of any such loan. The 49815
administrator shall not be personally liable for the payment of 49816
the principal or the interest of any such loan. No such loan shall 49817
be made for a longer period of time than one year. Such loans may 49818
be renewed but no one renewal shall be for a period in excess of 49819
one year. Such loans shall bear such rate of interest as the 49820
administrator determines and in negotiating the loans, the 49821
administrator shall endeavor to secure as favorable interest rates 49822
and terms as circumstances will permit. 49823

The treasurer of state may deliver to the person or 49824
governmental agency making such loan, the bonds or other 49825
securities which are to be pledged by the administrator as 49826
security for such loan, upon receipt by the treasurer of state of 49827

an order of the administrator authorizing such loan. Upon payment 49828
of any such loan by the administrator, the bonds or other 49829
securities pledged as security therefor shall be returned to the 49830
treasurer of state as custodian of such bonds. 49831

The administrator may pledge with the treasurer of state such 49832
amount of bonds or other securities in which the state insurance 49833
fund is invested as is reasonably necessary as security for any 49834
certificates issued, or paid out, by the treasurer of state upon 49835
any warrants drawn by the administrator. 49836

The administrator may secure investment information services, 49837
consulting services, and other like services to facilitate 49838
investment of the surplus and reserve belonging to the state 49839
insurance fund. The administrator shall pay the expense of 49840
securing such services from the state insurance fund. 49841

Sec. 4123.441. (A) The bureau of workers' compensation, with 49842
the advice and consent of the workers' compensation oversight 49843
commission shall employ a person or designate an employee of the 49844
bureau who is designated as a chartered financial analyst by the 49845
CFA institute and who is licensed by the division of securities in 49846
the department of commerce as a bureau of workers' compensation 49847
chief investment officer to be the chief investment officer for 49848
the bureau of workers' compensation. After ninety days after the 49849
effective date of this section, the bureau of workers' 49850
compensation may not employ a bureau of workers' compensation 49851
chief investment officer, as defined in section 1707.01 of the 49852
Revised Code, who does not hold a valid bureau of workers' 49853
compensation chief investment officer license issued by the 49854
division of securities in the department of commerce. The 49855
oversight commission shall notify the division of securities of 49856
the department of commerce in writing of its designation and of 49857
any change in its designation within ten calendar days after the 49858

designation or change. 49859

(B) The bureau of workers' compensation chief investment 49860
officer shall reasonably supervise employees of the bureau who 49861
handle investment of assets of funds specified in this chapter and 49862
Chapters 4121., 4127., and 4131. of the Revised Code with a view 49863
toward preventing violations of Chapter 1707. of the Revised Code, 49864
the "Commodity Exchange Act," 42 Stat. 998, 7 U.S.C. 1, the 49865
"Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 77a, the 49866
"Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a, 49867
and the rules and regulations adopted under those statutes. This 49868
duty of reasonable supervision shall include the adoption, 49869
implementation, and enforcement of written policies and procedures 49870
reasonably designed to prevent employees of the bureau who handle 49871
investment of assets of the funds specified in this chapter and 49872
Chapters 4121., 4127., and 4131. of the Revised Code, from 49873
misusing material, nonpublic information in violation of those 49874
laws, rules, and regulations. 49875

For purposes of this division, no bureau of workers' 49876
compensation chief investment officer shall be considered to have 49877
failed to satisfy the officer's duty of reasonable supervision if 49878
the officer has done all of the following: 49879

(1) Adopted and implemented written procedures, and a system 49880
for applying the procedures, that would reasonably be expected to 49881
prevent and detect, insofar as practicable, any violation by 49882
employees handling investments of assets of the funds specified in 49883
this chapter and Chapters 4121., 4127., and 4131. of the Revised 49884
Code; 49885

(2) Reasonably discharged the duties and obligations 49886
incumbent on the bureau of workers' compensation chief investment 49887
officer by reason of the established procedures and the system for 49888
applying the procedures when the officer had no reasonable cause 49889

to believe that there was a failure to comply with the procedures and systems; 49890
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(3) Reviewed, at least annually, the adequacy of the policies and procedures established pursuant to this section and the effectiveness of their implementation. 49892
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(C) The bureau of workers' compensation chief investment officer shall establish and maintain a policy to monitor and evaluate the effectiveness of securities transactions executed on behalf of the bureau. 49895
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Sec. 4123.444. (A) As used in this section and section 4123.445 of the Revised Code: 49899
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(1) "Bureau of workers' compensation funds" means any fund specified in Chapter 4121., 4123., 4127., or 4131. of the Revised Code that the administrator of workers' compensation has the authority to invest, in accordance with the administrator's investment authority under section 4123.44 of the Revised Code. 49901
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(2) "Investment manager" means any person with whom the administrator of workers' compensation contracts pursuant to section 4123.44 of the Revised Code to facilitate the investment of assets of bureau of workers' compensation funds. 49906
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(3) "Business entity" means any person with whom an investment manager contracts for the investment of assets of bureau of workers' compensation funds. 49910
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(4) "Financial or investment crime" means any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, drug trafficking, or any criminal offense involving money or securities, as set forth in Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of the Revised Code or other law of this state, or the laws of any other state or the United States that 49913
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are substantially equivalent to those offenses. 49920

(B)(1) Before entering into a contract with an investment manager to invest bureau of workers' compensation funds, the administrator shall do both of the following: 49921
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(a) Request from any investment manager with whom the administrator wishes to contract for those investments a list of all employees who will be investing assets of bureau of workers' compensation funds. The list shall specify each employee's state of residence for the five years prior to the date of the administrator's request. 49924
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(b) Request that the superintendent of the bureau of criminal investigation and identification conduct a criminal records check in accordance with this section and section 109.579 of the Revised Code with respect to every employee the investment manager names in that list. 49930
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(2) After an investment manager enters into a contract with the administrator to invest bureau of workers' compensation funds and before an investment manager enters into a contract with a business entity to facilitate those investments, the investment manager shall request from any business entity with whom the investment manager wishes to contract to make those investments a list of all employees who will be investing assets of the bureau of workers' compensation funds. The list shall specify each employee's state of residence for the five years prior to the investment manager's request. The investment manager shall forward to the administrator the list received from the business entity. The administrator shall request the superintendent to conduct a criminal records check in accordance with this section and section 109.579 of the Revised Code with respect to every employee the business entity names in that list. Upon receipt of the results of the criminal records check, the administrator shall forward a copy of those results to the investment manager. 49935
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(3) If, after a contract has been entered into between the administrator and an investment manager or between an investment manager and a business entity for the investment of assets of bureau of workers' compensation funds, the investment manager or business entity wishes to have an employee who was not the subject of a criminal records check under division (B)(1) or (B)(2) of this section invest assets of the bureau of workers' compensation funds, that employee shall be the subject of a criminal records check pursuant to this section and section 109.579 of the Revised Code prior to handling the investment of assets of those funds. The investment manager shall submit to the administrator the name of that employee along with the employee's state of residence for the five years prior to the date in which the administrator requests the criminal records check. The administrator shall request that the superintendent conduct a criminal records check on that employee pursuant to this section and section 109.579 of the Revised Code.

(C)(1) If an employee who is the subject of a criminal records check pursuant to division (B) of this section has not been a resident of this state for the five-year period immediately prior to the time the criminal records check is requested or does not provide evidence that within that five-year period the superintendent has requested information about the employee from the federal bureau of investigation in a criminal records check, the administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the employee. If the employee has been a resident of this state for at least that five-year period, the administrator may, but is not required to, request that the superintendent request and include in the criminal records check information about that employee from the federal bureau of investigation.

(2) The administrator shall provide to an investment manager a copy of the form prescribed pursuant to division (C)(1) of section 109.579 of the Revised Code and a standard impression sheet for each employee for whom a criminal records check must be performed, to obtain fingerprint impressions as prescribed pursuant to division (C)(2) of section 109.579 of the Revised Code. The investment manager shall obtain the completed form and impression sheet either directly from each employee or from a business entity and shall forward the completed form and sheet to the administrator, who shall forward these forms and sheets to the superintendent.

(3) Any employee who receives a copy of the form and the impression sheet pursuant to division (C)(2) of this section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall complete the impression sheets in the manner prescribed in division (C)(2) of section 109.579 of the Revised Code.

(D) For each criminal records check the administrator requests under this section, at the time the administrator makes a request the administrator shall pay to the superintendent the fee the superintendent prescribes pursuant to division (E) of section 109.579 of the Revised Code.

Sec. 4123.445. (A) The administrator of workers' compensation shall not enter into a contract with an investment manager for the investment of assets of the bureau of workers' compensation funds if any employee of that investment manager who will be investing assets of bureau of workers' compensation funds has been convicted of or pleaded guilty to a financial or investment crime.

(B) An investment manager who has entered into a contract

with the bureau of workers' compensation for the investment of 50015
assets of bureau of workers' compensation funds shall not contract 50016
with a business entity for the investment of those assets if any 50017
employee of that business manager who will be investing assets of 50018
bureau of workers' compensation funds has been convicted of or 50019
pleaded guilty to a financial or investment crime. 50020

(C) The administrator shall not enter into a contract with an 50021
investment manager who refuses to submit the list of the 50022
investment manager's employees required under division (B) of 50023
section 4123.444 of the Revised Code. An investment manager shall 50024
not enter into a contract with a business entity who refuses to 50025
submit the list of the business entity's employees required under 50026
division (B) of section 4123.444 of the Revised Code. 50027

(D) If, after a contract has been awarded to an investment 50028
manager or business entity for the investment of assets of bureau 50029
of workers' compensation funds, the investment manager or business 50030
entity discovers that an employee who is handling the investment 50031
of those assets has been convicted of or pleaded guilty to a 50032
financial or investment crime, the investment manager or business 50033
entity immediately shall notify the administrator. 50034

Sec. 4123.47. (A) The administrator of workers' compensation 50035
shall have actuarial audits of the state insurance fund and all 50036
other funds specified in this chapter and Chapters 4121., 4127., 50037
and 4131. of the Revised Code made at least once every two years 50038
each year. The audits shall be made and certified by recognized 50039
insurance actuaries who shall be selected as the administrator 50040
determines. The audits shall cover the premium rates, 50041
classifications, and all other matters involving the 50042
administration of the state insurance fund and all other funds 50043
specified in this chapter and Chapters 4121., 4127., and 4131. of 50044
the Revised Code. The expense of the audits shall be paid from the 50045

state insurance fund. The administrator shall make copies of the 50046
audits available to the public at cost. 50047

(B) The auditor of state annually shall conduct an audit of 50048
the administration of this chapter by the industrial commission 50049
and the bureau of workers' compensation and the safety and hygiene 50050
fund. The cost of the audit shall be charged to the administrative 50051
costs of the bureau as defined in section 4123.341 of the Revised 50052
Code. The audit shall include audits of all fiscal activities, 50053
claims processing and handling, and employer premium collections. 50054
The auditor shall prepare a report of the audit together with 50055
recommendations and transmit copies of the report to the 50056
industrial commission the workers' compensation oversight 50057
commission, the administrator, the governor, and to the general 50058
assembly. The auditor shall make copies of the report available to 50059
the public at cost. 50060

(C) The administrator may retain the services of a recognized 50061
actuary on a consulting basis for the purpose of evaluating the 50062
actuarial soundness of premium rates and classifications and all 50063
other matters involving the administration of the state insurance 50064
fund. The expense of services provided by the actuary shall be 50065
paid from the state insurance fund. 50066

Sec. 4301.10. (A) The division of liquor control shall do all 50067
of the following: 50068

(1) Control the traffic in beer and intoxicating liquor in 50069
this state, including the manufacture, importation, and sale of 50070
beer and intoxicating liquor; 50071

(2) Grant or refuse permits for the manufacture, 50072
distribution, transportation, and sale of beer and intoxicating 50073
liquor and the sale of alcohol, as authorized or required by this 50074
chapter and Chapter 4303. of the Revised Code. A certificate, 50075
signed by the superintendent of liquor control and to which is 50076

affixed the official seal of the division, stating that it appears 50077
from the records of the division that no permit has been issued to 50078
the person specified in the certificate, or that a permit, if 50079
issued, has been revoked, canceled, or suspended, shall be 50080
received as prima-facie evidence of the facts recited in the 50081
certificate in any court or before any officer of this state. 50082

(3) Put into operation, manage, and control a system of state 50083
liquor stores for the sale of spirituous liquor at retail and to 50084
holders of permits authorizing the sale of spirituous liquor; 50085
however, the division shall not establish any drive-in state 50086
liquor stores; and by means of those types of stores, and any 50087
manufacturing plants, distributing and bottling plants, 50088
warehouses, and other facilities that it considers expedient, 50089
establish and maintain a state monopoly of the distribution of 50090
spirituous liquor and its sale in packages or containers; and for 50091
that purpose, manufacture, buy, import, possess, and sell 50092
spirituous liquors as provided in this chapter and Chapter 4303. 50093
of the Revised Code, and in the rules promulgated by the 50094
superintendent of liquor control pursuant to those chapters; lease 50095
or in any manner acquire the use of any land or building required 50096
for any of those purposes; purchase any equipment that is 50097
required; and borrow money to carry on its business, and issue, 50098
sign, endorse, and accept notes, checks, and bills of exchange; 50099
but all obligations of the division created under authority of 50100
this division shall be a charge only upon the moneys received by 50101
the division from the sale of spirituous liquor and its other 50102
business transactions in connection with the sale of spirituous 50103
liquor, and shall not be general obligations of the state; 50104

(4) Enforce the administrative provisions of this chapter and 50105
Chapter 4303. of the Revised Code, and the rules and orders of the 50106
liquor control commission and the superintendent relating to the 50107
manufacture, importation, transportation, distribution, and sale 50108

of beer ~~and or~~ intoxicating liquors liquor. The attorney general, 50109
any prosecuting attorney, and any prosecuting officer of a 50110
municipal corporation or a municipal court shall, at the request 50111
of the division of liquor control or the department of public 50112
safety, prosecute any person charged with the violation of any 50113
provision in those chapters or of any section of the Revised Code 50114
relating to the manufacture, importation, transportation, 50115
distribution, and sale of beer ~~and or~~ intoxicating liquor. 50116

(5) Determine the locations of all state liquor stores and 50117
manufacturing, distributing, and bottling plants required in 50118
connection with those stores, subject to this chapter and Chapter 50119
4303. of the Revised Code; 50120

(6) Conduct inspections of liquor permit premises to 50121
determine compliance with the administrative provisions of this 50122
chapter and Chapter 4303. of the Revised Code and the rules 50123
adopted under those provisions by the liquor control commission. 50124

Except as otherwise provided in division (A)(6) of this 50125
section, those inspections may be conducted only during those 50126
hours in which the permit holder is open for business and only by 50127
authorized agents or employees of the division or by any peace 50128
officer, as defined in section 2935.01 of the Revised Code. 50129
Inspections may be conducted at other hours only to determine 50130
compliance with laws or commission rules that regulate the hours 50131
of sale of beer ~~and or~~ intoxicating liquor and only if the 50132
investigator has reasonable cause to believe that those laws or 50133
rules are being violated. Any inspection conducted pursuant to 50134
division (A)(6) of this section is subject to all of the following 50135
requirements: 50136

(a) The only property that may be confiscated is contraband, 50137
as defined in section 2901.01 of the Revised Code, or property 50138
that is otherwise necessary for evidentiary purposes. 50139

(b) A complete inventory of all property confiscated from the premises shall be given to the permit holder or the permit holder's agent or employee by the confiscating agent or officer at the conclusion of the inspection. At that time, the inventory shall be signed by the confiscating agent or officer, and the agent or officer shall give the permit holder or the permit holder's agent or employee the opportunity to sign the inventory.

(c) Inspections conducted pursuant to division (A)(6) of this section shall be conducted in a reasonable manner. A finding by any court of competent jurisdiction that ~~the~~ an inspection was not conducted in a reasonable manner in accordance with this section or any rules ~~promulgated~~ adopted by the commission may be considered grounds for suppression of evidence. A finding by the ~~liquor control~~ commission that ~~the~~ an inspection was not conducted in a reasonable manner in accordance with this section or any rules ~~promulgated~~ adopted by ~~the commission~~ it may be considered grounds for dismissal of the commission case.

If any court of competent jurisdiction finds that property confiscated as the result of an administrative inspection is not necessary for evidentiary purposes and is not contraband, as defined in section 2901.01 of the Revised Code, the court shall order the immediate return of the confiscated property, provided that property is not otherwise subject to forfeiture, to the permit holder. However, the return of this property is not grounds for dismissal of the case. The commission likewise may order the return of confiscated property if no criminal prosecution is pending or anticipated.

(7) Delegate to any of its agents or employees any power of investigation that the division possesses with respect to the enforcement of any of the administrative laws relating to beer ~~and~~ or intoxicating liquor, provided that this division does not authorize the division to designate any agent or employee to serve

as an enforcement agent. The employment and designation of 50172
enforcement agents shall be within the exclusive authority of the 50173
director of public safety pursuant to sections 5502.13 to 5502.19 50174
of the Revised Code. 50175

(8) Collect the following fees: 50176

(a) A biennial ~~fifty-dollar~~ fifty-dollar registration fee for 50177
each agent, solicitor, or salesperson, registered pursuant to 50178
section 4303.25 of the Revised Code, of a beer or intoxicating 50179
liquor manufacturer, supplier, broker, or wholesale distributor 50180
doing business in this state; 50181

(b) A fifty-dollar product registration fee for each new beer 50182
or intoxicating liquor product sold in this state. The product 50183
registration fee shall be accompanied by a copy of the federal 50184
label and product approval for the new product. 50185

(c) An annual three-hundred-dollar supplier registration fee 50186
from each manufacturer or supplier that produces and ships into 50187
this state, or ships into this state, intoxicating liquor or beer, 50188
in addition to an initial application fee of one hundred dollars. 50189

Each supplier, agent, solicitor, or salesperson registration 50190
issued under this division shall authorize the person named to 50191
carry on the activity specified in the registration. Each agent, 50192
solicitor, or salesperson registration is valid for two years or 50193
for the unexpired portion of a two-year registration period. Each 50194
supplier registration is valid for one year or for the unexpired 50195
portion of a one-year registration period. Registrations shall end 50196
on their respective uniform expiration date, which shall be 50197
designated by the division, and are subject to suspension, 50198
revocation, cancellation, or fine as authorized by this chapter 50199
and Chapter 4303. of the Revised Code. 50200

(9) Establish a system of electronic data interchange within 50201
the division and regulate the electronic transfer of information 50202

and funds among persons and governmental entities engaged in the 50203
manufacture, distribution, and retail sale of alcoholic beverages; 50204

(10) Exercise all other powers expressly or by necessary 50205
implication conferred upon the division by this chapter and 50206
Chapter 4303. of the Revised Code, and all powers necessary for 50207
the exercise or discharge of any power, duty, or function 50208
expressly conferred or imposed upon the division by those 50209
chapters. 50210

(B) The division may do all of the following: 50211

(1) Sue, but may be sued only in connection with the 50212
execution of leases of real estate and the purchases and contracts 50213
necessary for the operation of the state liquor stores that are 50214
made under this chapter and Chapter 4303. of the Revised Code; 50215

(2) Enter into leases and contracts of all descriptions and 50216
acquire and transfer title to personal property with regard to the 50217
sale, distribution, and storage of spirituous liquor within the 50218
state; 50219

(3) Terminate at will any lease entered into pursuant to 50220
division (B)(2) of this section upon first giving ninety days' 50221
notice in writing to the lessor of its intention to do so; 50222

(4) Fix the wholesale and retail prices at which the various 50223
classes, varieties, and brands of spirituous liquor shall be sold 50224
by the division. Those retail prices shall be the same at all 50225
state liquor stores, except to the extent that a price 50226
differential is required to collect a county sales tax levied 50227
pursuant to section 5739.021 of the Revised Code and for which tax 50228
the tax commissioner has authorized prepayment pursuant to section 50229
5739.05 of the Revised Code. In fixing selling prices, the 50230
division shall compute an anticipated gross profit at least 50231
sufficient to provide in each calendar year all costs and expenses 50232
of the division and also an adequate working capital reserve for 50233

the division. The gross profit shall not exceed forty per cent of 50234
the retail selling price based on costs of the division, and in 50235
addition the sum required by section 4301.12 of the Revised Code 50236
to be paid into the state treasury. An amount equal to one and 50237
one-half per cent of that gross profit shall be paid into the 50238
statewide treatment and prevention fund created by section 4301.30 50239
of the Revised Code and be appropriated by the general assembly 50240
from the fund to the department of alcohol and drug addiction 50241
services as provided in section 4301.30 of the Revised Code. 50242

On spirituous liquor manufactured in this state from the 50243
juice of grapes or fruits grown in this state, the division shall 50244
compute an anticipated gross profit of not to exceed ten per cent. 50245
The 50246

The wholesale prices fixed under this division shall be at a 50247
discount of not less than ~~twelve and one-half~~ six per cent of the 50248
retail selling prices as determined by the division in accordance 50249
with this section. 50250

(C) The division may approve the expansion or diminution of a 50251
premises to which a liquor permit has been issued and may adopt 50252
standards governing such an expansion or diminution. 50253

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of 50254
the Revised Code: 50255

(1) "Gallon" or "wine gallon" means one hundred twenty-eight 50256
fluid ounces. 50257

(2) "Sale" or "sell" includes exchange, barter, gift, 50258
distribution, and, except with respect to A-4 permit holders, 50259
offer for sale. 50260

(B) For the purposes of providing revenues for the support of 50261
the state and encouraging the grape industries in the state, a tax 50262
is hereby levied on the sale or distribution of wine in Ohio, 50263

except for known sacramental purposes, at the rate of thirty cents 50264
per wine gallon for wine containing not less than four per cent of 50265
alcohol by volume and not more than fourteen per cent of alcohol 50266
by volume, ninety-eight cents per wine gallon for wine containing 50267
more than fourteen per cent but not more than twenty-one per cent 50268
of alcohol by volume, one dollar and eight cents per wine gallon 50269
for vermouth, and one dollar and forty-eight cents per wine gallon 50270
for sparkling and carbonated wine and champagne, the tax to be 50271
paid by the holders of A-2 and B-5 permits or by any other person 50272
selling or distributing wine upon which no tax has been paid. From 50273
the tax paid under this section on wine, vermouth, and sparkling 50274
and carbonated wine and champagne, the treasurer of state shall 50275
credit to the Ohio grape industries fund created under section 50276
924.54 of the Revised Code a sum equal to one cent per gallon for 50277
each gallon upon which the tax is paid. 50278

(C) For the purpose of providing revenues for the support of 50279
the state, there is hereby levied a tax on prepared and bottled 50280
highballs, cocktails, cordials, and other mixed beverages at the 50281
rate of one dollar and twenty cents per wine gallon to be paid by 50282
holders of A-4 permits or by any other person selling or 50283
distributing those products upon which no tax has been paid. Only 50284
one sale of the same article shall be used in computing the amount 50285
of tax due. The tax on mixed beverages to be paid by holders of 50286
A-4 permits under this section shall not attach until the 50287
ownership of the mixed beverage is transferred for valuable 50288
consideration to a wholesaler or retailer, and no payment of the 50289
tax shall be required prior to that time. 50290

(D) During the period of July 1, ~~2003~~ 2005, through June 30, 50291
~~2005~~ 2007, from the tax paid under this section on wine, vermouth, 50292
and sparkling and carbonated wine and champagne, the treasurer of 50293
state shall credit to the Ohio grape industries fund created under 50294
section 924.54 of the Revised Code a sum equal to two cents per 50295

gallon upon which the tax is paid. The amount credited under this 50296
division is in addition to the amount credited to the Ohio grape 50297
industries fund under division (B) of this section. 50298

(E) For the purpose of providing revenues for the support of 50299
the state, there is hereby levied a tax on cider at the rate of 50300
twenty-four cents per wine gallon to be paid by the holders of A-2 50301
and B-5 permits or by any other person selling or distributing 50302
cider upon which no tax has been paid. Only one sale of the same 50303
article shall be used in computing the amount of the tax due. 50304

Sec. 4303.182. (A) Except as otherwise provided in divisions 50305
(B) to (G) of this section, permit D-6 shall be issued to the 50306
holder of an A-1-A, A-2, C-2, D-2, D-3, D-3a, D-4, D-4a, D-5, 50307
D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, 50308
or D-7 permit to allow sale under that permit between the hours of 50309
ten a.m. and midnight, or between the hours of one p.m. and 50310
midnight, on Sunday, as applicable, if that sale has been 50311
authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 50312
of the Revised Code and under the restrictions of that 50313
authorization. 50314

(B) Permit D-6 shall be issued to the holder of any permit, 50315
including a D-4a and D-5d permit, authorizing the sale of 50316
intoxicating liquor issued for a premises located at any publicly 50317
owned airport, as defined in section 4563.01 of the Revised Code, 50318
at which commercial airline companies operate regularly scheduled 50319
flights on which space is available to the public, to allow sale 50320
under such permit between the hours of ten a.m. and midnight on 50321
Sunday, whether or not that sale has been authorized under section 50322
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 50323

(C) Permit D-6 shall be issued to the holder of a D-5a 50324
permit, and to the holder of a D-3 or D-3a permit who is the owner 50325
or operator of a hotel or motel that is required to be licensed 50326

under section 3731.03 of the Revised Code, that contains at least 50327
fifty rooms for registered transient guests, and that has on its 50328
premises a retail food establishment or a food service operation 50329
licensed pursuant to Chapter 3717. of the Revised Code that 50330
operates as a restaurant for purposes of this chapter and is 50331
affiliated with the hotel or motel and within or contiguous to the 50332
hotel or motel and serving food within the hotel or motel, to 50333
allow sale under such permit between the hours of ten a.m. and 50334
midnight on Sunday, whether or not that sale has been authorized 50335
under section 4301.361, 4301.364, 4301.365, or 4301.366 of the 50336
Revised Code. 50337

(D) The holder of a D-6 permit that is issued to a sports 50338
facility may make sales under the permit between the hours of 50339
eleven a.m. and midnight on any Sunday on which a professional 50340
baseball, basketball, football, hockey, or soccer game is being 50341
played at the sports facility. As used in this division, "sports 50342
facility" means a stadium or arena that has a seating capacity of 50343
at least four thousand and that is owned or leased by a 50344
professional baseball, basketball, football, hockey, or soccer 50345
franchise or any combination of those franchises. 50346

(E) Permit D-6 shall be issued to the holder of any permit 50347
that authorizes the sale of beer or intoxicating liquor and that 50348
is issued to a premises located in or at the Ohio historical 50349
society area or the state fairgrounds, as defined in division (B) 50350
of section 4301.40 of the Revised Code, to allow sale under that 50351
permit between the hours of ten a.m. and midnight on Sunday, 50352
whether or not that sale has been authorized under section 50353
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 50354

(F) Permit D-6 shall be issued to the holder of any permit 50355
that authorizes the sale of intoxicating liquor and that is issued 50356
to an outdoor performing arts center to allow sale under that 50357
permit between the hours of one p.m. and midnight on Sunday, 50358

whether or not that sale has been authorized under section 50359
4301.361 of the Revised Code. A D-6 permit issued under this 50360
division is subject to the results of an election, held after the 50361
D-6 permit is issued, on question (B)(4) as set forth in section 50362
4301.351 of the Revised Code. Following the end of the period 50363
during which an election may be held on question (B)(4) as set 50364
forth in that section, sales of intoxicating liquor may continue 50365
at an outdoor performing arts center under a D-6 permit issued 50366
under this division, unless an election on that question is held 50367
during the permitted period and a majority of the voters voting in 50368
the precinct on that question vote "no." 50369

As used in this division, "outdoor performing arts center" 50370
means an outdoor performing arts center that is located on not 50371
less than eight hundred acres of land and that is open for 50372
performances from the first day of April to the last day of 50373
October of each year. 50374

(G) Permit D-6 shall be issued to the holder of any permit 50375
that authorizes the sale of beer or intoxicating liquor and that 50376
is issued to a golf course owned by the state, a conservancy 50377
district, a park district created under Chapter 1545. of the 50378
Revised Code, or another political subdivision to allow sale under 50379
that permit between the hours of ten a.m. and midnight on Sunday, 50380
whether or not that sale has been authorized under section 50381
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 50382

(H) Permit D-6 shall be issued to the holder of a D-5g permit 50383
to allow sale under that permit between the hours of ten a.m. and 50384
midnight on Sunday, whether or not that sale has been authorized 50385
under section 4301.361, 4301.364, 4301.365, or 4301.366 of the 50386
Revised Code. 50387

(I) Permit D-6 shall be issued to the holder of any D permit 50388
for a premises that is licensed under Chapter 3717. of the Revised 50389
Code and that is located at a ski area to allow sale under the D-6 50390

permit between the hours of ten a.m. and midnight on Sunday, 50391
whether or not that sale has been authorized under section 50392
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 50393

As used in this division, "ski area" means a ski area as 50394
defined in section 4169.01 of the Revised Code, provided that the 50395
passenger tramway operator at that area is registered under 50396
section 4169.03 of the Revised Code. 50397

(J) If the restriction to licensed premises where the sale of 50398
food and other goods and services exceeds fifty per cent of the 50399
total gross receipts of the permit holder at the premises is 50400
applicable, the division of liquor control may accept an affidavit 50401
from the permit holder to show the proportion of the permit 50402
holder's gross receipts derived from the sale of food and other 50403
goods and services. If the liquor control commission determines 50404
that affidavit to have been false, it shall revoke the permits of 50405
the permit holder at the premises concerned. 50406

~~(J)~~(K) The fee for the D-6 permit is five hundred dollars 50407
when it is issued to the holder of an A-1-A, A-2, D-2, D-3, D-3a, 50408
D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, 50409
D-5i, D-5j, D-5k, or D-7 permit. The fee for the D-6 permit is 50410
four hundred dollars when it is issued to the holder of a C-2 50411
permit. 50412

Sec. 4501.01. As used in this chapter and Chapters 4503., 50413
4505., 4507., 4509., 4510., 4511., 4513., 4515., and 4517. of the 50414
Revised Code, and in the penal laws, except as otherwise provided: 50415

(A) "Vehicles" means everything on wheels or runners, 50416
including motorized bicycles, but does not mean electric personal 50417
assistive mobility devices, vehicles that are operated exclusively 50418
on rails or tracks or from overhead electric trolley wires, and 50419
vehicles that belong to any police department, municipal fire 50420
department, or volunteer fire department, or that are used by such 50421

a department in the discharge of its functions. 50422

(B) "Motor vehicle" means any vehicle, including mobile homes 50423
and recreational vehicles, that is propelled or drawn by power 50424
other than muscular power or power collected from overhead 50425
electric trolley wires. "Motor vehicle" does not include utility 50426
vehicles as defined in division (VV) of this section, motorized 50427
bicycles, road rollers, traction engines, power shovels, power 50428
cranes, and other equipment used in construction work and not 50429
designed for or employed in general highway transportation, 50430
well-drilling machinery, ditch-digging machinery, farm machinery, 50431
trailers that are used to transport agricultural produce or 50432
agricultural production materials between a local place of storage 50433
or supply and the farm when drawn or towed on a public road or 50434
highway at a speed of twenty-five miles per hour or less, 50435
threshing machinery, hay-baling machinery, corn sheller, 50436
hammermill and agricultural tractors, machinery used in the 50437
production of horticultural, agricultural, and vegetable products, 50438
and trailers that are designed and used exclusively to transport a 50439
boat between a place of storage and a marina, or in and around a 50440
marina, when drawn or towed on a public road or highway for a 50441
distance of no more than ten miles and at a speed of twenty-five 50442
miles per hour or less. 50443

(C) "Agricultural tractor" and "traction engine" mean any 50444
self-propelling vehicle that is designed or used for drawing other 50445
vehicles or wheeled machinery, but has no provisions for carrying 50446
loads independently of such other vehicles, and that is used 50447
principally for agricultural purposes. 50448

(D) "Commercial tractor," except as defined in division (C) 50449
of this section, means any motor vehicle that has motive power and 50450
either is designed or used for drawing other motor vehicles, or is 50451
designed or used for drawing another motor vehicle while carrying 50452
a portion of the other motor vehicle or its load, or both. 50453

(E) "Passenger car" means any motor vehicle that is designed 50454
and used for carrying not more than nine persons and includes any 50455
motor vehicle that is designed and used for carrying not more than 50456
fifteen persons in a ridesharing arrangement. 50457

(F) "Collector's vehicle" means any motor vehicle or 50458
agricultural tractor or traction engine that is of special 50459
interest, that has a fair market value of one hundred dollars or 50460
more, whether operable or not, and that is owned, operated, 50461
collected, preserved, restored, maintained, or used essentially as 50462
a collector's item, leisure pursuit, or investment, but not as the 50463
owner's principal means of transportation. "Licensed collector's 50464
vehicle" means a collector's vehicle, other than an agricultural 50465
tractor or traction engine, that displays current, valid license 50466
tags issued under section 4503.45 of the Revised Code, or a 50467
similar type of motor vehicle that displays current, valid license 50468
tags issued under substantially equivalent provisions in the laws 50469
of other states. 50470

(G) "Historical motor vehicle" means any motor vehicle that 50471
is over twenty-five years old and is owned solely as a collector's 50472
item and for participation in club activities, exhibitions, tours, 50473
parades, and similar uses, but that in no event is used for 50474
general transportation. 50475

(H) "Noncommercial motor vehicle" means any motor vehicle, 50476
including a farm truck as defined in section 4503.04 of the 50477
Revised Code, that is designed by the manufacturer to carry a load 50478
of no more than one ton and is used exclusively for purposes other 50479
than engaging in business for profit. 50480

(I) "Bus" means any motor vehicle that has motor power and is 50481
designed and used for carrying more than nine passengers, except 50482
any motor vehicle that is designed and used for carrying not more 50483
than fifteen passengers in a ridesharing arrangement. 50484

(J) "Commercial car" or "truck" means any motor vehicle that 50485
has motor power and is designed and used for carrying merchandise 50486
or freight, or that is used as a commercial tractor. 50487

(K) "Bicycle" means every device, other than a tricycle that 50488
is designed solely for use as a play vehicle by a child, that is 50489
propelled solely by human power upon which any person may ride, 50490
and that has either two tandem wheels, or one wheel in front and 50491
two wheels in the rear, any of which is more than fourteen inches 50492
in diameter. 50493

(L) "Motorized bicycle" means any vehicle that either has two 50494
tandem wheels or one wheel in the front and two wheels in the 50495
rear, that is capable of being pedaled, and that is equipped with 50496
a helper motor of not more than fifty cubic centimeters piston 50497
displacement that produces no more than one brake horsepower and 50498
is capable of propelling the vehicle at a speed of no greater than 50499
twenty miles per hour on a level surface. 50500

(M) "Trailer" means any vehicle without motive power that is 50501
designed or used for carrying property or persons wholly on its 50502
own structure and for being drawn by a motor vehicle, and includes 50503
any such vehicle that is formed by or operated as a combination of 50504
a semitrailer and a vehicle of the dolly type such as that 50505
commonly known as a trailer dolly, a vehicle used to transport 50506
agricultural produce or agricultural production materials between 50507
a local place of storage or supply and the farm when drawn or 50508
towed on a public road or highway at a speed greater than 50509
twenty-five miles per hour, and a vehicle that is designed and 50510
used exclusively to transport a boat between a place of storage 50511
and a marina, or in and around a marina, when drawn or towed on a 50512
public road or highway for a distance of more than ten miles or at 50513
a speed of more than twenty-five miles per hour. "Trailer" does 50514
not include a manufactured home or travel trailer. 50515

(N) "Noncommercial trailer" means any trailer, except a 50516

travel trailer or trailer that is used to transport a boat as 50517
described in division (B) of this section, but, where applicable, 50518
includes a vehicle that is used to transport a boat as described 50519
in division (M) of this section, that has a gross weight of no 50520
more than three thousand pounds, and that is used exclusively for 50521
purposes other than engaging in business for a profit. 50522

(O) "Mobile home" means a building unit or assembly of closed 50523
construction that is fabricated in an off-site facility, is more 50524
than thirty-five body feet in length or, when erected on site, is 50525
three hundred twenty or more square feet, is built on a permanent 50526
chassis, is transportable in one or more sections, and does not 50527
qualify as a manufactured home as defined in division (C)(4) of 50528
section 3781.06 of the Revised Code or as an industrialized unit 50529
as defined in division (C)(3) of section 3781.06 of the Revised 50530
Code. 50531

(P) "Semitrailer" means any vehicle of the trailer type that 50532
does not have motive power and is so designed or used with another 50533
and separate motor vehicle that in operation a part of its own 50534
weight or that of its load, or both, rests upon and is carried by 50535
the other vehicle furnishing the motive power for propelling 50536
itself and the vehicle referred to in this division, and includes, 50537
for the purpose only of registration and taxation under those 50538
chapters, any vehicle of the dolly type, such as a trailer dolly, 50539
that is designed or used for the conversion of a semitrailer into 50540
a trailer. 50541

(Q) "Recreational vehicle" means a vehicular portable 50542
structure that meets all of the following conditions: 50543

(1) It is designed for the sole purpose of recreational 50544
travel. 50545

(2) It is not used for the purpose of engaging in business 50546
for profit. 50547

- (3) It is not used for the purpose of engaging in intrastate commerce. 50548
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- (4) It is not used for the purpose of commerce as defined in 49 C.F.R. 383.5, as amended. 50550
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- (5) It is not regulated by the public utilities commission pursuant to Chapter 4919., 4921., or 4923. of the Revised Code. 50552
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- (6) It is classed as one of the following: 50554
- (a) "Travel trailer" means a nonself-propelled recreational vehicle that does not exceed an overall length of thirty-five feet, exclusive of bumper and tongue or coupling, and contains less than three hundred twenty square feet of space when erected on site. "Travel trailer" includes a tent-type fold-out camping trailer as defined in section 4517.01 of the Revised Code. 50555
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- (b) "Motor home" means a self-propelled recreational vehicle that has no fifth wheel and is constructed with permanently installed facilities for cold storage, cooking and consuming of food, and for sleeping. 50561
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- (c) "Truck camper" means a nonself-propelled recreational vehicle that does not have wheels for road use and is designed to be placed upon and attached to a motor vehicle. "Truck camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling. 50565
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- (d) "Fifth wheel trailer" means a vehicle that is of such size and weight as to be movable without a special highway permit, that has a gross trailer area of four hundred square feet or less, that is constructed with a raised forward section that allows a bi-level floor plan, and that is designed to be towed by a vehicle equipped with a fifth-wheel hitch ordinarily installed in the bed of a truck. 50571
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(e) "Park trailer" means a vehicle that is commonly known as a park model recreational vehicle, meets the American national standard institute standard A119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances.

(R) "Pneumatic tires" means tires of rubber and fabric or tires of similar material, that are inflated with air.

(S) "Solid tires" means tires of rubber or similar elastic material that are not dependent upon confined air for support of the load.

(T) "Solid tire vehicle" means any vehicle that is equipped with two or more solid tires.

(U) "Farm machinery" means all machines and tools that are used in the production, harvesting, and care of farm products, and includes trailers that are used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed of twenty-five miles per hour or less.

(V) "Owner" includes any person or firm, other than a manufacturer or dealer, that has title to a motor vehicle, except that, in sections 4505.01 to 4505.19 of the Revised Code, "owner" includes in addition manufacturers and dealers.

(W) "Manufacturer" and "dealer" include all persons and firms that are regularly engaged in the business of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles, at an established place of business that is used exclusively for the purpose of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles. A place of business that is used for manufacturing, selling, displaying,

offering for sale, or dealing in motor vehicles shall be deemed to 50609
be used exclusively for those purposes even though snowmobiles or 50610
all-purpose vehicles are sold or displayed for sale thereat, even 50611
though farm machinery is sold or displayed for sale thereat, or 50612
even though repair, accessory, gasoline and oil, storage, parts, 50613
service, or paint departments are maintained thereat, or, in any 50614
county having a population of less than seventy-five thousand at 50615
the last federal census, even though a department in a place of 50616
business is used to dismantle, salvage, or rebuild motor vehicles 50617
by means of used parts, if such departments are operated for the 50618
purpose of furthering and assisting in the business of 50619
manufacturing, selling, displaying, offering for sale, or dealing 50620
in motor vehicles. Places of business or departments in a place of 50621
business used to dismantle, salvage, or rebuild motor vehicles by 50622
means of using used parts are not considered as being maintained 50623
for the purpose of assisting or furthering the manufacturing, 50624
selling, displaying, and offering for sale or dealing in motor 50625
vehicles. 50626

(X) "Operator" includes any person who drives or operates a 50627
motor vehicle upon the public highways. 50628

(Y) "Chauffeur" means any operator who operates a motor 50629
vehicle, other than a taxicab, as an employee for hire; or any 50630
operator whether or not the owner of a motor vehicle, other than a 50631
taxicab, who operates such vehicle for transporting, for gain, 50632
compensation, or profit, either persons or property owned by 50633
another. Any operator of a motor vehicle who is voluntarily 50634
involved in a ridesharing arrangement is not considered an 50635
employee for hire or operating such vehicle for gain, 50636
compensation, or profit. 50637

(Z) "State" includes the territories and federal districts of 50638
the United States, and the provinces of Canada. 50639

(AA) "Public roads and highways" for vehicles includes all 50640

public thoroughfares, bridges, and culverts. 50641

(BB) "Manufacturer's number" means the manufacturer's 50642
original serial number that is affixed to or imprinted upon the 50643
chassis or other part of the motor vehicle. 50644

(CC) "Motor number" means the manufacturer's original number 50645
that is affixed to or imprinted upon the engine or motor of the 50646
vehicle. 50647

(DD) "Distributor" means any person who is authorized by a 50648
motor vehicle manufacturer to distribute new motor vehicles to 50649
licensed motor vehicle dealers at an established place of business 50650
that is used exclusively for the purpose of distributing new motor 50651
vehicles to licensed motor vehicle dealers, except when the 50652
distributor also is a new motor vehicle dealer, in which case the 50653
distributor may distribute at the location of the distributor's 50654
licensed dealership. 50655

(EE) "Ridesharing arrangement" means the transportation of 50656
persons in a motor vehicle where the transportation is incidental 50657
to another purpose of a volunteer driver and includes ridesharing 50658
arrangements known as carpools, vanpools, and buspools. 50659

(FF) "Apportionable vehicle" means any vehicle that is used 50660
or intended for use in two or more international registration plan 50661
member jurisdictions that allocate or proportionally register 50662
vehicles, that is used for the transportation of persons for hire 50663
or designed, used, or maintained primarily for the transportation 50664
of property, and that meets any of the following qualifications: 50665

(1) Is a power unit having a gross vehicle weight in excess 50666
of twenty-six thousand pounds; 50667

(2) Is a power unit having three or more axles, regardless of 50668
the gross vehicle weight; 50669

(3) Is a combination vehicle with a gross vehicle weight in 50670

excess of twenty-six thousand pounds. 50671

"Apportionable vehicle" does not include recreational 50672
vehicles, vehicles displaying restricted plates, city pick-up and 50673
delivery vehicles, buses used for the transportation of chartered 50674
parties, or vehicles owned and operated by the United States, this 50675
state, or any political subdivisions thereof. 50676

(GG) "Chartered party" means a group of persons who contract 50677
as a group to acquire the exclusive use of a passenger-carrying 50678
motor vehicle at a fixed charge for the vehicle in accordance with 50679
the carrier's tariff, lawfully on file with the United States 50680
department of transportation, for the purpose of group travel to a 50681
specified destination or for a particular itinerary, either agreed 50682
upon in advance or modified by the chartered group after having 50683
left the place of origin. 50684

(HH) "International registration plan" means a reciprocal 50685
agreement of member jurisdictions that is endorsed by the American 50686
association of motor vehicle administrators, and that promotes and 50687
encourages the fullest possible use of the highway system by 50688
authorizing apportioned registration of fleets of vehicles and 50689
recognizing registration of vehicles apportioned in member 50690
jurisdictions. 50691

(II) "Restricted plate" means a license plate that has a 50692
restriction of time, geographic area, mileage, or commodity, and 50693
includes license plates issued to farm trucks under division (J) 50694
of section 4503.04 of the Revised Code. 50695

(JJ) "Gross vehicle weight," with regard to any commercial 50696
car, trailer, semitrailer, or bus that is taxed at the rates 50697
established under section 4503.042 of the Revised Code, means the 50698
unladen weight of the vehicle fully equipped plus the maximum 50699
weight of the load to be carried on the vehicle. 50700

(KK) "Combined gross vehicle weight" with regard to any 50701

combination of a commercial car, trailer, and semitrailer, that is 50702
taxed at the rates established under section 4503.042 of the 50703
Revised Code, means the total unladen weight of the combination of 50704
vehicles fully equipped plus the maximum weight of the load to be 50705
carried on that combination of vehicles. 50706

(LL) "Chauffeured limousine" means a motor vehicle that is 50707
designed to carry nine or fewer passengers and is operated for 50708
hire on an hourly basis pursuant to a prearranged contract for the 50709
transportation of passengers on public roads and highways along a 50710
route under the control of the person hiring the vehicle and not 50711
over a defined and regular route. "Prearranged contract" means an 50712
agreement, made in advance of boarding, to provide transportation 50713
from a specific location in a chauffeured limousine at a fixed 50714
rate per hour or trip. "Chauffeured limousine" does not include 50715
any vehicle that is used exclusively in the business of funeral 50716
directing. 50717

(MM) "Manufactured home" has the same meaning as in division 50718
(C)(4) of section 3781.06 of the Revised Code. 50719

(NN) "Acquired situs," with respect to a manufactured home or 50720
a mobile home, means to become located in this state by the 50721
placement of the home on real property, but does not include the 50722
placement of a manufactured home or a mobile home in the inventory 50723
of a new motor vehicle dealer or the inventory of a manufacturer, 50724
remanufacturer, or distributor of manufactured or mobile homes. 50725

(OO) "Electronic" includes electrical, digital, magnetic, 50726
optical, electromagnetic, or any other form of technology that 50727
entails capabilities similar to these technologies. 50728

(PP) "Electronic record" means a record generated, 50729
communicated, received, or stored by electronic means for use in 50730
an information system or for transmission from one information 50731
system to another. 50732

(QQ) "Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record. 50733
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(RR) "Financial transaction device" has the same meaning as in division (A) of section 113.40 of the Revised Code. 50736
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(SS) "Electronic motor vehicle dealer" means a motor vehicle dealer licensed under Chapter 4517. of the Revised Code whom the registrar of motor vehicles determines meets the criteria designated in section 4503.035 of the Revised Code for electronic motor vehicle dealers and designates as an electronic motor vehicle dealer under that section. 50738
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(TT) "Electric personal assistive mobility device" means a self-balancing two non-tandem wheeled device that is designed to transport only one person, has an electric propulsion system of an average of seven hundred fifty watts, and when ridden on a paved level surface by an operator who weighs one hundred seventy pounds has a maximum speed of less than twenty miles per hour. 50744
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(UU) "Limited driving privileges" means the privilege to operate a motor vehicle that a court grants under section 4510.021 of the Revised Code to a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended. 50750
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(VV) "Utility vehicle" means a self-propelled vehicle designed with a bed, principally for the purpose of transporting material or cargo in connection with construction, agricultural, forestry, grounds maintenance, lawn and garden, materials handling, or similar activities. 50755
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Sec. 4501.37. (A) No court may reverse, suspend, or delay any order made by the registrar of motor vehicles, or enjoin, restrain, or interfere with the registrar or a deputy registrar in 50760
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the performance of official duties, except as provided in this 50763
chapter and Chapter 4507. or 4510. of the Revised Code. 50764

(B) A court shall not order the bureau of motor vehicles to 50765
delete a record of conviction unless the court finds that deletion 50766
of the record of conviction is necessary to correct an error. The 50767
bureau shall not comply with a court order that directs the 50768
deletion of a record of conviction unless the order states that 50769
the record of conviction is being deleted in order to correct an 50770
error. 50771

Sec. 4503.103. (A)(1)(a)(i) The registrar of motor vehicles 50772
may adopt rules to permit any person or lessee, other than a 50773
person receiving an apportioned license plate under the 50774
international registration plan, who owns or leases one or more 50775
motor vehicles to file a written application for registration for 50776
no more than five succeeding registration years. The rules adopted 50777
by the registrar may designate the classes of motor vehicles that 50778
are eligible for such registration. At the time of application, 50779
all annual taxes and fees shall be paid for each year for which 50780
the person is registering. 50781

(ii) The registrar shall adopt rules to permit any person or 50782
lessee who owns or leases two or more trailers or semitrailers 50783
that are subject to the tax rates prescribed in section 4503.042 50784
of the Revised Code for such trailers or semitrailers to file a 50785
written application for registration for not more than five 50786
succeeding registration years. At the time of application, all 50787
annual taxes and fees shall be paid for each year for which the 50788
person is registering. 50789

(b)(i) Except as provided in division (A)(1)(b)(ii) of this 50790
section, the registrar shall adopt rules to permit any person who 50791
owns a motor vehicle to file an application for registration for 50792

the next two succeeding registration years. At the time of 50793
application, the person shall pay the annual taxes and fees for 50794
each registration year, calculated in accordance with division (C) 50795
of section 4503.11 of the Revised Code. A person who is 50796
registering a vehicle under division (A)(1)(b) of this section 50797
shall pay for each year of registration the additional fee 50798
established under division (C)(1) of section 4503.10 of the 50799
Revised Code. The person shall also pay one and one-half times the 50800
amount of the deputy registrar service fee specified in division 50801
(D) of section 4503.10 of the Revised Code or the bureau of motor 50802
vehicles service fee specified in division (G) of that section, as 50803
applicable. 50804

(ii) Division (A)(1)(b)(i) of this section does not apply to 50805
a person receiving an apportioned license plate under the 50806
international registration plan, or the owner of a commercial car 50807
used solely in intrastate commerce, or the owner of a bus as 50808
defined in section 4513.50 of the Revised Code. 50809

(2) No person applying for a multi-year registration under 50810
division (A)(1) of this section is entitled to a refund of any 50811
taxes or fees paid. 50812

(3) The registrar shall not issue to any applicant who has 50813
been issued a final, nonappealable order under division (B) of 50814
this section a multi-year registration or renewal thereof under 50815
this division or rules adopted under it for any motor vehicle that 50816
is required to be inspected under section 3704.14 of the Revised 50817
Code the district of registration of which, as determined under 50818
section 4503.10 of the Revised Code, is or is located in the 50819
county named in the order. 50820

(B) Upon receipt from the director of environmental 50821
protection of a notice issued under ~~division (J) of~~ rules adopted 50822
under section 3704.14 of the Revised Code indicating that an owner 50823
of a motor vehicle that is required to be inspected under that 50824

section who obtained a multi-year registration for the vehicle 50825
under division (A) of this section or rules adopted under that 50826
division has not obtained ~~an~~ a required inspection certificate for 50827
the vehicle ~~in accordance with that section in a year intervening~~ 50828
~~between the years of issuance and expiration of the multi year~~ 50829
~~registration in which the owner is required to have the vehicle~~ 50830
~~inspected and obtain an inspection certificate for it under~~ 50831
~~division (F)(1)(a) of that section,~~ the registrar in accordance 50832
with Chapter 119. of the Revised Code shall issue an order to the 50833
owner impounding the certificate of registration and 50834
identification license plates for the vehicle. The order also 50835
shall prohibit the owner from obtaining or renewing a multi-year 50836
registration for any vehicle that is required to be inspected 50837
under that section, the district of registration of which is or is 50838
located in the same county as the county named in the order during 50839
the number of years after expiration of the current multi-year 50840
registration that equals the number of years for which the current 50841
multi-year registration was issued. 50842

An order issued under this division shall require the owner 50843
to surrender to the registrar the certificate of registration and 50844
license plates for the vehicle named in the order within five days 50845
after its issuance. If the owner fails to do so within that time, 50846
the registrar shall certify that fact to the county sheriff or 50847
local police officials who shall recover the certificate of 50848
registration and license plates for the vehicle. 50849

(C) Upon the occurrence of either of the following 50850
circumstances, the registrar in accordance with Chapter 119. of 50851
the Revised Code shall issue to the owner a modified order 50852
rescinding the provisions of the order issued under division (B) 50853
of this section impounding the certificate of registration and 50854
license plates for the vehicle named in that original order: 50855

(1) Receipt from the director of environmental protection of 50856

a subsequent notice under ~~division (J) of~~ rules adopted under 50857
section 3704.14 of the Revised Code that the owner has obtained 50858
the inspection certificate for the vehicle as required under 50859
~~division (F)(1)(a) of that section~~ those rules; 50860

(2) Presentation to the registrar by the owner of the 50861
required inspection certificate for the vehicle. 50862

(D) The owner of a motor vehicle for which the certificate of 50863
registration and license plates have been impounded pursuant to an 50864
order issued under division (B) of this section, upon issuance of 50865
a modified order under division (C) of this section, may apply to 50866
the registrar for their return. A fee of two dollars and fifty 50867
cents shall be charged for the return of the certificate of 50868
registration and license plates for each vehicle named in the 50869
application. 50870

Sec. 4503.471. (A) Any person who is a member in good 50871
standing of the international association of firefighters may 50872
apply to the registrar of motor vehicles for the registration of 50873
any passenger car, noncommercial vehicle, ~~motor home~~ recreational 50874
vehicle, or other vehicle of a class approved by the registrar 50875
that the person owns or leases and the issuance of international 50876
association of firefighters license plates. The application shall 50877
be accompanied by the written evidence that the registrar may 50878
require by rule showing that the person is a member in good 50879
standing of the international association of firefighters. The 50880
application for international association of firefighters license 50881
plates may be combined with a request for a special reserved 50882
license plate under section 4503.40 or 4503.42 of the Revised 50883
Code. 50884

Upon receipt of an application for registration of a vehicle 50885
under this section and presentation of satisfactory evidence 50886
showing that the person is a member in good standing of the 50887

international association of firefighters, the registrar shall 50888
issue to the applicant the appropriate vehicle registrations, sets 50889
of license plates and validation stickers, or validation stickers 50890
alone when required by section 4503.191 of the Revised Code. 50891

In addition to the letters and numbers ordinarily inscribed 50892
on the license plates, international association of firefighters 50893
license plates shall be inscribed with a Maltese cross emblem 50894
designed by the international association of firefighters and 50895
approved by the registrar. International association of 50896
firefighters license plates shall bear county identification 50897
stickers that identify the county of registration by name or 50898
number. 50899

The license plates and validation stickers shall be issued 50900
upon payment of the regular license fee as prescribed under 50901
section 4503.04 of the Revised Code, payment of any local motor 50902
vehicle tax levied under Chapter 4504. of the Revised Code, and 50903
payment of an additional fee of ten dollars for the purpose of 50904
compensating the bureau of motor vehicles for additional services 50905
required in the issuing of license plates under this section. If 50906
the application for international association of firefighters 50907
license plates is combined with a request for a special reserved 50908
license plate under section 4503.40 or 4503.42 of the Revised 50909
Code, the license plate and validation sticker shall be issued 50910
upon payment of the fees and taxes contained in this division and 50911
the additional fee prescribed under section 4503.40 or 4503.42 of 50912
the Revised Code. The registrar shall deposit the additional fee 50913
of ten dollars in the state bureau of motor vehicles fund created 50914
by section 4501.25 of the Revised Code. 50915

Whenever a person no longer is eligible to be issued 50916
international association of firefighters license plates, the 50917
person shall surrender the international association of 50918
firefighters license plates to the bureau in exchange for license 50919

plates without the Maltese cross emblem described in this section. 50920
A fee of five dollars shall be charged for the services required 50921
in the issuing of replacement plates when a person no longer is 50922
eligible to be issued international association of firefighters 50923
license plates. 50924

A person may make application for international association 50925
of firefighters license plates at any time of year, and the 50926
registrar shall issue international association of firefighters 50927
license plates and replacement plates at any time of year. 50928

(B) No person who is not a member in good standing of the 50929
international association of firefighters shall willfully and 50930
falsely represent that the person is a member in good standing of 50931
the international association of firefighters for the purpose of 50932
obtaining international association of firefighters license plates 50933
under this section. No person shall own or lease a vehicle bearing 50934
international association of firefighters license plates unless 50935
the person is eligible to be issued international association of 50936
firefighters license plates. 50937

(C) Whoever violates division (B) of this section is guilty 50938
of a misdemeanor of the fourth degree. 50939

Sec. 4503.48. Any person who is a member of the Ohio national 50940
guard or the reserves of the armed forces of the United States may 50941
apply to the registrar of motor vehicles for the registration of 50942
any passenger car, noncommercial motor vehicle, ~~motor home~~ 50943
recreational vehicle, or other vehicle of a class approved by the 50944
registrar that the person owns or leases. The application shall be 50945
accompanied by such written evidence that the person is a member 50946
of the Ohio national guard or of the reserves as the registrar 50947
requires by rule. 50948

Upon receipt of an application for registration of a motor 50949
vehicle under this section, presentation of satisfactory evidence 50950

of membership in the Ohio national guard or the reserves, and 50951
payment of the regular license fees as prescribed under section 50952
4503.04 of the Revised Code and any local motor vehicle license 50953
tax levied under Chapter 4504. of the Revised Code, the registrar 50954
shall issue to the applicant the appropriate motor vehicle 50955
registration and a set of license plates and a validation sticker, 50956
or a validation sticker alone when required by section 4503.191 of 50957
the Revised Code. In addition to the letters and numbers 50958
ordinarily inscribed thereon, the license plates shall be 50959
inscribed with identifying words or markings designed by the 50960
department of public safety. The license plates shall bear county 50961
identification stickers that identify the county of registration 50962
by name or number. 50963

Sec. 4503.50. (A) The owner or lessee of any passenger car, 50964
noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or 50965
other vehicle of a class approved by the registrar of motor 50966
vehicles may apply to the registrar for the registration of the 50967
vehicle and issuance of future farmers of America license plates. 50968
The application for future farmers of America license plates may 50969
be combined with a request for a special reserved license plate 50970
under section 4503.40 or 4503.42 of the Revised Code. Upon receipt 50971
of the completed application and compliance with division (B) of 50972
this section, the registrar shall issue to the applicant the 50973
appropriate vehicle registration and a set of future farmers of 50974
America license plates with a validation sticker or a validation 50975
sticker alone when required by section 4503.191 of the Revised 50976
Code. 50977

In addition to the letters and numbers ordinarily inscribed 50978
on the license plates, future farmers of America license plates 50979
shall be inscribed with identifying words or markings representing 50980
the future farmers of America and approved by the registrar. 50981
Future farmers of America license plates shall bear county 50982

identification stickers that identify the county of registration 50983
by name or number. 50984

(B) The future farmers of America license plates and 50985
validation sticker shall be issued upon receipt of a contribution 50986
as provided in division (C) of this section and upon payment of 50987
the regular license tax as prescribed under section 4503.04 of the 50988
Revised Code, a fee of ten dollars for the purpose of compensating 50989
the bureau of motor vehicles for additional services required in 50990
the issuing of the future farmers of America license plates, any 50991
applicable motor vehicle tax levied under Chapter 4504. of the 50992
Revised Code, and compliance with all other applicable laws 50993
relating to the registration of motor vehicles. If the application 50994
for future farmers of America license plates is combined with a 50995
request for a special reserved license plate under section 4503.40 50996
or 4503.42 of the Revised Code, the license plate and validation 50997
sticker shall be issued upon payment of the contribution, fees, 50998
and taxes referred to or established in this division and the 50999
additional fee prescribed under section 4503.40 or 4503.42 of the 51000
Revised Code. 51001

(C) For each application for registration and registration 51002
renewal the registrar receives under this section, the registrar 51003
shall collect a contribution of fifteen dollars. The registrar 51004
shall transmit this contribution to the treasurer of state for 51005
deposit in the license plate contribution fund created in section 51006
4501.21 of the Revised Code. 51007

The registrar shall deposit the additional fee of ten dollars 51008
specified in division (B) of this section that the applicant for 51009
registration pays for the purpose of compensating the bureau for 51010
the additional services required in the issuing of the applicant's 51011
future farmers of America license plates in the state bureau of 51012
motor vehicles fund created in section 4501.25 of the Revised 51013
Code. 51014

Sec. 4503.53. Any person who served in the armed forces of 51015
the United States in Saudi Arabia or Kuwait during Operation 51016
Desert Storm or Operation Desert Shield, in Panama during the 51017
invasion, in Grenada during the invasion, in Lebanon during the 51018
invasion, during the Vietnam conflict, during the Korean conflict, 51019
during World War II, or during World War I, and who is on active 51020
duty or is an honorably discharged veteran may apply to the 51021
registrar of motor vehicles for the registration of any passenger 51022
car, noncommercial motor vehicle, ~~motor home~~ recreational vehicle, 51023
or other vehicle of a class approved by the registrar the person 51024
owns or leases. The application shall be accompanied by such 51025
written evidence of the applicant's service as the registrar 51026
requires by rule. In the case of an honorably discharged veteran, 51027
the written evidence shall include a copy of the applicant's 51028
DD-214 form or an equivalent document. 51029

Upon receipt of an application for registration of a motor 51030
vehicle under this section, presentation of satisfactory evidence 51031
of military service in Saudi Arabia or Kuwait during Operation 51032
Desert Storm or Operation Desert Shield, in Panama during the 51033
invasion, in Grenada during the invasion, in Lebanon during the 51034
invasion, during the Vietnam conflict, during the Korean conflict, 51035
during World War II, or during World War I, and payment of the 51036
regular license tax as prescribed under section 4503.04 of the 51037
Revised Code and any applicable local tax levied under Chapter 51038
4504. of the Revised Code, the registrar shall issue to the 51039
applicant the appropriate motor vehicle registration and a set of 51040
license plates and a validation sticker, or a validation sticker 51041
alone when required by section 4503.191 of the Revised Code. In 51042
accordance with rules adopted by the registrar, each license plate 51043
shall be inscribed with identifying letters or numerals and the 51044
word "VETERAN"; in addition, each license plate shall be inscribed 51045
with a design and words indicating service in Saudi Arabia, 51046

Kuwait, Panama, Grenada, or Lebanon, or during the Vietnam 51047
conflict, the Korean conflict, World War II, or World War I. 51048

Sec. 4503.571. Any person who has been awarded the purple 51049
heart may apply to the registrar of motor vehicles for the 51050
registration of any passenger car, noncommercial motor vehicle, 51051
~~motor home~~ recreational vehicle, or other vehicle of a class 51052
approved by the registrar that the person owns or leases. The 51053
application shall be accompanied by such documentary evidence in 51054
support of the award as the registrar may require. The application 51055
may be combined with a request for a special reserved license 51056
plate under section 4503.40 or 4503.42 of the Revised Code. 51057

Upon receipt of an application for registration of a motor 51058
vehicle under this section and the required taxes and fees, and 51059
upon presentation of the required supporting evidence of the award 51060
of the purple heart, the registrar shall issue to the applicant 51061
the appropriate motor vehicle registration and a set of license 51062
plates and a validation sticker, or a validation sticker alone 51063
when required by section 4503.191 of the Revised Code. 51064

In addition to the letters and numbers ordinarily inscribed 51065
on the license plates, the license plates shall be inscribed with 51066
the words "PURPLE HEART." The license plates shall bear county 51067
identification stickers that identify the county of registration 51068
by name or number. 51069

The license plates and validation stickers shall be issued 51070
upon payment of the regular license fee required by section 51071
4503.04 of the Revised Code, payment of any local motor vehicle 51072
license tax levied under Chapter 4504. of the Revised Code, and 51073
compliance with all other applicable laws relating to the 51074
registration of motor vehicles. If the application is combined 51075
with a request for a special reserved license plate under section 51076
4503.40 or 4503.42 of the Revised Code, the license plates and 51077

validation sticker shall be issued upon payment of the fees and 51078
taxes referred to in this section and the additional fee 51079
prescribed under section 4503.40 or 4503.42 of the Revised Code. 51080

No person who is not a recipient of the purple heart shall 51081
willfully and falsely represent that the person is a recipient of 51082
a purple heart for the purpose of obtaining license plates under 51083
this section. No person shall own a motor vehicle bearing license 51084
plates under this section unless the person is eligible to be 51085
issued those license plates. 51086

Sec. 4503.59. The owner or lessee of any passenger car, 51087
noncommercial motor vehicle, ~~motor-home~~ recreational vehicle, or 51088
other vehicle of a class approved by the registrar of motor 51089
vehicles who is certified by the Pearl Harbor survivors 51090
association as having survived the attack on Pearl Harbor may 51091
apply to the registrar for the registration of the vehicle and 51092
issuance of Pearl Harbor license plates. The application for Pearl 51093
Harbor license plates may be combined with a request for a special 51094
reserved license plate under section 4503.40 or 4503.42 of the 51095
Revised Code. Upon receipt of the completed application, 51096
presentation by the applicant of documentation issued by the Pearl 51097
Harbor survivors association certifying that the applicant 51098
survived the attack on Pearl Harbor, and compliance by the 51099
applicant with this section, the registrar shall issue to the 51100
applicant the appropriate vehicle registration and a set of Pearl 51101
Harbor license plates with a validation sticker or a validation 51102
sticker alone when required by section 4503.191 of the Revised 51103
Code. 51104

In addition to the letters and numbers ordinarily inscribed 51105
thereon, Pearl Harbor license plates shall be inscribed with the 51106
words "Pearl Harbor" and a symbol or logo designed by the Pearl 51107
Harbor survivors association and approved by the registrar. Pearl 51108

Harbor license plates shall bear county identification stickers 51109
that identify the county of registration by name or number. 51110

Pearl Harbor license plates and validation stickers shall be 51111
issued upon payment of the regular license fee required by section 51112
4503.04 of the Revised Code, payment of any local motor vehicle 51113
license tax levied under Chapter 4504. of the Revised Code, and 51114
compliance with all other applicable laws relating to the 51115
registration of motor vehicles. If the application for Pearl 51116
Harbor license plates is combined with a request for a special 51117
reserved license plate under section 4503.40 or 4503.42 of the 51118
Revised Code, the license plates and validation sticker shall be 51119
issued upon payment of the fees and taxes contained in this 51120
section and the additional fee prescribed under section 4503.40 or 51121
4503.42 of the Revised Code. 51122

Sec. 4503.73. (A) The owner or lessee of any passenger car, 51123
noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or 51124
other vehicle of a class approved by the registrar of motor 51125
vehicles may apply to the registrar for the registration of the 51126
vehicle and issuance of "the leader in flight" license plates. The 51127
application for "the leader in flight" license plates may be 51128
combined with a request for a special reserved license plate under 51129
section 4503.40 or 4503.42 of the Revised Code. Upon receipt of 51130
the completed application and compliance with division (B) of this 51131
section, the registrar shall issue to the applicant the 51132
appropriate vehicle registration and a set of "the leader in 51133
flight" license plates with a validation sticker or a validation 51134
sticker alone when required by section 4503.191 of the Revised 51135
Code. 51136

In addition to the letters and numbers ordinarily inscribed 51137
thereon, "the leader in flight" license plates shall be inscribed 51138
with the words "the leader in flight" and illustrations of a space 51139

shuttle in a vertical position and the Wright "B" airplane. "The leader in flight" license plates shall bear county identification stickers that identify the county of registration by name or number.

(B) "The leader in flight" license plates and validation sticker shall be issued upon receipt of a contribution as provided in division (C) of this section and payment of the regular license tax as prescribed under section 4503.04 of the Revised Code, a fee of ten dollars for the purpose of compensating the bureau of motor vehicles for additional services required in the issuing of "the leader in flight" license plates, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for "the leader in flight" license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plate and validation sticker shall be issued upon payment of the fees and taxes referred to or established in this division and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

(C) For each application for registration and registration renewal received under this section, the registrar shall collect a contribution of fifteen dollars. The registrar shall transmit this contribution to the treasurer of state for deposit in the license plate contribution fund created in section 4501.21 of the Revised Code.

The registrar shall deposit the additional fee of ten dollars specified in division (B) of this section that the applicant for registration voluntarily pays for the purpose of compensating the bureau for the additional services required in the issuing of the applicant's "the leader in flight" license plates in the state bureau of motor vehicles fund created in section 4501.25 of the

Revised Code. 51172

Sec. 4503.85. (A) The owner or lessee of any passenger car, 51173
noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or 51174
other vehicle of a class approved by the registrar of motor 51175
vehicles may apply to the registrar for the registration of the 51176
vehicle and issuance of "Fish Lake Erie" license plates. The 51177
application for "Fish Lake Erie" license plates may be combined 51178
with a request for a special reserved license plate under section 51179
4503.40 or 4503.42 of the Revised Code. Upon receipt of the 51180
completed application and compliance with division (B) of this 51181
section, the registrar shall issue to the applicant the 51182
appropriate vehicle registration, a set of "Fish Lake Erie" 51183
license plates, and a validation sticker, or a validation sticker 51184
alone when required by section 4503.191 of the Revised Code. 51185

In addition to the letters and numbers ordinarily inscribed 51186
on the license plates, "Fish Lake Erie" license plates shall be 51187
inscribed with identifying words or markings designed by the Ohio 51188
sea grant college program and approved by the registrar. "Fish 51189
Lake Erie" license plates shall bear county identification 51190
stickers that identify the county of registration by name or 51191
number. 51192

(B) "Fish Lake Erie" license plates and a validation sticker 51193
or, when applicable, a validation sticker alone shall be issued 51194
upon receipt of an application for registration of a motor vehicle 51195
submitted under this section and a contribution as provided in 51196
division (C) of this section, payment of the regular license tax 51197
as prescribed under section 4503.04 of the Revised Code, any 51198
applicable motor vehicle tax levied under Chapter 4504. of the 51199
Revised Code, and an additional fee of ten dollars, and compliance 51200
with all other applicable laws relating to the registration of 51201
motor vehicles. If the application for "Fish Lake Erie" license 51202

plates is combined with a request for a special reserved license 51203
plate under section 4503.40 or 4503.42 of the Revised Code, the 51204
license plates and validation sticker or validation sticker alone 51205
shall be issued upon payment of the fees and taxes referred to or 51206
established in this division plus the additional fee prescribed in 51207
section 4503.40 or 4503.42 of the Revised Code. 51208

(C) For each application for registration and registration 51209
renewal that the registrar receives under this section, the 51210
registrar shall collect a contribution of fifteen dollars. The 51211
registrar shall deposit this contribution into the state treasury 51212
to the credit of the license plate contribution fund created in 51213
section 4501.21 of the Revised Code. 51214

The additional fee of ten dollars described in division (B) 51215
of this section shall be for the purpose of compensating the 51216
bureau of motor vehicles for additional services required in 51217
issuing license plates under this section. The registrar shall 51218
deposit that fee into the state treasury to the credit of the 51219
state bureau of motor vehicles fund created by section 4501.25 of 51220
the Revised Code. 51221

Sec. 4503.91. (A) The owner or lessee of any passenger car, 51222
noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or 51223
other vehicle of a class approved by the registrar of motor 51224
vehicles may apply to the registrar for the registration of the 51225
vehicle and issuance of "choose life" license plates. The 51226
application for "choose life" license plates may be combined with 51227
a request for a special reserved license plate under section 51228
4503.40 or 4503.42 of the Revised Code. Upon receipt of the 51229
completed application and compliance with divisions (B) and (C) of 51230
this section, the registrar shall issue to the applicant the 51231
appropriate vehicle registration and a set of "choose life" 51232
license plates with a validation sticker or a validation sticker 51233

alone when required by section 4503.191 of the Revised Code. 51234

In addition to the letters and numbers ordinarily inscribed 51235
on license plates, "choose life" license plates shall be inscribed 51236
with the words "choose life" and a marking designed by "choose 51237
life, inc.," a private, nonprofit corporation incorporated in the 51238
state of Florida. The registrar shall review the design and 51239
approve it if the design is feasible. If the design is not 51240
feasible, the registrar shall notify "choose life, inc," and the 51241
organization may resubmit designs until a feasible one is 51242
approved. "Choose life" license plates shall bear county 51243
identification stickers that identify the county of registration 51244
by name or number. 51245

(B) "Choose life" license plates and a validation sticker, or 51246
a validation sticker alone, shall be issued upon receipt of a 51247
contribution as provided in division (C) of this section and upon 51248
payment of the regular license tax prescribed in section 4503.04 51249
of the Revised Code, any applicable motor vehicle tax levied under 51250
Chapter 4504. of the Revised Code, any applicable additional fee 51251
prescribed by section 4503.40 or 4503.42 of the Revised Code, a 51252
fee of ten dollars for the purpose of compensating the bureau of 51253
motor vehicles for additional services required in the issuing of 51254
"choose life" license plates, and compliance with all other 51255
applicable laws relating to the registration of motor vehicles. 51256

(C)(1) For each application for registration and registration 51257
renewal received under this section, the registrar shall collect a 51258
contribution of twenty dollars. The registrar shall transmit this 51259
contribution to the treasurer of state for deposit in the "choose 51260
life" fund created in section 3701.65 of the Revised Code. 51261

(2) The registrar shall deposit the additional fee of ten 51262
dollars specified in division (B) of this section for the purpose 51263
of compensating the bureau for the additional services required in 51264

issuing "choose life" license plates in the state bureau of motor 51265
vehicles fund created in section 4501.25 of the Revised Code. 51266

Sec. 4505.06. (A)(1) Application for a certificate of title 51267
shall be made in a form prescribed by the registrar of motor 51268
vehicles and shall be sworn to before a notary public or other 51269
officer empowered to administer oaths. The application shall be 51270
filed with the clerk of any court of common pleas. An application 51271
for a certificate of title may be filed electronically by any 51272
electronic means approved by the registrar in any county with the 51273
clerk of the court of common pleas of that county. Any payments 51274
required by this chapter shall be considered as accompanying any 51275
electronically transmitted application when payment actually is 51276
received by the clerk. Payment of any fee or taxes may be made by 51277
electronic transfer of funds. 51278

(2) The application for a certificate of title shall be 51279
accompanied by the fee prescribed in section 4505.09 of the 51280
Revised Code. The fee shall be retained by the clerk who issues 51281
the certificate of title and shall be distributed in accordance 51282
with that section. If a clerk of a court of common pleas, other 51283
than the clerk of the court of common pleas of an applicant's 51284
county of residence, issues a certificate of title to the 51285
applicant, the clerk shall transmit data related to the 51286
transaction to the automated title processing system. 51287

(3) If a certificate of title previously has been issued for 51288
a motor vehicle in this state, the application for a certificate 51289
of title also shall be accompanied by that certificate of title 51290
duly assigned, unless otherwise provided in this chapter. If a 51291
certificate of title previously has not been issued for the motor 51292
vehicle in this state, the application, unless otherwise provided 51293
in this chapter, shall be accompanied by a manufacturer's or 51294
importer's certificate or by a certificate of title of another 51295

state from which the motor vehicle was brought into this state. If 51296
the application refers to a motor vehicle last previously 51297
registered in another state, the application also shall be 51298
accompanied by the physical inspection certificate required by 51299
section 4505.061 of the Revised Code. If the application is made 51300
by two persons regarding a motor vehicle in which they wish to 51301
establish joint ownership with right of survivorship, they may do 51302
so as provided in section 2131.12 of the Revised Code. If the 51303
applicant requests a designation of the motor vehicle in 51304
beneficiary form so that upon the death of the owner of the motor 51305
vehicle, ownership of the motor vehicle will pass to a designated 51306
transfer-on-death beneficiary or beneficiaries, the applicant may 51307
do so as provided in section 2131.13 of the Revised Code. A person 51308
who establishes ownership of a motor vehicle that is transferable 51309
on death in accordance with section 2131.13 of the Revised Code 51310
may terminate that type of ownership or change the designation of 51311
the transfer-on-death beneficiary or beneficiaries by applying for 51312
a certificate of title pursuant to this section. The clerk shall 51313
retain the evidence of title presented by the applicant and on 51314
which the certificate of title is issued, except that, if an 51315
application for a certificate of title is filed electronically by 51316
an electronic motor vehicle dealer on behalf of the purchaser of a 51317
motor vehicle, the clerk shall retain the completed electronic 51318
record to which the dealer converted the certificate of title 51319
application and other required documents. The registrar, after 51320
consultation with the attorney general, shall adopt rules that 51321
govern the location at which, and the manner in which, are stored 51322
the actual application and all other documents relating to the 51323
sale of a motor vehicle when an electronic motor vehicle dealer 51324
files the application for a certificate of title electronically on 51325
behalf of the purchaser. 51326

The clerk shall use reasonable diligence in ascertaining 51327
whether or not the facts in the application for a certificate of 51328

title are true by checking the application and documents 51329
accompanying it or the electronic record to which a dealer 51330
converted the application and accompanying documents with the 51331
records of motor vehicles in the clerk's office. If the clerk is 51332
satisfied that the applicant is the owner of the motor vehicle and 51333
that the application is in the proper form, the clerk, within five 51334
business days after the application is filed and except as 51335
provided in section 4505.021 of the Revised Code, shall issue a 51336
physical certificate of title over the clerk's signature and 51337
sealed with the clerk's seal, unless the applicant specifically 51338
requests the clerk not to issue a physical certificate of title 51339
and instead to issue an electronic certificate of title. For 51340
purposes of the transfer of a certificate of title, if the clerk 51341
is satisfied that the secured party has duly discharged a lien 51342
notation but has not canceled the lien notation with a clerk, the 51343
clerk may cancel the lien notation on the automated title 51344
processing system and notify the clerk of the county of origin. 51345

(4) In the case of the sale of a motor vehicle to a general 51346
buyer or user by a dealer, by a motor vehicle leasing dealer 51347
selling the motor vehicle to the lessee or, in a case in which the 51348
leasing dealer subleased the motor vehicle, the sublessee, at the 51349
end of the lease agreement or sublease agreement, or by a 51350
manufactured home broker, the certificate of title shall be 51351
obtained in the name of the buyer by the dealer, leasing dealer, 51352
or manufactured home broker, as the case may be, upon application 51353
signed by the buyer. The certificate of title shall be issued, or 51354
the process of entering the certificate of title application 51355
information into the automated title processing system if a 51356
physical certificate of title is not to be issued shall be 51357
completed, within five business days after the application for 51358
title is filed with the clerk. If the buyer of the motor vehicle 51359
previously leased the motor vehicle and is buying the motor 51360
vehicle at the end of the lease pursuant to that lease, the 51361

certificate of title shall be obtained in the name of the buyer by 51362
the motor vehicle leasing dealer who previously leased the motor 51363
vehicle to the buyer or by the motor vehicle leasing dealer who 51364
subleased the motor vehicle to the buyer under a sublease 51365
agreement. 51366

In all other cases, except as provided in section 4505.032 51367
and division (D)(2) of section 4505.11 of the Revised Code, such 51368
certificates shall be obtained by the buyer. 51369

(5)(a)(i) If the certificate of title is being obtained in 51370
the name of the buyer by a motor vehicle dealer or motor vehicle 51371
leasing dealer and there is a security interest to be noted on the 51372
certificate of title, the dealer or leasing dealer shall submit 51373
the application for the certificate of title and payment of the 51374
applicable tax to a clerk within seven business days after the 51375
later of the delivery of the motor vehicle to the buyer or the 51376
date the dealer or leasing dealer obtains the manufacturer's or 51377
importer's certificate, or certificate of title issued in the name 51378
of the dealer or leasing dealer, for the motor vehicle. Submission 51379
of the application for the certificate of title and payment of the 51380
applicable tax within the required seven business days may be 51381
indicated by postmark or receipt by a clerk within that period. 51382

(ii) Upon receipt of the certificate of title with the 51383
security interest noted on its face, the dealer or leasing dealer 51384
shall forward the certificate of title to the secured party at the 51385
location noted in the financing documents or otherwise specified 51386
by the secured party. 51387

(iii) A motor vehicle dealer or motor vehicle leasing dealer 51388
is liable to a secured party for a late fee of ten dollars per day 51389
for each certificate of title application and payment of the 51390
applicable tax that is submitted to a clerk more than seven 51391
business days but less than twenty-one days after the later of the 51392
delivery of the motor vehicle to the buyer or the date the dealer 51393

or leasing dealer obtains the manufacturer's or importer's 51394
certificate, or certificate of title issued in the name of the 51395
dealer or leasing dealer, for the motor vehicle and, from then on, 51396
twenty-five dollars per day until the application and applicable 51397
tax are submitted to a clerk. 51398

(b) In all cases of transfer of a motor vehicle, the 51399
application for certificate of title shall be filed within thirty 51400
days after the assignment or delivery of the motor vehicle. If an 51401
application for a certificate of title is not filed within the 51402
period specified in division (A)(5)(b) of this section, the clerk 51403
shall collect a fee of five dollars for the issuance of the 51404
certificate, except that no such fee shall be required from a 51405
motor vehicle salvage dealer, as defined in division (A) of 51406
section 4738.01 of the Revised Code, who immediately surrenders 51407
the certificate of title for cancellation. The fee shall be in 51408
addition to all other fees established by this chapter, and shall 51409
be retained by the clerk. The registrar shall provide, on the 51410
certificate of title form prescribed by section 4505.07 of the 51411
Revised Code, language necessary to give evidence of the date on 51412
which the assignment or delivery of the motor vehicle was made. 51413

(6) As used in division (A) of this section, "lease 51414
agreement," "lessee," and "sublease agreement" have the same 51415
meanings as in section 4505.04 of the Revised Code. 51416

(B)(1) The clerk, except as provided in this section, shall 51417
refuse to accept for filing any application for a certificate of 51418
title and shall refuse to issue a certificate of title unless the 51419
dealer or manufactured home broker or the applicant, in cases in 51420
which the certificate shall be obtained by the buyer, submits with 51421
the application payment of the tax levied by or pursuant to 51422
Chapters 5739. and 5741. of the Revised Code based on the 51423
purchaser's county of residence. Upon payment of the tax in 51424
accordance with division (E) of this section, the clerk shall 51425

issue a receipt prescribed by the registrar and agreed upon by the 51426
tax commissioner showing payment of the tax or a receipt issued by 51427
the commissioner showing the payment of the tax. When submitting 51428
payment of the tax to the clerk, a dealer shall retain any 51429
discount to which the dealer is entitled under section 5739.12 of 51430
the Revised Code. 51431

(2) For receiving and disbursing such taxes paid to the clerk 51432
by a resident of the clerk's county, the clerk may retain a 51433
poundage fee of one and one one-hundredth per cent, and the clerk 51434
shall pay the poundage fee into the certificate of title 51435
administration fund created by section 325.33 of the Revised Code. 51436
The clerk shall not retain a poundage fee from payments of taxes 51437
by persons who do not reside in the clerk's county. 51438

A clerk, however, may retain from the taxes paid to the clerk 51439
an amount equal to the poundage fees associated with certificates 51440
of title issued by other clerks of courts of common pleas to 51441
applicants who reside in the first clerk's county. The registrar, 51442
in consultation with the tax commissioner and the clerks of the 51443
courts of common pleas, shall develop a report from the automated 51444
title processing system that informs each clerk of the amount of 51445
the poundage fees that the clerk is permitted to retain from those 51446
taxes because of certificates of title issued by the clerks of 51447
other counties to applicants who reside in the first clerk's 51448
county. 51449

(3) In the case of casual sales of motor vehicles, as defined 51450
in section 4517.01 of the Revised Code, the price for the purpose 51451
of determining the tax shall be the purchase price on the assigned 51452
certificate of title executed by the seller and filed with the 51453
clerk by the buyer on a form to be prescribed by the registrar, 51454
which shall be prima-facie evidence of the amount for the 51455
determination of the tax. 51456

(4) Each county clerk shall forward to the treasurer of state 51457

all sales and use tax collections resulting from sales of motor vehicles, off-highway motorcycles, and all-purpose vehicles during a calendar week on or before the Friday following the close of that week. If, on any Friday, the offices of the clerk of courts or the state are not open for business, the tax shall be forwarded to the treasurer of state on or before the next day on which the offices are open. Every remittance of tax under division (B)(4) of this section shall be accompanied by a remittance report in such form as the tax commissioner prescribes. Upon receipt of a tax remittance and remittance report, the treasurer of state shall date stamp the report and forward it to the tax commissioner. If the tax due for any week is not remitted by a clerk of courts as required under division (B)(4) of this section, the commissioner may require the clerk to forfeit the poundage fees for the sales made during that week. The treasurer of state may require the clerks of courts to transmit tax collections and remittance reports electronically.

(C)(1) If the transferor indicates on the certificate of title that the odometer reflects mileage in excess of the designed mechanical limit of the odometer, the clerk shall enter the phrase "exceeds mechanical limits" following the mileage designation. If the transferor indicates on the certificate of title that the odometer reading is not the actual mileage, the clerk shall enter the phrase "nonactual: warning - odometer discrepancy" following the mileage designation. The clerk shall use reasonable care in transferring the information supplied by the transferor, but is not liable for any errors or omissions of the clerk or those of the clerk's deputies in the performance of the clerk's duties created by this chapter.

The registrar shall prescribe an affidavit in which the transferor shall swear to the true selling price and, except as provided in this division, the true odometer reading of the motor

vehicle. The registrar may prescribe an affidavit in which the 51490
seller and buyer provide information pertaining to the odometer 51491
reading of the motor vehicle in addition to that required by this 51492
section, as such information may be required by the United States 51493
secretary of transportation by rule prescribed under authority of 51494
subchapter IV of the "Motor Vehicle Information and Cost Savings 51495
Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 51496

(2) Division (C)(1) of this section does not require the 51497
giving of information concerning the odometer and odometer reading 51498
of a motor vehicle when ownership of a motor vehicle is being 51499
transferred as a result of a bequest, under the laws of intestate 51500
succession, to a survivor pursuant to section 2106.18, 2131.12, or 51501
4505.10 of the Revised Code, to a transfer-on-death beneficiary or 51502
beneficiaries pursuant to section 2131.13 of the Revised Code, in 51503
connection with the creation of a security interest or for a 51504
vehicle with a gross vehicle weight rating of more than sixteen 51505
thousand pounds. 51506

(D) When the transfer to the applicant was made in some other 51507
state or in interstate commerce, the clerk, except as provided in 51508
this section, shall refuse to issue any certificate of title 51509
unless the tax imposed by or pursuant to Chapter 5741. of the 51510
Revised Code based on the purchaser's county of residence has been 51511
paid as evidenced by a receipt issued by the tax commissioner, or 51512
unless the applicant submits with the application payment of the 51513
tax. Upon payment of the tax in accordance with division (E) of 51514
this section, the clerk shall issue a receipt prescribed by the 51515
registrar and agreed upon by the tax commissioner, showing payment 51516
of the tax. 51517

For receiving and disbursing such taxes paid to the clerk by 51518
a resident of the clerk's county, the clerk may retain a poundage 51519
fee of one and one one-hundredth per cent. The clerk shall not 51520
retain a poundage fee from payments of taxes by persons who do not 51521

reside in the clerk's county. 51522

A clerk, however, may retain from the taxes paid to the clerk 51523
an amount equal to the poundage fees associated with certificates 51524
of title issued by other clerks of courts of common pleas to 51525
applicants who reside in the first clerk's county. The registrar, 51526
in consultation with the tax commissioner and the clerks of the 51527
courts of common pleas, shall develop a report from the automated 51528
title processing system that informs each clerk of the amount of 51529
the poundage fees that the clerk is permitted to retain from those 51530
taxes because of certificates of title issued by the clerks of 51531
other counties to applicants who reside in the first clerk's 51532
county. 51533

When the vendor is not regularly engaged in the business of 51534
selling motor vehicles, the vendor shall not be required to 51535
purchase a vendor's license or make reports concerning those 51536
sales. 51537

(E) The clerk shall accept any payment of a tax in cash, or 51538
by cashier's check, certified check, draft, money order, or teller 51539
check issued by any insured financial institution payable to the 51540
clerk and submitted with an application for a certificate of title 51541
under division (B) or (D) of this section. The clerk also may 51542
accept payment of the tax by corporate, business, or personal 51543
check, credit card, electronic transfer or wire transfer, debit 51544
card, or any other accepted form of payment made payable to the 51545
clerk. The clerk may require bonds, guarantees, or letters of 51546
credit to ensure the collection of corporate, business, or 51547
personal checks. Any service fee charged by a third party to a 51548
clerk for the use of any form of payment may be paid by the clerk 51549
from the certificate of title administration fund created in 51550
section 325.33 of the Revised Code, or may be assessed by the 51551
clerk upon the applicant as an additional fee. Upon collection, 51552
the additional fees shall be paid by the clerk into that 51553

certificate of title administration fund. 51554

The clerk shall make a good faith effort to collect any 51555
payment of taxes due but not made because the payment was returned 51556
or dishonored, but the clerk is not personally liable for the 51557
payment of uncollected taxes or uncollected fees. The clerk shall 51558
notify the tax commissioner of any such payment of taxes that is 51559
due but not made and shall furnish the information to the 51560
commissioner that the commissioner requires. The clerk shall 51561
deduct the amount of taxes due but not paid from the clerk's 51562
periodic remittance of tax payments, in accordance with procedures 51563
agreed upon by the tax commissioner. The commissioner may collect 51564
taxes due by assessment in the manner provided in section 5739.13 51565
of the Revised Code. 51566

Any person who presents payment that is returned or 51567
dishonored for any reason is liable to the clerk for payment of a 51568
penalty over and above the amount of the taxes due. The clerk 51569
shall determine the amount of the penalty, and the penalty shall 51570
be no greater than that amount necessary to compensate the clerk 51571
for banking charges, legal fees, or other expenses incurred by the 51572
clerk in collecting the returned or dishonored payment. The 51573
remedies and procedures provided in this section are in addition 51574
to any other available civil or criminal remedies. Subsequently 51575
collected penalties, poundage fees, and title fees, less any title 51576
fee due the state, from returned or dishonored payments collected 51577
by the clerk shall be paid into the certificate of title 51578
administration fund. Subsequently collected taxes, less poundage 51579
fees, shall be sent by the clerk to the treasurer of state at the 51580
next scheduled periodic remittance of tax payments, with 51581
information as the commissioner may require. The clerk may abate 51582
all or any part of any penalty assessed under this division. 51583

(F) In the following cases, the clerk shall accept for filing 51584
an application and shall issue a certificate of title without 51585

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| requiring payment or evidence of payment of the tax: | 51586 |
| (1) When the purchaser is this state or any of its political subdivisions, a church, or an organization whose purchases are exempted by section 5739.02 of the Revised Code; | 51587 51588 51589 |
| (2) When the transaction in this state is not a retail sale as defined by section 5739.01 of the Revised Code; | 51590 51591 |
| (3) When the purchase is outside this state or in interstate commerce and the purpose of the purchaser is not to use, store, or consume within the meaning of section 5741.01 of the Revised Code; | 51592 51593 51594 |
| (4) When the purchaser is the federal government; | 51595 |
| (5) When the motor vehicle was purchased outside this state for use outside this state; | 51596 51597 |
| (6) When the motor vehicle is purchased by a nonresident of this state for immediate removal from this state, and will be permanently titled and registered in another state, as provided by division (B)(23) of section 5739.02 of the Revised Code, and upon presentation of a copy of the affidavit provided by that section, and a copy of the exemption certificate provided by section 5739.03 of the Revised Code. | 51598 51599 51600 51601 51602 51603 51604 |
| The clerk shall forward all payments of taxes, less poundage fees, to the treasurer of state in a manner to be prescribed by the tax commissioner and shall furnish information to the commissioner as the commissioner requires. | 51605 51606 51607 51608 |
| (G) An application, as prescribed by the registrar and agreed to by the tax commissioner, shall be filled out and sworn to by the buyer of a motor vehicle in a casual sale. The application shall contain the following notice in bold lettering: "WARNING TO TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by law to state the true selling price. A false statement is in violation of section 2921.13 of the Revised Code and is punishable | 51609 51610 51611 51612 51613 51614 51615 |

by six months' imprisonment or a fine of up to one thousand 51616
dollars, or both. All transfers are audited by the department of 51617
taxation. The seller and buyer must provide any information 51618
requested by the department of taxation. The buyer may be assessed 51619
any additional tax found to be due." 51620

(H) For sales of manufactured homes or mobile homes occurring 51621
on or after January 1, 2000, the clerk shall accept for filing, 51622
pursuant to Chapter 5739. of the Revised Code, an application for 51623
a certificate of title for a manufactured home or mobile home 51624
without requiring payment of any tax pursuant to section 5739.02, 51625
5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt 51626
issued by the tax commissioner showing payment of the tax. For 51627
sales of manufactured homes or mobile homes occurring on or after 51628
January 1, 2000, the applicant shall pay to the clerk an 51629
additional fee of five dollars for each certificate of title 51630
issued by the clerk for a manufactured or mobile home pursuant to 51631
division (H) of section 4505.11 of the Revised Code and for each 51632
certificate of title issued upon transfer of ownership of the 51633
home. The clerk shall credit the fee to the county certificate of 51634
title administration fund, and the fee shall be used to pay the 51635
expenses of archiving those certificates pursuant to division (A) 51636
of section 4505.08 and division (H)(3) of section 4505.11 of the 51637
Revised Code. The tax commissioner shall administer any tax on a 51638
manufactured or mobile home pursuant to Chapters 5739. and 5741. 51639
of the Revised Code. 51640

(I) Every clerk shall have the capability to transact by 51641
electronic means all procedures and transactions relating to the 51642
issuance of motor vehicle certificates of title that are described 51643
in the Revised Code as being accomplished by electronic means. 51644

Sec. 4506.03. (A) Except as provided in divisions (B) and (C) 51645
of this section, the following shall apply: 51646

(1) No person shall drive a commercial motor vehicle on a highway in this state unless the person holds, and has in the person's possession, a valid commercial driver's license with proper endorsements for the motor vehicle being driven, issued by the registrar of motor vehicles, a valid examiner's commercial driving permit issued under section 4506.13 of the Revised Code, a valid restricted commercial driver's license and waiver for farm-related service industries issued under section 4506.24 of the Revised Code, or a valid commercial driver's license temporary instruction permit issued by the registrar and is accompanied by an authorized state driver's license examiner or tester or a person who has been issued and has in the person's immediate possession a current, valid commercial driver's license with proper endorsements for the motor vehicle being driven.

(2) No person shall be issued a commercial driver's license until the person surrenders to the registrar of motor vehicles all valid licenses issued to the person by another jurisdiction recognized by this state. The registrar shall report the surrender of a license to the issuing authority, together with information that a license is now issued in this state. The registrar shall destroy any such license that is not returned to the issuing authority.

(3) No person who has been a resident of this state for thirty days or longer shall drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.

(B) Nothing in division (A) of this section applies to any qualified person when engaged in the operation of any of the following:

(1) A farm truck;

(2) Fire equipment for a fire department, volunteer or

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| nonvolunteer fire company, fire district, or joint fire district; | 51678 |
| (3) A public safety vehicle used to provide transportation or emergency medical service for ill or injured persons; | 51679 51680 |
| (4) A recreational vehicle; | 51681 |
| (5) A commercial motor vehicle within the boundaries of an eligible unit of local government, if the person is employed by the eligible unit of local government and is operating the commercial motor vehicle for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, but only if either the employee who holds a commercial driver's license issued under this chapter and ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle, or the employing eligible unit of local government determines that a snow or ice emergency exists that requires additional assistance; | 51682 51683 51684 51685 51686 51687 51688 51689 51690 51691 |
| (6) A vehicle operated for military purposes by any member or uniformed employee of the armed forces of the United States or their reserve components, including the Ohio national guard. This exception does not apply to United States reserve technicians. | 51692 51693 51694 51695 |
| (7) A commercial motor vehicle that is operated for nonbusiness purposes. "Operated for nonbusiness purposes" means that the commercial motor vehicle is not used in commerce as "commerce" is defined in 49 C.F.R. 383.5, as amended, and is not regulated by the public utilities commission pursuant to Chapter 4919., 4921., or 4923. of the Revised Code. | 51696 51697 51698 51699 51700 51701 |
| (8) A motor vehicle that is designed primarily for the transportation of goods and not persons, while that motor vehicle is being used for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise; | 51702 51703 51704 51705 51706 |
| <u>(9) A police SWAT team vehicle.</u> | 51707 |

(C) Nothing contained in division (B)(5) of this section 51708
shall be construed as preempting or superseding any law, rule, or 51709
regulation of this state concerning the safe operation of 51710
commercial motor vehicles. 51711

(D) Whoever violates this section is guilty of a misdemeanor 51712
of the first degree. 51713

Sec. 4506.07. (A) Every application for a commercial driver's 51714
license, restricted commercial driver's license, or a commercial 51715
driver's temporary instruction permit, or a duplicate of such a 51716
license, shall be made upon a form approved and furnished by the 51717
registrar of motor vehicles. Except as provided in section 4506.24 51718
of the Revised Code in regard to a restricted commercial driver's 51719
license, the application shall be signed by the applicant and 51720
shall contain the following information: 51721

(1) The applicant's name, date of birth, social security 51722
account number, sex, general description including height, weight, 51723
and color of hair and eyes, current residence, duration of 51724
residence in this state, country of citizenship, and occupation; 51725

(2) Whether the applicant previously has been licensed to 51726
operate a commercial motor vehicle or any other type of motor 51727
vehicle in another state or a foreign jurisdiction and, if so, 51728
when, by what state, and whether the license or driving privileges 51729
currently are suspended or revoked in any jurisdiction, or the 51730
applicant otherwise has been disqualified from operating a 51731
commercial motor vehicle, or is subject to an out-of-service order 51732
issued under this chapter or any similar law of another state or a 51733
foreign jurisdiction and, if so, the date of, locations involved, 51734
and reason for the suspension, revocation, disqualification, or 51735
out-of-service order; 51736

(3) Whether the applicant is afflicted with or suffering from 51737
any physical or mental disability or disease that prevents the 51738

applicant from exercising reasonable and ordinary control over a 51739
motor vehicle while operating it upon a highway or is or has been 51740
subject to any condition resulting in episodic impairment of 51741
consciousness or loss of muscular control and, if so, the nature 51742
and extent of the disability, disease, or condition, and the names 51743
and addresses of the physicians attending the applicant; 51744

(4) Whether the applicant has obtained a medical examiner's 51745
certificate as required by this chapter; 51746

(5) Whether the applicant has pending a citation for 51747
violation of any motor vehicle law or ordinance except a parking 51748
violation and, if so, a description of the citation, the court 51749
having jurisdiction of the offense, and the date when the offense 51750
occurred; 51751

(6) Whether the applicant wishes to certify willingness to 51752
make an anatomical donation under section 2108.04 of the Revised 51753
Code, which shall be given no consideration in the issuance of a 51754
license; 51755

(7) On and after May 1, 1993, whether the applicant has 51756
executed a valid durable power of attorney for health care 51757
pursuant to sections 1337.11 to 1337.17 of the Revised Code or has 51758
executed a declaration governing the use or continuation, or the 51759
withholding or withdrawal, of life-sustaining treatment pursuant 51760
to sections 2133.01 to 2133.15 of the Revised Code and, if the 51761
applicant has executed either type of instrument, whether the 51762
applicant wishes the license issued to indicate that the applicant 51763
has executed the instrument. 51764

(B) Every applicant shall certify, on a form approved and 51765
furnished by the registrar, all of the following: 51766

(1) That the motor vehicle in which the applicant intends to 51767
take the driving skills test is representative of the type of 51768
motor vehicle that the applicant expects to operate as a driver; 51769

(2) That the applicant is not subject to any disqualification 51770
or out-of-service order, or license suspension, revocation, or 51771
cancellation, under the laws of this state, of another state, or 51772
of a foreign jurisdiction and does not have more than one driver's 51773
license issued by this or another state or a foreign jurisdiction; 51774

(3) Any additional information, certification, or evidence 51775
that the registrar requires by rule in order to ensure that the 51776
issuance of a commercial driver's license to the applicant is in 51777
compliance with the law of this state and with federal law. 51778

(C) Every applicant shall execute a form, approved and 51779
furnished by the registrar, under which the applicant consents to 51780
the release by the registrar of information from the applicant's 51781
driving record. 51782

(D) The registrar or a deputy registrar, in accordance with 51783
section 3503.11 of the Revised Code, shall register as an elector 51784
any applicant for a commercial driver's license or for a renewal 51785
or duplicate of such a license under this chapter, if the 51786
applicant is eligible and wishes to be registered as an elector. 51787
The decision of an applicant whether to register as an elector 51788
shall be given no consideration in the decision of whether to 51789
issue the applicant a license or a renewal or duplicate. 51790

(E) The registrar or a deputy registrar, in accordance with 51791
section 3503.11 of the Revised Code, shall offer the opportunity 51792
of completing a notice of change of residence or change of name to 51793
any applicant for a commercial driver's license or for a renewal 51794
or duplicate of such a license who is a resident of this state, if 51795
the applicant is a registered elector who has changed the 51796
applicant's residence or name and has not filed such a notice. 51797

(F) In considering any application submitted pursuant to this 51798
section, the bureau of motor vehicles may conduct any inquiries 51799
necessary to ensure that issuance or renewal of a commercial 51800

driver's license would not violate any provision of the Revised 51801
Code or federal law. 51802

Sec. 4506.101. Notwithstanding any provision of the Revised 51803
Code, the bureau of motor vehicles shall not issue or renew a 51804
commercial driver's license if issuance or renewal of the license 51805
would violate federal law. 51806

Sec. 4506.161. No court shall issue an order granting limited 51807
driving privileges for operation of a commercial motor vehicle to 51808
any person whose driver's license or commercial driver's license 51809
has been suspended or who has been disqualified from operating a 51810
commercial motor vehicle. 51811

Sec. 4511.191. (A)(1) "Physical control" has the same meaning 51812
as in section 4511.194 of the Revised Code. 51813

(2) Any person who operates a vehicle, streetcar, or 51814
trackless trolley upon a highway or any public or private property 51815
used by the public for vehicular travel or parking within this 51816
state or who is in physical control of a vehicle, streetcar, or 51817
trackless trolley shall be deemed to have given consent to a 51818
chemical test or tests of the person's whole blood, blood serum or 51819
plasma, breath, or urine to determine the alcohol, drug, or 51820
alcohol and drug content of the person's whole blood, blood serum 51821
or plasma, breath, or urine if arrested for a violation of 51822
division (A) or (B) of section 4511.19 of the Revised Code, 51823
section 4511.194 of the Revised Code or a substantially equivalent 51824
municipal ordinance, or a municipal OVI ordinance. 51825

(3) The chemical test or tests under division (A)(2) of this 51826
section shall be administered at the request of a law enforcement 51827
officer having reasonable grounds to believe the person was 51828
operating or in physical control of a vehicle, streetcar, or 51829
trackless trolley in violation of a division, section, or 51830

ordinance identified in division (A)(2) of this section. The law 51831
enforcement agency by which the officer is employed shall 51832
designate which of the tests shall be administered. 51833

(4) Any person who is dead or unconscious, or who otherwise 51834
is in a condition rendering the person incapable of refusal, shall 51835
be deemed to have consented as provided in division (A)(2) of this 51836
section, and the test or tests may be administered, subject to 51837
sections 313.12 to 313.16 of the Revised Code. 51838

(B)(1) Upon receipt of the sworn report of a law enforcement 51839
officer who arrested a person for a violation of division (A) or 51840
(B) of section 4511.19 of the Revised Code, section 4511.194 of 51841
the Revised Code or a substantially equivalent municipal 51842
ordinance, or a municipal OVI ordinance that was completed and 51843
sent to the registrar and a court pursuant to section 4511.192 of 51844
the Revised Code in regard to a person who refused to take the 51845
designated chemical test, the registrar shall enter into the 51846
registrar's records the fact that the person's driver's or 51847
commercial driver's license or permit or nonresident operating 51848
privilege was suspended by the arresting officer under this 51849
division and that section and the period of the suspension, as 51850
determined under this section. The suspension shall be subject to 51851
appeal as provided in section 4511.197 of the Revised Code. The 51852
suspension shall be for whichever of the following periods 51853
applies: 51854

(a) Except when division (B)(1)(b), (c), or (d) of this 51855
section applies and specifies a different class or length of 51856
suspension, the suspension shall be a class C suspension for the 51857
period of time specified in division (B)(3) of section 4510.02 of 51858
the Revised Code. 51859

(b) If the arrested person, within six years of the date on 51860
which the person refused the request to consent to the chemical 51861
test, had refused one previous request to consent to a chemical 51862

test, the suspension shall be a class B suspension imposed for the 51863
period of time specified in division (B)(2) of section 4510.02 of 51864
the Revised Code. 51865

(c) If the arrested person, within six years of the date on 51866
which the person refused the request to consent to the chemical 51867
test, had refused two previous requests to consent to a chemical 51868
test, the suspension shall be a class A suspension imposed for the 51869
period of time specified in division (B)(1) of section 4510.02 of 51870
the Revised Code. 51871

(d) If the arrested person, within six years of the date on 51872
which the person refused the request to consent to the chemical 51873
test, had refused three or more previous requests to consent to a 51874
chemical test, the suspension shall be for five years. 51875

(2) The registrar shall terminate a suspension of the 51876
driver's or commercial driver's license or permit of a resident or 51877
of the operating privilege of a nonresident, or a denial of a 51878
driver's or commercial driver's license or permit, imposed 51879
pursuant to division (B)(1) of this section upon receipt of notice 51880
that the person has entered a plea of guilty to, or that the 51881
person has been convicted after entering a plea of no contest to, 51882
operating a vehicle in violation of section 4511.19 of the Revised 51883
Code or in violation of a municipal OVI ordinance, if the offense 51884
for which the conviction is had or the plea is entered arose from 51885
the same incident that led to the suspension or denial. 51886

The registrar shall credit against any judicial suspension of 51887
a person's driver's or commercial driver's license or permit or 51888
nonresident operating privilege imposed pursuant to section 51889
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 51890
Revised Code for a violation of a municipal OVI ordinance, any 51891
time during which the person serves a related suspension imposed 51892
pursuant to division (B)(1) of this section. 51893

(C)(1) Upon receipt of the sworn report of the law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person whose test results indicate that the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and section 4511.192 of the Revised Code and the period of the suspension, as determined under divisions (F)(1) to (4) of this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension described in this division does not apply to, and shall not be imposed upon, a person arrested for a violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance who submits to a designated chemical test. The suspension shall be for whichever of the following periods applies:

(a) Except when division (C)(1)(b), (c), or (d) of this section applies and specifies a different period, the suspension shall be a class E suspension imposed for the period of time specified in division (B)(5) of section 4510.02 of the Revised Code.

(b) The suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code if the person has been convicted of or pleaded guilty to, within six years of the date the test was conducted, one violation of division (A) or (B) of section 4511.19 of the

Revised Code or one other equivalent offense. 51926

(c) If, within six years of the date the test was conducted, 51927
the person has been convicted of or pleaded guilty to two 51928
violations of a statute or ordinance described in division 51929
(C)(1)(b) of this section, the suspension shall be a class B 51930
suspension imposed for the period of time specified in division 51931
(B)(2) of section 4510.02 of the Revised Code. 51932

(d) If, within six years of the date the test was conducted, 51933
the person has been convicted of or pleaded guilty to more than 51934
two violations of a statute or ordinance described in division 51935
(C)(1)(b) of this section, the suspension shall be a class A 51936
suspension imposed for the period of time specified in division 51937
(B)(1) of section 4510.02 of the Revised Code. 51938

(2) The registrar shall terminate a suspension of the 51939
driver's or commercial driver's license or permit of a resident or 51940
of the operating privilege of a nonresident, or a denial of a 51941
driver's or commercial driver's license or permit, imposed 51942
pursuant to division (C)(1) of this section upon receipt of notice 51943
that the person has entered a plea of guilty to, or that the 51944
person has been convicted after entering a plea of no contest to, 51945
operating a vehicle in violation of section 4511.19 of the Revised 51946
Code or in violation of a municipal OVI ordinance, if the offense 51947
for which the conviction is had or the plea is entered arose from 51948
the same incident that led to the suspension or denial. 51949

The registrar shall credit against any judicial suspension of 51950
a person's driver's or commercial driver's license or permit or 51951
nonresident operating privilege imposed pursuant to section 51952
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 51953
Revised Code for a violation of a municipal OVI ordinance, any 51954
time during which the person serves a related suspension imposed 51955
pursuant to division (C)(1) of this section. 51956

(D)(1) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under this section for the time described in division (B) or (C) of this section is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take the chemical test or tests under division (A) of this section does not affect the suspension.

(2) If a person is arrested for operating a vehicle, streetcar, or trackless trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance, or for being in physical control of a vehicle, streetcar, or trackless trolley in violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division (B) or (C) of this section or Chapter 4510. of the Revised Code, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to section 4511.197 of the Revised Code regarding the issues specified in that division.

(E) When it finally has been determined under the procedures of this section and sections 4511.192 ~~through~~ to 4511.197 of the Revised Code that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(F) At the end of a suspension period under this section,

under section 4511.194, section 4511.196, or division (G) of 51989
section 4511.19 of the Revised Code, or under section 4510.07 of 51990
the Revised Code for a violation of a municipal OVI ordinance and 51991
upon the request of the person whose driver's or commercial 51992
driver's license or permit was suspended and who is not otherwise 51993
subject to suspension, cancellation, or disqualification, the 51994
registrar shall return the driver's or commercial driver's license 51995
or permit to the person upon the occurrence of all of the 51996
conditions specified in divisions (F)(1) and (2) of this section: 51997

(1) A showing that the person has proof of financial 51998
responsibility, a policy of liability insurance in effect that 51999
meets the minimum standards set forth in section 4509.51 of the 52000
Revised Code, or proof, to the satisfaction of the registrar, that 52001
the person is able to respond in damages in an amount at least 52002
equal to the minimum amounts specified in section 4509.51 of the 52003
Revised Code. 52004

(2) Subject to the limitation contained in division (F)(3) of 52005
this section, payment by the person to the bureau of motor 52006
vehicles of a license reinstatement fee of four hundred 52007
twenty-five dollars, which fee shall be deposited in the state 52008
treasury and credited as follows: 52009

(a) One hundred twelve dollars and fifty cents shall be 52010
credited to the statewide treatment and prevention fund created by 52011
section 4301.30 of the Revised Code. The fund shall be used to pay 52012
the costs of driver treatment and intervention programs operated 52013
pursuant to sections 3793.02 and 3793.10 of the Revised Code. The 52014
director of alcohol and drug addiction services shall determine 52015
the share of the fund that is to be allocated to alcohol and drug 52016
addiction programs authorized by section 3793.02 of the Revised 52017
Code, and the share of the fund that is to be allocated to 52018
drivers' intervention programs authorized by section 3793.10 of 52019
the Revised Code. 52020

(b) Seventy-five dollars shall be credited to the reparations fund created by section 2743.191 of the Revised Code.

(c) Thirty-seven dollars and fifty cents shall be credited to the indigent drivers alcohol treatment fund, which is hereby established. Except as otherwise provided in division (F)(2)(c) of this section, moneys in the fund shall be distributed by the department of alcohol and drug addiction services to the county indigent drivers alcohol treatment funds, the county juvenile indigent drivers alcohol treatment funds, and the municipal indigent drivers alcohol treatment funds that are required to be established by counties and municipal corporations pursuant to this section, and shall be used only to pay the cost of an alcohol and drug addiction treatment program attended by an offender or juvenile traffic offender who is ordered to attend an alcohol and drug addiction treatment program by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's attendance at the program or to pay the costs specified in division (H)(4) of this section in accordance with that division. In addition, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund to pay for the cost of the continued use of an electronic continuous alcohol monitoring device as described in divisions (H)(3) and (4) of this section. Moneys in the fund that are not distributed to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund under division (H) of this section because the director of alcohol and drug addiction services does not have the information necessary to identify the county or municipal corporation where the offender or juvenile offender was arrested may be transferred by the director of budget and

management to the statewide treatment and prevention fund created 52054
by section 4301.30 of the Revised Code, upon certification of the 52055
amount by the director of alcohol and drug addiction services. 52056

(d) Seventy-five dollars shall be credited to the Ohio 52057
rehabilitation services commission established by section 3304.12 52058
of the Revised Code, to the services for rehabilitation fund, 52059
which is hereby established. The fund shall be used to match 52060
available federal matching funds where appropriate, and for any 52061
other purpose or program of the commission to rehabilitate people 52062
with disabilities to help them become employed and independent. 52063

(e) Seventy-five dollars shall be deposited into the state 52064
treasury and credited to the drug abuse resistance education 52065
programs fund, which is hereby established, to be used by the 52066
attorney general for the purposes specified in division ~~(L)~~(F)(4) 52067
of this section. 52068

(f) Thirty dollars shall be credited to the state bureau of 52069
motor vehicles fund created by section 4501.25 of the Revised 52070
Code. 52071

(g) Twenty dollars shall be credited to the trauma and 52072
emergency medical services grants fund created by section 4513.263 52073
of the Revised Code. 52074

(3) If a person's driver's or commercial driver's license or 52075
permit is suspended under this section, under section 4511.196 or 52076
division (G) of section 4511.19 of the Revised Code, under section 52077
4510.07 of the Revised Code for a violation of a municipal OVI 52078
ordinance or under any combination of the suspensions described in 52079
division (F)(3) of this section, and if the suspensions arise from 52080
a single incident or a single set of facts and circumstances, the 52081
person is liable for payment of, and shall be required to pay to 52082
the bureau, only one reinstatement fee of four hundred twenty-five 52083
dollars. The reinstatement fee shall be distributed by the bureau 52084

in accordance with division (F)(2) of this section. 52085

(4) The attorney general shall use amounts in the drug abuse 52086
resistance education programs fund to award grants to law 52087
enforcement agencies to establish and implement drug abuse 52088
resistance education programs in public schools. Grants awarded to 52089
a law enforcement agency under this section shall be used by the 52090
agency to pay for not more than fifty per cent of the amount of 52091
the salaries of law enforcement officers who conduct drug abuse 52092
resistance education programs in public schools. The attorney 52093
general shall not use more than six per cent of the amounts the 52094
attorney general's office receives under division (F)(2)(e) of 52095
this section to pay the costs it incurs in administering the grant 52096
program established by division (F)(2)(e) of this section and in 52097
providing training and materials relating to drug abuse resistance 52098
education programs. 52099

The attorney general shall report to the governor and the 52100
general assembly each fiscal year on the progress made in 52101
establishing and implementing drug abuse resistance education 52102
programs. These reports shall include an evaluation of the 52103
effectiveness of these programs. 52104

(G) Suspension of a commercial driver's license under 52105
division (B) or (C) of this section shall be concurrent with any 52106
period of disqualification under section 3123.611 or 4506.16 of 52107
the Revised Code or any period of suspension under section 3123.58 52108
of the Revised Code. No person who is disqualified for life from 52109
holding a commercial driver's license under section 4506.16 of the 52110
Revised Code shall be issued a driver's license under Chapter 52111
4507. of the Revised Code during the period for which the 52112
commercial driver's license was suspended under division (B) or 52113
(C) of this section. No person whose commercial driver's license 52114
is suspended under division (B) or (C) of this section shall be 52115
issued a driver's license under Chapter 4507. of the Revised Code 52116

during the period of the suspension. 52117

(H)(1) Each county shall establish an indigent drivers 52118
alcohol treatment fund, each county shall establish a juvenile 52119
indigent drivers alcohol treatment fund, and each municipal 52120
corporation in which there is a municipal court shall establish an 52121
indigent drivers alcohol treatment fund. All revenue that the 52122
general assembly appropriates to the indigent drivers alcohol 52123
treatment fund for transfer to a county indigent drivers alcohol 52124
treatment fund, a county juvenile indigent drivers alcohol 52125
treatment fund, or a municipal indigent drivers alcohol treatment 52126
fund, all portions of fees that are paid under division ~~(L)~~(F) of 52127
this section and that are credited under that division to the 52128
indigent drivers alcohol treatment fund in the state treasury for 52129
a county indigent drivers alcohol treatment fund, a county 52130
juvenile indigent drivers alcohol treatment fund, or a municipal 52131
indigent drivers alcohol treatment fund, and all portions of fines 52132
that are specified for deposit into a county or municipal indigent 52133
drivers alcohol treatment fund by section 4511.193 of the Revised 52134
Code shall be deposited into that county indigent drivers alcohol 52135
treatment fund, county juvenile indigent drivers alcohol treatment 52136
fund, or municipal indigent drivers alcohol treatment fund in 52137
accordance with division (H)(2) of this section. Additionally, all 52138
portions of fines that are paid for a violation of section 4511.19 52139
of the Revised Code or of any prohibition contained in Chapter 52140
4510. of the Revised Code, and that are required under section 52141
4511.19 or any provision of Chapter 4510. of the Revised Code to 52142
be deposited into a county indigent drivers alcohol treatment fund 52143
or municipal indigent drivers alcohol treatment fund shall be 52144
deposited into the appropriate fund in accordance with the 52145
applicable division. 52146

(2) That portion of the license reinstatement fee that is 52147
paid under division (F) of this section and that is credited under 52148

that division to the indigent drivers alcohol treatment fund shall 52149
be deposited into a county indigent drivers alcohol treatment 52150
fund, a county juvenile indigent drivers alcohol treatment fund, 52151
or a municipal indigent drivers alcohol treatment fund as follows: 52152

(a) If the suspension in question was imposed under this 52153
section, that portion of the fee shall be deposited as follows: 52154

(i) If the fee is paid by a person who was charged in a 52155
county court with the violation that resulted in the suspension, 52156
the portion shall be deposited into the county indigent drivers 52157
alcohol treatment fund under the control of that court; 52158

(ii) If the fee is paid by a person who was charged in a 52159
juvenile court with the violation that resulted in the suspension, 52160
the portion shall be deposited into the county juvenile indigent 52161
drivers alcohol treatment fund established in the county served by 52162
the court; 52163

(iii) If the fee is paid by a person who was charged in a 52164
municipal court with the violation that resulted in the 52165
suspension, the portion shall be deposited into the municipal 52166
indigent drivers alcohol treatment fund under the control of that 52167
court. 52168

(b) If the suspension in question was imposed under section 52169
4511.19 of the Revised Code or under section 4510.07 of the 52170
Revised Code for a violation of a municipal OVI ordinance, that 52171
portion of the fee shall be deposited as follows: 52172

(i) If the fee is paid by a person whose license or permit 52173
was suspended by a county court, the portion shall be deposited 52174
into the county indigent drivers alcohol treatment fund under the 52175
control of that court; 52176

(ii) If the fee is paid by a person whose license or permit 52177
was suspended by a municipal court, the portion shall be deposited 52178
into the municipal indigent drivers alcohol treatment fund under 52179

the control of that court. 52180

(3) Expenditures from a county indigent drivers alcohol 52181
treatment fund, a county juvenile indigent drivers alcohol 52182
treatment fund, or a municipal indigent drivers alcohol treatment 52183
fund shall be made only upon the order of a county, juvenile, or 52184
municipal court judge and only for payment of the cost of the 52185
attendance at an alcohol and drug addiction treatment program of a 52186
person who is convicted of, or found to be a juvenile traffic 52187
offender by reason of, a violation of division (A) of section 52188
4511.19 of the Revised Code or a substantially similar municipal 52189
ordinance, who is ordered by the court to attend the alcohol and 52190
drug addiction treatment program, and who is determined by the 52191
court to be unable to pay the cost of attendance at the treatment 52192
program or for payment of the costs specified in division (H)(4) 52193
of this section in accordance with that division. The alcohol and 52194
drug addiction services board or the board of alcohol, drug 52195
addiction, and mental health services established pursuant to 52196
section 340.02 or 340.021 of the Revised Code and serving the 52197
alcohol, drug addiction, and mental health service district in 52198
which the court is located shall administer the indigent drivers 52199
alcohol treatment program of the court. When a court orders an 52200
offender or juvenile traffic offender to attend an alcohol and 52201
drug addiction treatment program, the board shall determine which 52202
program is suitable to meet the needs of the offender or juvenile 52203
traffic offender, and when a suitable program is located and space 52204
is available at the program, the offender or juvenile traffic 52205
offender shall attend the program designated by the board. A 52206
reasonable amount not to exceed five per cent of the amounts 52207
credited to and deposited into the county indigent drivers alcohol 52208
treatment fund, the county juvenile indigent drivers alcohol 52209
treatment fund, or the municipal indigent drivers alcohol 52210
treatment fund serving every court whose program is administered 52211
by that board shall be paid to the board to cover the costs it 52212

incurs in administering those indigent drivers alcohol treatment 52213
programs. 52214

In addition, a county, juvenile, or municipal court judge may 52215
use moneys in the county indigent drivers alcohol treatment fund, 52216
county juvenile indigent drivers alcohol treatment fund, or 52217
municipal indigent drivers alcohol treatment fund to pay for the 52218
continued use of an electronic continuous alcohol monitoring 52219
device by an offender or juvenile traffic offender, in conjunction 52220
with a treatment program approved by the department of alcohol and 52221
drug addiction services, when such use is determined clinically 52222
necessary by the treatment program and when the court determines 52223
that the offender or juvenile traffic offender is unable to pay 52224
all or part of the daily monitoring of the device. 52225

(4) If a county, juvenile, or municipal court determines, in 52226
consultation with the alcohol and drug addiction services board or 52227
the board of alcohol, drug addiction, and mental health services 52228
established pursuant to section 340.02 or 340.021 of the Revised 52229
Code and serving the alcohol, drug addiction, and mental health 52230
district in which the court is located, that the funds in the 52231
county indigent drivers alcohol treatment fund, the county 52232
juvenile indigent drivers alcohol treatment fund, or the municipal 52233
indigent drivers alcohol treatment fund under the control of the 52234
court are more than sufficient to satisfy the purpose for which 52235
the fund was established, as specified in divisions (H)(1) to (3) 52236
of this section, the court may declare a surplus in the fund. If 52237
the court declares a surplus in the fund, the court may expend the 52238
amount of the surplus in the fund for ~~alcohol~~: 52239

(a) Alcohol and drug abuse assessment and treatment of 52240
persons who are charged in the court with committing a criminal 52241
offense or with being a delinquent child or juvenile traffic 52242
offender and in relation to whom both of the following apply: 52243

~~(a)~~(i) The court determines that substance abuse was a 52244

contributing factor leading to the criminal or delinquent activity 52245
or the juvenile traffic offense with which the person is charged. 52246

~~(b)(ii)~~ The court determines that the person is unable to pay 52247
the cost of the alcohol and drug abuse assessment and treatment 52248
for which the surplus money will be used. 52249

(b) All or part of the cost of purchasing electronic 52250
continuous alcohol monitoring devices to be used in conjunction 52251
with division (H)(3) of this section. 52252

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or 52253
trackless trolley upon meeting or overtaking from either direction 52254
any school bus stopped for the purpose of receiving or discharging 52255
any school child, person attending programs offered by community 52256
boards of mental health and county boards of mental retardation 52257
and developmental disabilities, or child attending a program 52258
offered by a head start agency, shall stop at least ten feet from 52259
the front or rear of the school bus and shall not proceed until 52260
such school bus resumes motion, or until signaled by the school 52261
bus driver to proceed. 52262

It is no defense to a charge under this division that the 52263
school bus involved failed to display or be equipped with an 52264
automatically extended stop warning sign as required by division 52265
(B) of this section. 52266

(B) Every school bus shall be equipped with amber and red 52267
visual signals meeting the requirements of section 4511.771 of the 52268
Revised Code, and an automatically extended stop warning sign of a 52269
type approved by the state board of education, which shall be 52270
actuated by the driver of the bus whenever but only whenever the 52271
bus is stopped or stopping on the roadway for the purpose of 52272
receiving or discharging school children, persons attending 52273
programs offered by community boards of mental health and county 52274
boards of mental retardation and developmental disabilities, or 52275

children attending programs offered by head start agencies. A 52276
school bus driver shall not actuate the visual signals or the stop 52277
warning sign in designated school bus loading areas where the bus 52278
is entirely off the roadway or at school buildings when children 52279
or persons attending programs offered by community boards of 52280
mental health and county boards of mental retardation and 52281
developmental disabilities are loading or unloading at curbside or 52282
at buildings when children attending programs offered by head 52283
start agencies are loading or unloading at curbside. The visual 52284
signals and stop warning sign shall be synchronized or otherwise 52285
operated as required by rule of the board. 52286

(C) Where a highway has been divided into four or more 52287
traffic lanes, a driver of a vehicle, streetcar, or trackless 52288
trolley need not stop for a school bus approaching from the 52289
opposite direction which has stopped for the purpose of receiving 52290
or discharging any school child, persons attending programs 52291
offered by community boards of mental health and county boards of 52292
mental retardation and developmental disabilities, or children 52293
attending programs offered by head start agencies. The driver of 52294
any vehicle, streetcar, or trackless trolley overtaking the school 52295
bus shall comply with division (A) of this section. 52296

(D) School buses operating on divided highways or on highways 52297
with four or more traffic lanes shall receive and discharge all 52298
school children, persons attending programs offered by community 52299
boards of mental health and county boards of mental retardation 52300
and developmental disabilities, and children attending programs 52301
offered by head start agencies on their residence side of the 52302
highway. 52303

(E) No school bus driver shall start the driver's bus until 52304
after any child, person attending programs offered by community 52305
boards of mental health and county boards of mental retardation 52306
and developmental disabilities, or child attending a program 52307

offered by a head start agency who may have alighted therefrom has 52308
reached a place of safety on the child's or person's residence 52309
side of the road. 52310

(F)(1) Whoever violates division (A) of this section may be 52311
fined an amount not to exceed five hundred dollars. A person who 52312
is issued a citation for a violation of division (A) of this 52313
section is not permitted to enter a written plea of guilty and 52314
waive the person's right to contest the citation in a trial but 52315
instead must appear in person in the proper court to answer the 52316
charge. 52317

(2) In addition to and independent of any other penalty 52318
provided by law, the court or mayor may impose upon an offender 52319
who violates this section a class seven suspension of the 52320
offender's driver's license, commercial driver's license, 52321
temporary instruction permit, probationary license, or nonresident 52322
operating privilege from the range specified in division (A)(7) of 52323
section 4510.02 of the Revised Code. When a license is suspended 52324
under this section, the court or mayor shall cause the offender to 52325
deliver the license to the court, and the court or clerk of the 52326
court immediately shall forward the license to the registrar of 52327
motor vehicles, together with notice of the court's action. 52328

(G) As used in this section: 52329

(1) "Head start agency" has the same meaning as in section 52330
~~3301.31~~ 3301.32 of the Revised Code. 52331

(2) "School bus," as used in relation to children who attend 52332
a program offered by a head start agency, means a bus that is 52333
owned and operated by a head start agency, is equipped with an 52334
automatically extended stop warning sign of a type approved by the 52335
state board of education, is painted the color and displays the 52336
markings described in section 4511.77 of the Revised Code, and is 52337
equipped with amber and red visual signals meeting the 52338

requirements of section 4511.771 of the Revised Code, irrespective 52339
of whether or not the bus has fifteen or more children aboard at 52340
any time. "School bus" does not include a van owned and operated 52341
by a head start agency, irrespective of its color, lights, or 52342
markings. 52343

Sec. 4517.01. As used in sections 4517.01 to 4517.65 of the 52344
Revised Code: 52345

(A) "Persons" includes individuals, firms, partnerships, 52346
associations, joint stock companies, corporations, and any 52347
combinations of individuals. 52348

(B) "Motor vehicle" means motor vehicle as defined in section 52349
4501.01 of the Revised Code and also includes "all-purpose 52350
vehicle" and "off-highway motorcycle" as those terms are defined 52351
in section 4519.01 of the Revised Code and manufactured and mobile 52352
homes. "Motor vehicle" does not include a snowmobile as defined in 52353
section 4519.01 of the Revised Code. 52354

(C) "New motor vehicle" means a motor vehicle, the legal 52355
title to which has never been transferred by a manufacturer, 52356
remanufacturer, distributor, or dealer to an ultimate purchaser. 52357

(D) "Ultimate purchaser" means, with respect to any new motor 52358
vehicle, the first person, other than a dealer purchasing in the 52359
capacity of a dealer, who in good faith purchases such new motor 52360
vehicle for purposes other than resale. 52361

(E) "Business" includes any activities engaged in by any 52362
person for the object of gain, benefit, or advantage either direct 52363
or indirect. 52364

(F) "Engaging in business" means commencing, conducting, or 52365
continuing in business, or liquidating a business when the 52366
liquidator thereof holds self out to be conducting such business; 52367
making a casual sale or otherwise making transfers in the ordinary 52368

course of business when the transfers are made in connection with 52369
the disposition of all or substantially all of the transferor's 52370
assets is not engaging in business. 52371

(G) "Retail sale" or "sale at retail" means the act or 52372
attempted act of selling, bartering, exchanging, or otherwise 52373
disposing of a motor vehicle to an ultimate purchaser for use as a 52374
consumer. 52375

(H) "Retail installment contract" includes any contract in 52376
the form of a note, chattel mortgage, conditional sales contract, 52377
lease, agreement, or other instrument payable in one or more 52378
installments over a period of time and arising out of the retail 52379
sale of a motor vehicle. 52380

(I) "Farm machinery" means all machines and tools used in the 52381
production, harvesting, and care of farm products. 52382

(J) "Dealer" or "motor vehicle dealer" means any new motor 52383
vehicle dealer, any motor vehicle leasing dealer, and any used 52384
motor vehicle dealer. 52385

(K) "New motor vehicle dealer" means any person engaged in 52386
the business of selling at retail, displaying, offering for sale, 52387
or dealing in new motor vehicles pursuant to a contract or 52388
agreement entered into with the manufacturer, remanufacturer, or 52389
distributor of the motor vehicles. 52390

(L) "Used motor vehicle dealer" means any person engaged in 52391
the business of selling, displaying, offering for sale, or dealing 52392
in used motor vehicles, at retail or wholesale, but does not mean 52393
any new motor vehicle dealer selling, displaying, offering for 52394
sale, or dealing in used motor vehicles incidentally to engaging 52395
in the business of selling, displaying, offering for sale, or 52396
dealing in new motor vehicles, any person engaged in the business 52397
of dismantling, salvaging, or rebuilding motor vehicles by means 52398
of using used parts, or any public officer performing official 52399

duties. 52400

(M) "Motor vehicle leasing dealer" means any person engaged 52401
in the business of regularly making available, offering to make 52402
available, or arranging for another person to use a motor vehicle 52403
pursuant to a bailment, lease, sublease, or other contractual 52404
arrangement under which a charge is made for its use at a periodic 52405
rate for a term of thirty days or more, and title to the motor 52406
vehicle is in and remains in the motor vehicle leasing dealer who 52407
originally leases it, irrespective of whether or not the motor 52408
vehicle is the subject of a later sublease, and not in the user, 52409
but does not mean a manufacturer or its affiliate leasing to its 52410
employees or to dealers. 52411

(N) "Salesperson" means any person employed by a dealer or 52412
manufactured home broker to sell, display, and offer for sale, or 52413
deal in motor vehicles for a commission, compensation, or other 52414
valuable consideration, but does not mean any public officer 52415
performing official duties. 52416

(O) "Casual sale" means any transfer of a motor vehicle by a 52417
person other than a new motor vehicle dealer, used motor vehicle 52418
dealer, motor vehicle salvage dealer, as defined in division (A) 52419
of section 4738.01 of the Revised Code, salesperson, motor vehicle 52420
auction owner, manufacturer, or distributor acting in the capacity 52421
of a dealer, salesperson, auction owner, manufacturer, or 52422
distributor, to a person who purchases the motor vehicle for use 52423
as a consumer. 52424

(P) "Motor vehicle show" means a display of current models of 52425
motor vehicles whereby the primary purpose is the exhibition of 52426
competitive makes and models in order to provide the general 52427
public the opportunity to review and inspect various makes and 52428
models of motor vehicles at a single location. 52429

(Q) "Motor vehicle auction owner" means any person who is 52430

engaged wholly or in part in the business of auctioning motor vehicles. 52431
52432

(R) "Manufacturer" means a person who manufactures, 52433
assembles, or imports motor vehicles, including motor homes, but 52434
does not mean a person who only assembles or installs a body, 52435
special equipment unit, finishing trim, or accessories on a motor 52436
vehicle chassis supplied by a manufacturer or distributor. 52437

(S) "Tent-type fold-out camping trailer" means any vehicle 52438
intended to be used, when stationary, as a temporary shelter with 52439
living and sleeping facilities, and that is subject to the 52440
following properties and limitations: 52441

(1) A minimum of twenty-five per cent of the fold-out portion 52442
of the top and sidewalls combined must be constructed of canvas, 52443
vinyl, or other fabric, and form an integral part of the shelter. 52444

(2) When folded, the unit must not exceed: 52445

(a) Fifteen feet in length, exclusive of bumper and tongue; 52446

(b) Sixty inches in height from the point of contact with the 52447
ground; 52448

(c) Eight feet in width; 52449

(d) One ton gross weight at time of sale. 52450

(T) "Distributor" means any person authorized by a motor 52451
vehicle manufacturer to distribute new motor vehicles to licensed 52452
new motor vehicle dealers, but does not mean a person who only 52453
assembles or installs a body, special equipment unit, finishing 52454
trim, or accessories on a motor vehicle chassis supplied by a 52455
manufacturer or distributor. 52456

(U) "Flea market" means a market place, other than a dealer's 52457
location licensed under this chapter, where a space or location is 52458
provided for a fee or compensation to a seller to exhibit and 52459
offer for sale or trade, motor vehicles to the general public. 52460

(V) "Franchise" means any written agreement, contract, or understanding between any motor vehicle manufacturer or remanufacturer engaged in commerce and any motor vehicle dealer that purports to fix the legal rights and liabilities of the parties to such agreement, contract, or understanding.

(W) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise agreement and who offers, sells, and provides service for such new motor vehicles to the general public.

(X) "Franchisor" means a new motor vehicle manufacturer, remanufacturer, or distributor who supplies new motor vehicles under a franchise agreement to a franchisee.

(Y) "Dealer organization" means a state or local trade association the membership of which is comprised predominantly of new motor vehicle dealers.

(Z) "Factory representative" means a representative employed by a manufacturer, remanufacturer, or by a factory branch primarily for the purpose of promoting the sale of its motor vehicles, parts, or accessories to dealers or for supervising or contacting its dealers or prospective dealers.

(AA) "Administrative or executive management" means those individuals who are not subject to federal wage and hour laws.

(BB) "Good faith" means honesty in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing in the trade as is defined in division (S) of section 1301.01 of the Revised Code, including, but not limited to, the duty to act in a fair and equitable manner so as to guarantee freedom from coercion, intimidation, or threats of coercion or intimidation; provided however, that recommendation, endorsement, exposition, persuasion, urging, or argument shall not be considered to constitute a lack of good faith.

(CC) "Coerce" means to compel or attempt to compel by failing to act in good faith or by threat of economic harm, breach of contract, or other adverse consequences. Coerce does not mean to argue, urge, recommend, or persuade.

(DD) "Relevant market area" means any area within a radius of ten miles from the site of a potential new dealership, except that for manufactured home or recreational vehicle dealerships the radius shall be twenty-five miles. The ten-mile radius shall be measured from the dealer's established place of business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles.

(EE) "Wholesale" or "at wholesale" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle to a transferee for the purpose of resale and not for ultimate consumption by that transferee.

(FF) "Motor vehicle wholesaler" means any person licensed as a dealer under the laws of another state and engaged in the business of selling, displaying, or offering for sale used motor vehicles, at wholesale, but does not mean any motor vehicle dealer as defined in this section.

(GG)(1) "Remanufacturer" means a person who assembles or installs passenger seating, walls, a roof elevation, or a body extension on a conversion van with the motor vehicle chassis supplied by a manufacturer or distributor, a person who modifies a truck chassis supplied by a manufacturer or distributor for use as a public safety or public service vehicle, a person who modifies a motor vehicle chassis supplied by a manufacturer or distributor for use as a limousine or hearse, or a person who modifies an incomplete motor vehicle cab and chassis supplied by a new motor vehicle dealer or distributor for use as a tow truck, but does not mean either of the following:

(a) A person who assembles or installs passenger seating, walls, a roof elevation, or a body extension on a manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code, a mobile home as defined in division (O) and referred to in division (B) of section 4501.01 of the Revised Code, or a recreational vehicle as defined in division (Q) and referred to in division (B) of section 4501.01 of the Revised Code;

(b) A person who assembles or installs special equipment or accessories for handicapped persons, as defined in section 4503.44 of the Revised Code, upon a motor vehicle chassis supplied by a manufacturer or distributor.

(2) For the purposes of division (GG)(1) of this section, "public safety vehicle or public service vehicle" means a fire truck, ambulance, school bus, street sweeper, garbage packing truck, or cement mixer, or a mobile self-contained facility vehicle.

(3) For the purposes of division (GG)(1) of this section, "limousine" means a motor vehicle, designed only for the purpose of carrying nine or fewer passengers, that a person modifies by cutting the original chassis, lengthening the wheelbase by forty inches or more, and reinforcing the chassis in such a way that all modifications comply with all applicable federal motor vehicle safety standards. No person shall qualify as or be deemed to be a remanufacturer who produces limousines unless the person has a written agreement with the manufacturer of the chassis the person utilizes to produce the limousines to complete properly the remanufacture of the chassis into limousines.

(4) For the purposes of division (GG)(1) of this section, "hearse" means a motor vehicle, designed only for the purpose of transporting a single casket, that is equipped with a compartment designed specifically to carry a single casket that a person

modifies by cutting the original chassis, lengthening the 52555
wheelbase by ten inches or more, and reinforcing the chassis in 52556
such a way that all modifications comply with all applicable 52557
federal motor vehicle safety standards. No person shall qualify as 52558
or be deemed to be a remanufacturer who produces hearses unless 52559
the person has a written agreement with the manufacturer of the 52560
chassis the person utilizes to produce the hearses to complete 52561
properly the remanufacture of the chassis into hearses. 52562

(5) For the purposes of division (GG)(1) of this section, 52563
"mobile self-contained facility vehicle" means a mobile classroom 52564
vehicle, mobile laboratory vehicle, bookmobile, bloodmobile, 52565
testing laboratory, and mobile display vehicle, each of which is 52566
designed for purposes other than for passenger transportation and 52567
other than the transportation or displacement of cargo, freight, 52568
materials, or merchandise. A vehicle is remanufactured into a 52569
mobile self-contained facility vehicle in part by the addition of 52570
insulation to the body shell, and installation of all of the 52571
following: a generator, electrical wiring, plumbing, holding 52572
tanks, doors, windows, cabinets, shelving, and heating, 52573
ventilating, and air conditioning systems. 52574

(6) For the purposes of division (GG)(1) of this section, 52575
"tow truck" means both of the following: 52576

(a) An incomplete cab and chassis that are purchased by a 52577
remanufacturer from a new motor vehicle dealer or distributor of 52578
the cab and chassis and on which the remanufacturer then installs 52579
in a permanent manner a wrecker body it purchases from a 52580
manufacturer or distributor of wrecker bodies, installs an 52581
emergency flashing light pylon and emergency lights upon the mast 52582
of the wrecker body or rooftop, and installs such other related 52583
accessories and equipment, including push bumpers, front grille 52584
guards with pads and other custom-ordered items such as painting, 52585
special lettering, and safety striping so as to create a complete 52586

motor vehicle capable of lifting and towing another motor vehicle. 52587

(b) An incomplete cab and chassis that are purchased by a 52588
remanufacturer from a new motor vehicle dealer or distributor of 52589
the cab and chassis and on which the remanufacturer then installs 52590
in a permanent manner a car carrier body it purchases from a 52591
manufacturer or distributor of car carrier bodies, installs an 52592
emergency flashing light pylon and emergency lights upon the 52593
rooftop, and installs such other related accessories and 52594
equipment, including push bumpers, front grille guards with pads 52595
and other custom-ordered items such as painting, special 52596
lettering, and safety striping. 52597

As used in division (GG)(6)(b) of this section, "car carrier 52598
body" means a mechanical or hydraulic apparatus capable of lifting 52599
and holding a motor vehicle on a flat level surface so that one or 52600
more motor vehicles can be transported, once the car carrier is 52601
permanently installed upon an incomplete cab and chassis. 52602

(HH) "Operating as a new motor vehicle dealership" means 52603
engaging in activities such as displaying, offering for sale, and 52604
selling new motor vehicles at retail, operating a service facility 52605
to perform repairs and maintenance on motor vehicles, offering for 52606
sale and selling motor vehicle parts at retail, and conducting all 52607
other acts that are usual and customary to the operation of a new 52608
motor vehicle dealership. For the purposes of this chapter only, 52609
possession of either a valid new motor vehicle dealer franchise 52610
agreement or a new motor vehicle dealers license, or both of these 52611
items, is not evidence that a person is operating as a new motor 52612
vehicle dealership. 52613

(II) "Manufactured home broker" means any person acting as a 52614
selling agent on behalf of an owner of a manufactured or mobile 52615
home that is subject to taxation under section 4503.06 of the 52616
Revised Code. 52617

(JJ) "Outdoor power equipment" means garden and small utility tractors, walk-behind and riding mowers, chainsaws, and tillers.

(KK) "Remote service facility" means premises that are separate from a licensed new motor vehicle dealer's sales facility by not more than one mile and that are used by the dealer to perform repairs, warranty work, recall work, and maintenance on motor vehicles pursuant to a franchise agreement entered into with a manufacturer of motor vehicles. A remote service facility shall be deemed to be part of the franchise agreement and is subject to all the rights, duties, obligations, and requirements of Chapter 4517. of the Revised Code that relate to the performance of motor vehicle repairs, warranty work, recall work, and maintenance work by new motor vehicle dealers.

Sec. 4519.01. As used in this chapter:

(A) "Snowmobile" means any self-propelled vehicle designed primarily for use on snow or ice, and steered by skis, runners, or caterpillar treads.

(B) "All-purpose vehicle" means any self-propelled vehicle designed primarily for cross-country travel on land and water, or on more than one type of terrain, and steered by wheels or caterpillar treads, or any combination thereof, including vehicles that operate on a cushion of air, vehicles commonly known as all-terrain vehicles, all-season vehicles, mini-bikes, and trail bikes, ~~but excluding any self-propelled vehicle not principally used for purposes of personal transportation.~~ "All-purpose vehicle" does not include a utility vehicle as defined in section 4501.01 of the Revised Code or any vehicle principally used in playing golf, any motor vehicle or aircraft required to be registered under Chapter 4503. or 4561. of the Revised Code, and any vehicle excepted from definition as a motor vehicle by division (B) of section 4501.01 of the Revised Code.

(C) "Owner" means any person or firm, other than a lienholder 52649
or dealer, having title to a snowmobile, off-highway motorcycle, 52650
or all-purpose vehicle, or other right to the possession thereof. 52651

(D) "Operator" means any person who operates or is in actual 52652
physical control of a snowmobile, off-highway motorcycle, or 52653
all-purpose vehicle. 52654

(E) "Dealer" means any person or firm engaged in the business 52655
of manufacturing or selling snowmobiles, off-highway motorcycles, 52656
or all-purpose vehicles at wholesale or retail, or who rents, 52657
leases, or otherwise furnishes snowmobiles, off-highway 52658
motorcycles, or all-purpose vehicles for hire. 52659

(F) "Street or highway" has the same meaning as in section 52660
4511.01 of the Revised Code. 52661

(G) "Limited access highway" and "freeway" have the same 52662
meanings as in section 5511.02 of the Revised Code. 52663

(H) "Interstate highway" means any part of the interstate 52664
system of highways as defined in subsection (e), 90 Stat. 431 52665
(1976), 23 U.S.C.A. 103, as amended. 52666

(I) "Off-highway motorcycle" means every motorcycle, as 52667
defined in section 4511.01 of the Revised Code, that is designed 52668
to be operated primarily on lands other than a street or highway. 52669

(J) "Electronic" and "electronic record" have the same 52670
meanings as in section 4501.01 of the Revised Code. 52671

(K) "Electronic dealer" means a dealer whom the registrar of 52672
motor vehicles designates under section 4519.511 of the Revised 52673
Code. 52674

Sec. 4519.02. (A) Except as provided in divisions (B), (C), 52675
and (D) of this section, no person shall operate any snowmobile, 52676
off-highway motorcycle, or all-purpose vehicle within this state 52677
unless the snowmobile, off-highway motorcycle, or all-purpose 52678

vehicle is registered and numbered in accordance with sections 52679
4519.03 and 4519.04 of the Revised Code. 52680

(B) No registration is required for a snowmobile, off-highway 52681
motorcycle, or all-purpose vehicle that is operated exclusively 52682
upon lands owned by the owner of the snowmobile, off-highway 52683
motorcycle, or all-purpose vehicle, or on lands to which the owner 52684
has a contractual right. 52685

~~(C) No registration is required for a snowmobile, off highway 52686
motorcycle, or all purpose vehicle owned and used in this state by 52687
a resident of another state whenever that state has in effect a 52688
registration law similar to this chapter and the snowmobile, 52689
off highway motorcycle, or all purpose vehicle is properly 52690
registered thereunder. Any snowmobile, off-highway motorcycle, or 52691
all-purpose vehicle owned and used in this state by a person who 52692
is not a resident of another this state not having such a 52693
registration requirement shall comply with section 4519.09 of the 52694
Revised Code. 52695~~

(D) No registration is required for a snowmobile, off-highway 52696
motorcycle, or all-purpose vehicle owned and used in this state by 52697
the United States, another state, or a political subdivision 52698
thereof, but the snowmobile, off-highway motorcycle, or 52699
all-purpose vehicle shall display the name of the owner thereon. 52700

(E) The owner or operator of any all-purpose vehicle operated 52701
or used upon the waters in this state shall comply with Chapters 52702
1547. and 1548. of the Revised Code relative to the operation of 52703
watercraft. 52704

(F) Except as otherwise provided in this division, whoever 52705
violates division (A) of this section shall be fined not more than 52706
twenty-five dollars. If the offender previously has been convicted 52707
of or pleaded guilty to a violation of division (A) of this 52708
section, whoever violates division (A) of this section shall be 52709

fined not less than twenty-five nor more than fifty dollars. 52710

Sec. 4519.09. Every owner or operator of a snowmobile, 52711
off-highway motorcycle, or all-purpose vehicle who is not a 52712
resident of a this state ~~not having a registration law similar to~~ 52713
~~this chapter~~, and who expects to use the snowmobile, off-highway 52714
motorcycle, or all-purpose vehicle in Ohio, shall apply to the 52715
registrar of motor vehicles or a deputy registrar for a temporary 52716
operating permit. The temporary operating permit shall be issued 52717
for a period not to exceed fifteen days from the date of issuance, 52718
shall be in such form as the registrar determines, shall include 52719
the name and address of the owner and operator of the snowmobile, 52720
off-highway motorcycle, or all-purpose vehicle, and any other 52721
information as the registrar considers necessary, and shall be 52722
issued upon payment of a fee of five dollars. Every owner or 52723
operator receiving a temporary operating permit shall display it 52724
upon the reasonable request of any law enforcement officer or 52725
other person as authorized by sections 4519.42 and 4519.43 of the 52726
Revised Code. 52727

Sec. 4561.17. For the purpose of providing revenue for paying 52728
the expenses of administering sections 4561.17 to 4561.22 of the 52729
Revised Code relative to the registration of aircraft, for the 52730
surveying of and the establishment, checking, maintenance, and 52731
repair of aviation air marking and of air navigation facilities, 52732
for airport capital improvements, for the acquiring, maintaining, 52733
and repairing of equipment necessary therefor, and for the cost of 52734
the creation and distribution of Ohio aeronautical charts and Ohio 52735
airport and landing field directories, an annual license tax is 52736
hereby levied upon all aircraft based in this state for which an 52737
aircraft worthiness certificate issued by the federal aviation 52738
administration is in effect except the following: 52739

(A) Aircraft owned by the United States or any territory 52740

| | |
|---|--|
| thereof; | 52741 |
| (B) Aircraft owned by any foreign government; | 52742 |
| (C) Aircraft owned by any state or any political subdivision thereof; | 52743 52744 |
| (D) Aircraft operated under a certificate of convenience and necessity issued by the civil aeronautics board or any successor thereto; | 52745 52746 52747 |
| (E) Aircraft owned by any nonresident of this state whether such owner is an individual, partnership, or corporation, provided such owner has complied with all the laws in regard to the licensing of aircraft in the state of his <u>the owner's</u> residence; | 52748 52749 52750 52751 |
| (F) Aircraft owned by aircraft manufacturers or aircraft engine manufacturers and operated only for purposes of testing, delivery, or demonstration; | 52752 52753 52754 |
| (G) Aircraft operated for hire over regularly scheduled routes within the state. | 52755 52756 |
| Such license tax shall be at the rates specified in section 4561.18 of the Revised Code, and shall be paid to and collected by the director of transportation at the time of making application as provided in such section. | 52757 52758 52759 52760 |
| Sec. 4561.18. Applications for the licensing and registration of aircraft shall be made and signed by the owner thereof upon forms prepared by the department of transportation and shall contain a description of the aircraft, including its federal registration number, and such other information as is required by the department. | 52761 52762 52763 52764 52765 52766 |
| Applications shall be filed with the director of transportation during the month of January annually and shall be renewed according to the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code. Application for | 52767 52768 52769 52770 |

registration of any aircraft not previously registered in this 52771
state, if such aircraft is acquired or becomes subject to such 52772
license tax subsequent to the last day of January in any year, 52773
shall be made for the balance of the year in which the same is 52774
acquired, within forty-eight hours after such acquisition or after 52775
becoming subject to such license tax. Each such application shall 52776
be accompanied by the proper license tax, which, for all aircraft 52777
other than gliders and balloons, shall be at the annual rate of 52778
~~one hundred~~ fifteen dollars per ~~aircraft~~ seat, based on the 52779
manufacturer's maximum listed seating capacity. The license tax 52780
for gliders and balloons shall be ~~three~~ fifteen dollars annually. 52781

Such taxes are in lieu of all other taxes on or with respect 52782
to ownership of such aircraft. 52783

Sec. 4561.21. (A) The director of transportation shall 52784
deposit all aircraft transfer fees in the state treasury to the 52785
credit of the general fund. 52786

(B) The director shall deposit all aircraft license taxes in 52787
the state treasury to the credit of the ~~county~~ airport ~~maintenance~~ 52788
assistance fund, which is hereby created. Money in the fund shall 52789
be used ~~to assist counties in maintaining the~~ for maintenance and 52790
capital improvements to publicly owned airports ~~they own~~, and the 52791
director shall distribute the money to ~~counties~~ eligible 52792
recipients in accordance with such procedures, guidelines, and 52793
criteria as the director shall establish. 52794

Sec. 4703.15. (A) The state board of examiners of architects 52795
may by three concurring votes deny renewal of, revoke, or suspend 52796
any certificate of qualification to practice architecture, issued 52797
or renewed under sections 4703.10, 4703.13, and 4703.14 of the 52798
Revised Code, or any certificate of authorization, issued or 52799
renewed under sections 4703.13 and 4703.18 of the Revised Code, if 52800

proof satisfactory to the board is presented in any of the 52801
following cases: 52802

~~(A)~~(1) In case it is shown that the certificate was obtained 52803
by fraud; 52804

~~(B)~~(2) In case the holder of the certificate has been found 52805
guilty by the board or by a court of justice of any fraud or 52806
deceit in ~~his~~ the holder's professional practice, or has been 52807
convicted of a felony by a court of justice; 52808

~~(C)~~(3) In case the holder has been found guilty by the board 52809
of gross negligence, incompetency, or misconduct in the 52810
performance of ~~his~~ the holder's services as an architect or in the 52811
practice of architecture; 52812

~~(D)~~(4) In case the holder of the certificate has been found 52813
guilty by the board of signing plans for the construction of a 52814
building as a "registered architect" where ~~he~~ the holder is not 52815
the actual architect of such building and where ~~he~~ the holder is 52816
without prior written consent of the architect originating the 52817
design or other documents used in the plans; 52818

~~(E)~~(5) In case the holder of the certificate has been found 52819
guilty by the board of aiding and abetting another person or 52820
persons not properly registered as required by sections 4703.01 to 52821
4703.19 of the Revised Code, in the performance of activities that 52822
in any manner or extent constitute the practice of architecture. 52823

At any time after the expiration of six months from the date 52824
of the revocation or suspension of a certificate, the individual, 52825
firm, partnership, association, or corporation may apply for 52826
reinstatement of the certificate. Upon showing that all loss 52827
caused by the individual, firm, partnership, association, or 52828
corporation whose certificate has been revoked or suspended has 52829
been fully satisfied and that all conditions imposed by the 52830
revocation or suspension decision have been complied with, and 52831

upon the payment of all costs incurred by the board as a result of 52832
the case at issue, the board, at its discretion and upon evidence 52833
that in its opinion would so warrant, may restore the certificate. 52834

(B) In addition to disciplinary action the board may take 52835
against a certificate holder under division (A) of this section or 52836
section 4703.151 of the Revised Code, the board may impose a fine 52837
against a certificate holder who obtained a certificate by fraud 52838
or who is found guilty of any act specified in divisions (A)(2) to 52839
(A)(5) of this section or who violates any rule governing the 52840
standards of service, conduct, and practice adopted pursuant to 52841
section 4703.02 of the Revised Code. The fine imposed shall be not 52842
more than one thousand dollars for each offense but shall not 52843
exceed five thousand dollars regardless of the number of offenses 52844
the certificate holder has committed between the time the fine is 52845
imposed and the time any previous fine was imposed. 52846

Sec. 4705.09. (A)(1) Any person admitted to the practice of 52847
law in this state by order of the supreme court in accordance with 52848
its prescribed and published rules, or any law firm or legal 52849
professional association, may establish and maintain an 52850
interest-bearing trust account, for purposes of depositing client 52851
funds held by the attorney, firm, or association that are nominal 52852
in amount or are to be held by the attorney, firm, or association 52853
for a short period of time, with any bank or savings and loan 52854
association that is authorized to do business in this state and is 52855
insured by the federal deposit insurance corporation or the 52856
successor to that corporation, or any credit union insured by the 52857
national credit union administration operating under the "Federal 52858
Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751. Each 52859
account established under this division shall be in the name of 52860
the attorney, firm, or association that established and is 52861
maintaining it and shall be identified as an IOLTA or an interest 52862
on lawyer's trust account. The name of the account may contain 52863

additional identifying features to distinguish it from other trust 52864
accounts established and maintained by the attorney, firm, or 52865
association. 52866

(2) Each attorney who receives funds belonging to a client 52867
shall do one of the following: 52868

(a) Establish and maintain one or more interest-bearing trust 52869
accounts in accordance with division (A)(1) of this section or 52870
maintain one or more interest-bearing trust accounts previously 52871
established in accordance with that division, and deposit all 52872
client funds held that are nominal in amount or are to be held by 52873
the attorney for a short period of time in the account or 52874
accounts; 52875

(b) If the attorney is affiliated with a law firm or legal 52876
professional association, comply with division (A)(2)(a) of this 52877
section or deposit all client funds held that are nominal in 52878
amount or are to be held by the attorney for a short period of 52879
time in one or more interest-bearing trust accounts established 52880
and maintained by the firm or association in accordance with 52881
division (A)(1) of this section. 52882

(3) No funds belonging to any attorney, firm, or legal 52883
professional association shall be deposited in any 52884
interest-bearing ~~IOTA~~ IOLTA account established under division 52885
(A)(1) or (2) of this section, except that funds sufficient to pay 52886
or enable a waiver of depository institution service charges on 52887
the account shall be deposited in the account and other funds 52888
belonging to the attorney, firm, or association may be deposited 52889
as authorized by the Code of Professional Responsibility adopted 52890
by the supreme court. The determinations of whether funds held are 52891
nominal or more than nominal in amount and of whether funds are to 52892
be held for a short period or longer than a short period of time 52893
rests in the sound judgment of the particular attorney. No 52894
imputation of professional misconduct shall arise from the 52895

attorney's exercise of judgment in these matters. 52896

(B) All interest earned on funds deposited in an 52897
interest-bearing trust account established under division (A)(1) 52898
or (2) of this section shall be transmitted to the treasurer of 52899
state for deposit in the legal aid fund established under section 52900
120.52 of the Revised Code. No part of the interest earned on 52901
funds deposited in an interest-bearing trust account established 52902
under division (A)(1) or (2) of this section shall be paid to, or 52903
inure to the benefit of, the attorney, the attorney's law firm or 52904
legal professional association, the client or other person who 52905
owns or has a beneficial ownership of the funds deposited, or any 52906
other person other than in accordance with this section, section 52907
4705.10, and sections 120.51 to 120.55 of the Revised Code. 52908

(C) No liability arising out of any act or omission by any 52909
attorney, law firm, or legal professional association with respect 52910
to any interest-bearing trust account established under division 52911
(A)(1) or (2) of this section shall be imputed to the depository 52912
institution. 52913

(D) The supreme court may adopt and enforce rules of 52914
professional conduct that pertain to the use, by attorneys, law 52915
firms, or legal professional associations, of interest-bearing 52916
trust accounts established under division (A)(1) or (2) of this 52917
section, and that pertain to the enforcement of division (A)(2) of 52918
this section. Any rules adopted by the supreme court under this 52919
authority shall conform to the provisions of this section, section 52920
4705.10, and sections 120.51 to 120.55 of the Revised Code. 52921

Sec. 4709.05. In addition to any other duty imposed on the 52922
barber board under this chapter, the board shall do all of the 52923
following: 52924

(A) Organize by electing a chairperson from its members to 52925
serve a one-year term; 52926

(B) Hold regular meetings, at the times and places as it 52927
determines for the purpose of conducting the examinations required 52928
under this chapter, and hold additional meetings for the 52929
transaction of necessary business; 52930

(C) Provide for suitable quarters, in the city of Columbus, 52931
for the conduct of its business and the maintenance of its 52932
records; 52933

(D) Adopt a common seal for the authentication of its orders, 52934
communications, and records; 52935

(E) Maintain a record of its proceedings and a register of 52936
persons licensed as barbers. The register shall include each 52937
licensee's name, place of business, residence, and licensure date 52938
and number, and a record of all licenses issued, refused, renewed, 52939
suspended, or revoked. The records are open to public inspection 52940
at all reasonable times. 52941

(F) Annually, on or before the first day of January, make a 52942
report to the governor of all its official acts during the 52943
preceding year, its receipts and disbursements, recommendations it 52944
determines appropriate, and an evaluation of board activities 52945
intended to aid or protect consumers of barber services; 52946

(G) Employ an executive director who shall do all things 52947
requested by the board for the administration and enforcement of 52948
this chapter. The executive director shall employ inspectors, 52949
clerks, and other assistants as ~~he~~ the executive director 52950
determines necessary. 52951

(H) Ensure that the practice of barbering is conducted only 52952
in a licensed barber shop, except when the practice of barbering 52953
is performed on a person whose physical or mental disability 52954
prevents that person from going to a licensed barber shop; 52955

(I) Conduct or have conducted the examination for applicants 52956
to practice as licensed barbers at least four times per year at 52957

the times and places the board determines; 52958

(J) Adopt rules, in accordance with Chapter 119. of the 52959
Revised Code, to administer and enforce this chapter and which 52960
cover all of the following: 52961

(1) Sanitary standards for the operation of barber shops and 52962
barber schools that conform to guidelines established by the 52963
department of health; 52964

(2) The content of the examination required of an applicant 52965
for a barber license. The examination shall include a practical 52966
demonstration and a written test, shall relate only to the 52967
practice of barbering, and shall require the applicant to 52968
demonstrate that the applicant has a thorough knowledge of and 52969
competence in the proper techniques in the safe use of chemicals 52970
used in the practice of barbering. 52971

(3) Continuing education requirements for persons licensed 52972
pursuant to this chapter. The board may impose continuing 52973
education requirements upon a licensee for a violation of this 52974
chapter or the rules adopted pursuant thereto or if the board 52975
determines that the requirements are necessary to preserve the 52976
health, safety, or welfare of the public. 52977

(4) Requirements for the licensure of barber schools, barber 52978
teachers, and assistant barber teachers; 52979

(5) Requirements for students of barber schools; 52980

(6) Any other area the board determines appropriate to 52981
administer or enforce this chapter. 52982

(K) Annually review the rules adopted pursuant to division 52983
(J) of this section in order to compare those rules with the rules 52984
adopted by the state board of cosmetology pursuant to section 52985
4713.08 of the Revised Code. If the barber board determines that 52986
the rules adopted by the state board of cosmetology, including, 52987

but not limited to, rules concerning using career technical schools, would be beneficial to the barbering profession, the barber board shall adopt rules similar to those it determines would be beneficial for barbers. 52988
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(L) Prior to adopting any rule under this chapter, indicate at a formal hearing the reasons why the rule is necessary as a protection of the persons who use barber services or as an improvement of the professional standing of barbers in this state; 52992
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~~(L)~~(M) Furnish each owner or manager of a barber shop and barber school with a copy of all sanitary rules adopted pursuant to division (J) of this section; 52996
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~~(M)~~(N) Conduct such investigations and inspections of persons and establishments licensed or unlicensed pursuant to this chapter and for that purpose, any member of the board or any of its authorized agents may enter and inspect any place of business of a licensee or a person suspected of violating this chapter or the rules adopted pursuant thereto, during normal business hours; 52999
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~~(N)~~(O) Upon the written request of an applicant and the payment of the appropriate fee, provide to the applicant licensure information concerning the applicant; 53005
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~~(O)~~(P) Do all things necessary for the proper administration and enforcement of this chapter. 53008
53009

Sec. 4713.02. (A) There is hereby created the state board of cosmetology, consisting of all of the following members appointed by the governor, with the advice and consent of the senate: 53010
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(1) One person holding a current, valid cosmetologist, managing cosmetologist, or cosmetology instructor license at the time of appointment; 53013
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(2) Two persons holding current, valid managing cosmetologist licenses and actively engaged in managing beauty salons at the 53016
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time of appointment; 53018

(3) One person who holds a current, valid independent 53019
contractor license at the time of appointment or the owner or 53020
manager of a licensed salon in which at least one person holding a 53021
current, valid independent contractor license practices a branch 53022
of cosmetology; 53023

(4) One person who represents individuals who teach the 53024
theory and practice of a branch of cosmetology at a vocational 53025
school; 53026

(5) One owner of a licensed school of cosmetology; 53027

(6) One owner of at least five licensed salons; 53028

(7) One person who is either a certified nurse practitioner 53029
or clinical nurse specialist holding a certificate of authority 53030
issued under Chapter 4723. of the Revised Code, or a physician 53031
authorized under Chapter 4731. of the Revised Code to practice 53032
medicine and surgery or osteopathic medicine and surgery; 53033

(8) One person representing the general public. 53034

(B) The superintendent of public instruction shall nominate 53035
three persons for the governor to choose from when making an 53036
appointment under division (A)(4) of this section. 53037

(C) All members shall be at least twenty-five years of age, 53038
residents of the state, and citizens of the United States. No more 53039
than two members, at any time, shall be graduates of the same 53040
school of cosmetology. 53041

Except for the initial members appointed under divisions 53042
(A)(3) and (4) of this section, terms of office are for five 53043
years. The term of the initial member appointed under division 53044
(A)(3) of this section shall be three years. The term of the 53045
initial member appointed under division (A)(4) of this section 53046
shall be four years. Terms shall commence on the first day of 53047

November and end on the thirty-first day of October. Each member 53048
shall hold office from the date of appointment until the end of 53049
the term for which appointed. In case of a vacancy occurring on 53050
the board, the governor shall, in the same manner prescribed for 53051
the regular appointment to the board, fill the vacancy by 53052
appointing a member. Any member appointed to fill a vacancy 53053
occurring prior to the expiration of the term for which the 53054
member's predecessor was appointed shall hold office for the 53055
remainder of such term. Any member shall continue in office 53056
subsequent to the expiration date of the member's term until the 53057
member's successor takes office, or until a period of sixty days 53058
has elapsed, whichever occurs first. Before entering upon the 53059
discharge of the duties of the office of member, each member shall 53060
take, and file with the secretary of state, the oath of office 53061
required by Section 7 of Article XV, Ohio Constitution. 53062

The members of the board shall receive an amount fixed 53063
pursuant to Chapter 124. of the Revised Code per diem for every 53064
meeting of the board which they attend, together with their 53065
necessary expenses, and mileage for each mile necessarily 53066
traveled. 53067

The members of the board shall annually elect, from among 53068
their number, a chairperson. 53069

The board shall prescribe the duties of its officers and 53070
establish an office ~~at Columbus, Ohio~~ within Franklin County. The 53071
board shall keep all records and files at the office and have the 53072
records and files at all reasonable hours open to public 53073
inspection. The board also shall adopt a seal. 53074

Sec. 4717.05. (A) Any person who desires to be licensed as an 53075
embalmer shall apply to the board of embalmers and funeral 53076
directors on a form provided by the board. The applicant shall 53077
include with the application an initial license fee as set forth 53078

in section 4717.07 of the Revised Code and evidence, verified by 53079
oath and satisfactory to the board, that the applicant meets all 53080
of the following requirements: 53081

(1) The applicant is at least eighteen years of age and of 53082
good moral character. 53083

(2) If the applicant has pleaded guilty to, has been found by 53084
a judge or jury to be guilty of, or has had a judicial finding of 53085
eligibility for treatment in lieu of conviction entered against 53086
the applicant in this state for aggravated murder, murder, 53087
voluntary manslaughter, felonious assault, kidnapping, rape, 53088
sexual battery, gross sexual imposition, aggravated arson, 53089
aggravated robbery, or aggravated burglary, or has pleaded guilty 53090
to, has been found by a judge or jury to be guilty of, or has had 53091
a judicial finding of eligibility for treatment in lieu of 53092
conviction entered against the applicant in another jurisdiction 53093
for a substantially equivalent offense, at least five years has 53094
elapsed since the applicant was released from incarceration, a 53095
community control sanction, a post-release control sanction, 53096
parole, or treatment in connection with the offense. 53097

(3) The applicant holds at least a bachelor's degree from a 53098
college or university authorized to confer degrees by the Ohio 53099
board of regents or the comparable legal agency of another state 53100
in which the college or university is located and submits an 53101
official transcript from that college or university with the 53102
application. 53103

(4) The applicant has satisfactorily completed at least 53104
twelve months of instruction in a prescribed course in mortuary 53105
science as approved by the board and has presented to the board a 53106
certificate showing successful completion of the course. The 53107
course of mortuary science college training may be completed 53108
either before or after the completion of the educational standard 53109
set forth in division (A)(3) of this section. 53110

(5) The applicant has registered with the board prior to 53111
beginning an embalmer apprenticeship. 53112

(6) The applicant has satisfactorily completed at least one 53113
year of apprenticeship under an embalmer licensed in this state 53114
and has assisted that person in embalming at least twenty-five 53115
dead human bodies. 53116

(7) The applicant, upon meeting the educational standards 53117
provided for in divisions (A)(3) and (4) of this section and 53118
completing the apprenticeship required in division (A)(6) of this 53119
section, has completed the examination for an embalmer's license 53120
required by the board. 53121

(B) Upon receiving satisfactory evidence verified by oath 53122
that the applicant meets all the requirements of division (A) of 53123
this section, the board shall issue the applicant an embalmer's 53124
license. 53125

(C) Any person who desires to be licensed as a funeral 53126
director shall apply to the board on a form provided by the board. 53127
The application shall include an initial license fee as set forth 53128
in section 4717.07 of the Revised Code and evidence, verified by 53129
oath and satisfactory to the board, that the applicant meets all 53130
of the following requirements: 53131

(1) Except as otherwise provided in division (D) of this 53132
section, the applicant has satisfactorily met all the requirements 53133
for an embalmer's license as described in divisions (A)(1) to (4) 53134
of this section. 53135

(2) The applicant has registered with the board prior to 53136
beginning a funeral director apprenticeship. 53137

(3) The applicant, following mortuary science college 53138
training described in division (A)(4) of this section, has ~~served~~ 53139
satisfactorily completed a one-year apprenticeship under a 53140
licensed funeral director in this state and has assisted that 53141

person in directing at least twenty-five funerals. 53142

(4) The applicant has satisfactorily completed the 53143
examination for a funeral director's license as required by the 53144
board. 53145

(D) In lieu of mortuary science college training required for 53146
a funeral director's license under division (C)(1) of this 53147
section, the applicant may substitute a satisfactorily completed 53148
two-year apprenticeship under a licensed funeral director in this 53149
state assisting that person in directing at least fifty funerals. 53150

(E) Upon receiving satisfactory evidence that the applicant 53151
meets all the requirements of division (C) of this section, the 53152
board shall issue to the applicant a funeral director's license. 53153

(F) As used in this section: 53154

(1) "Community control sanction" has the same meaning as in 53155
section 2929.01 of the Revised Code. 53156

(2) "Post-release control sanction" has the same meaning as 53157
in section 2967.01 of the Revised Code. 53158

Sec. 4723.32. This chapter does not prohibit any of the 53159
following: 53160

(A) The practice of nursing by a student currently enrolled 53161
in and actively pursuing completion of a prelicensure nursing 53162
education program approved by the board of nursing, if the 53163
student's practice is under the auspices of the program and the 53164
student acts under the supervision of a registered nurse serving 53165
for the program as a faculty member, teaching assistant, or 53166
preceptor; 53167

(B) The rendering of medical assistance to a licensed 53168
physician, licensed dentist, or licensed podiatrist by a person 53169
under the direction, supervision, and control of such licensed 53170
physician, dentist, or podiatrist; 53171

(C) The activities of persons employed as nursing aides, 53172
attendants, orderlies, or other auxiliary workers in patient 53173
homes, nurseries, nursing homes, hospitals, home health agencies, 53174
or other similar institutions; 53175

(D) The provision of nursing services to family members or in 53176
emergency situations; 53177

(E) The care of the sick when done in connection with the 53178
practice of religious tenets of any church and by or for its 53179
members; 53180

(F) The practice of nursing as a certified registered nurse 53181
anesthetist, clinical nurse specialist, certified nurse-midwife, 53182
or certified nurse practitioner by a student currently enrolled in 53183
and actively pursuing completion of a program of study leading to 53184
initial authorization by the board to practice nursing in the 53185
specialty, if both of the following are the case: 53186

(1) The program qualifies the student to sit for the 53187
examination of a national certifying organization listed in 53188
division (A)(3) of section 4723.41 of the Revised Code or approved 53189
by the board under section 4723.46 of the Revised Code or the 53190
program prepares the student to receive a master's degree in 53191
accordance with division (A)(2) of section 4723.41 of the Revised 53192
Code; 53193

(2) The student's practice is under the auspices of the 53194
program and the student acts under the supervision of a registered 53195
nurse serving for the program as a faculty member, teaching 53196
assistant, or preceptor. 53197

(G) The activities of an individual who currently holds a 53198
license to practice nursing in another jurisdiction, if the 53199
individual's license has not been revoked, the individual is not 53200
currently under suspension or on probation, the individual does 53201
not represent the individual as being licensed under this chapter, 53202

and one of the following is the case: 53203

(1) The individual is engaging in the practice of nursing by 53204
discharging official duties while employed by or under contract 53205
with the United States government or any agency thereof; 53206

(2) The individual is engaging in the practice of nursing as 53207
an employee of an individual, agency, or corporation located in 53208
the other jurisdiction in a position with employment 53209
responsibilities that include transporting patients into, out of, 53210
or through this state, as long as each trip in this state does not 53211
exceed seventy-two hours; 53212

(3) The individual is consulting with an individual licensed 53213
in this state to practice any health-related profession; 53214

(4) The individual is engaging in activities associated with 53215
teaching in this state as a guest lecturer at or for a nursing 53216
education program, continuing nursing education program, or 53217
in-service presentation; 53218

(5) The individual is conducting evaluations of nursing care 53219
that are undertaken on behalf of an accrediting organization, 53220
including the national league for nursing accrediting committee, 53221
the joint commission on accreditation of healthcare organizations, 53222
or any other nationally recognized accrediting organization; 53223

(6) The individual is providing nursing care to an individual 53224
who is in this state on a temporary basis, not to exceed six 53225
months in any one calendar year, if the nurse is directly employed 53226
by or under contract with the individual or a guardian or other 53227
person acting on the individual's behalf; 53228

(7) The individual is providing nursing care during any 53229
disaster, natural or otherwise, that has been officially declared 53230
to be a disaster by a public announcement issued by an appropriate 53231
federal, state, county, or municipal official. 53232

(H) The administration of medication by an individual who 53233
holds a valid medication aide certificate issued under this 53234
chapter, if the medication is administered to a resident of a 53235
nursing home or residential care facility authorized by section 53236
4723.63 or 4723.64 of the Revised Code to use a certified 53237
medication aide and the medication is administered in accordance 53238
with section 4723.67 of the Revised Code. 53239

Sec. 4723.33. A registered nurse, licensed practical nurse, 53240
~~or~~ dialysis technician, community health worker, or medication 53241
aide who in good faith makes a report under this chapter or any 53242
other provision of the Revised Code regarding a violation of this 53243
chapter or any other provision of the Revised Code, or 53244
participates in any investigation, administrative proceeding, or 53245
judicial proceeding resulting from the report, has the full 53246
protection against retaliatory action provided by sections 4113.51 53247
to 4113.53 of the Revised Code. 53248

Sec. 4723.34. (A) Reports to the board of nursing shall be 53249
made as follows: 53250

(1) Every employer of registered nurses, licensed practical 53251
nurses, or dialysis technicians shall report to the board of 53252
nursing the name of any current or former employee who holds a 53253
nursing license or dialysis technician certificate issued under 53254
this chapter who has engaged in conduct that would be grounds for 53255
disciplinary action by the board under section 4723.28 of the 53256
Revised Code. ~~Every~~ 53257

Every employer of certified community health workers shall 53258
report to the board the name of any current or former employee who 53259
holds a community health worker certificate issued under this 53260
chapter who has engaged in conduct that would be grounds for 53261
disciplinary action by the board under section 4723.86 of the 53262

Revised Code. 53263

Every employer of medication aides shall report to the board 53264
the name of any current or former employee who holds a medication 53265
aide certificate issued under this chapter who has engaged in 53266
conduct that would be grounds for disciplinary action by the board 53267
under section 4723.652 of the Revised Code. 53268

(2) Nursing associations shall report to the board the name 53269
of any registered nurse or licensed practical nurse and dialysis 53270
technician associations shall report to the board the name of any 53271
dialysis technician who has been investigated and found to 53272
constitute a danger to the public health, safety, and welfare 53273
because of conduct that would be grounds for disciplinary action 53274
by the board under section 4723.28 of the Revised Code, except 53275
that an association is not required to report the individual's 53276
name if the individual is maintaining satisfactory participation 53277
in a peer support program approved by the board under rules 53278
adopted under section 4723.07 of the Revised Code. ~~Community~~ 53279

Community health worker associations shall report to the 53280
board the name of any certified community health worker who has 53281
been investigated and found to constitute a danger to the public 53282
health, safety, and welfare because of conduct that would be 53283
grounds for disciplinary action by the board under section 4723.86 53284
of the Revised Code, except that an association is not required to 53285
report the individual's name if the individual is maintaining 53286
satisfactory participation in a peer support program approved by 53287
the board under rules adopted under section 4723.07 of the Revised 53288
Code. 53289

Medication aide associations shall report to the board the 53290
name of any medication aide who has been investigated and found to 53291
constitute a danger to the public health, safety, and welfare 53292
because of conduct that would be grounds for disciplinary action 53293
by the board under section 4723.652 of the Revised Code, except 53294

that an association is not required to report the individual's name if the individual is maintaining satisfactory participation in a peer support program approved by the board under rules adopted under section 4723.69 of the Revised Code. 53295
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(3) If the prosecutor in a case described in divisions (B)(3) to (5) of section 4723.28 of the Revised Code, or in a case where the trial court issued an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor committed in the course of practice, a felony charge, or a charge of gross immorality or moral turpitude, knows or has reason to believe that the person charged is licensed under this chapter to practice nursing as a registered nurse or as a licensed practical nurse or holds a certificate issued under this chapter to practice as a dialysis technician, the prosecutor shall notify the board of nursing. With regard to certified community health workers and medication aides, if the prosecutor in a case involving a charge of a misdemeanor committed in the course of employment, a felony charge, or a charge of gross immorality or moral turpitude, including a case dismissed on technical or procedural grounds, knows or has reason to believe that the person charged holds a community health worker or medication aide certificate issued under this chapter, the prosecutor shall notify the board. 53299
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Each notification required by this division shall be made on forms prescribed and provided by the board. The report shall include the name and address of the license or certificate holder, the charge, and the certified court documents recording the action. 53317
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(B) If any person fails to provide a report required by this section, the board may seek an order from a court of competent jurisdiction compelling submission of the report. 53322
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Sec. 4723.341. (A) As used in this section, "person" has the 53325

same meaning as in section 1.59 of the Revised Code and also 53326
includes the board of nursing and its members and employees; 53327
health care facilities, associations, and societies; insurers; and 53328
individuals. 53329

(B) In the absence of fraud or bad faith, no person reporting 53330
to the board of nursing or testifying in an adjudication conducted 53331
under Chapter 119. of the Revised Code with regard to alleged 53332
incidents of negligence or malpractice or matters subject to this 53333
chapter or sections 3123.41 to 3123.50 of the Revised Code and any 53334
applicable rules adopted under section 3123.63 ~~of the Revised Code~~ 53335
~~or section~~ of the Revised Code shall be subject to either of the 53336
following based on making the report or testifying: 53337

(1) Liability in damages in a civil action for injury, death, 53338
or loss to person or property; 53339

(2) Discipline or dismissal by an employer. 53340

(C) An individual who is disciplined or dismissed in 53341
violation of division (B)(2) of this section has the same rights 53342
and duties accorded an employee under sections 4113.52 and 4113.53 53343
of the Revised Code. 53344

(D) In the absence of fraud or bad faith, no professional 53345
association of registered nurses, licensed practical nurses, ~~or~~ 53346
dialysis technicians, community health workers, or medication 53347
aides that sponsors a committee or program to provide peer 53348
assistance to individuals with substance abuse problems, no 53349
representative or agent of such a committee or program, and no 53350
member of the board of nursing shall be liable to any person for 53351
damages in a civil action by reason of actions taken to refer a 53352
nurse ~~or~~, dialysis technician, community health worker, or 53353
medication aide to a treatment provider or actions or omissions of 53354
the provider in treating a nurse ~~or~~, dialysis technician, 53355
community health worker, or medication aide. 53356

Sec. 4723.61. As used in this section and in sections 4723.62 to 4723.69 of the Revised Code: 53357
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(A) "Medication" means a drug, as defined in section 4729.01 of the Revised Code. 53359
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(B) "Medication error" means a failure to follow the prescriber's instructions when administering a prescription medication. 53361
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(C) "Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code. 53364
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(D) "Prescription medication" means a medication that may be dispensed only pursuant to a prescription. 53366
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(E) "Prescriber" and "prescription" have the same meanings as in section 4729.01 of the Revised Code. 53368
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Sec. 4723.62. (A) There is hereby created the medication aide advisory council. The council shall consist of the following members: 53370
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(1) A registered nurse working in long-term care, appointed by the governing body of the Ohio nurses association; 53373
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(2) A licensed practical nurse working in long-term care, appointed by the governing body of the licensed practical nurse association of Ohio; 53375
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(3) A registered nurse with experience in researching gerontology issues, appointed by the governing body of the Ohio nurses association; 53378
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(4) An advanced practice nurse with experience in gerontology, appointed by the governing body of the Ohio association of advanced practice nurses; 53381
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(5) A representative of the Ohio health care association, 53384

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| <u>appointed by the governing body of the association;</u> | 53385 |
| <u>(6) A representative of the association of Ohio philanthropic homes, housing, and services for the aging, appointed by the governing body of the association;</u> | 53386 |
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| <u>(7) A representative of the Ohio academy of nursing homes, appointed by the governing body of the academy;</u> | 53389 |
| | 53390 |
| <u>(8) A representative of the Ohio assisted living association, appointed by the governing body of the association;</u> | 53391 |
| | 53392 |
| <u>(9) A representative of the Ohio association of long-term care ombudsmen, appointed by the governing body of the association;</u> | 53393 |
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| <u>(10) A representative of the American association of retired persons, appointed by the governing body of the association;</u> | 53396 |
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| <u>(11) A representative of facility residents and families of facility residents, appointed by the board of nursing;</u> | 53398 |
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| <u>(12) A representative of the senior care pharmacy alliance, appointed by the governing body of the alliance;</u> | 53400 |
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| <u>(13) A representative of nurse aides, as defined in section 3721.21 of the Revised Code, appointed by the director of health;</u> | 53402 |
| | 53403 |
| <u>(14) A representative of the department of health with expertise in competency evaluation programs, as defined in section 3721.21 of the Revised Code, appointed by the director of health;</u> | 53404 |
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| <u>(15) A representative of the office of the state long-term care ombudsperson program, appointed by the state long-term care ombudsperson;</u> | 53407 |
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| <u>(16) A representative of the department of job and family services, appointed by the director of job and family services.</u> | 53410 |
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| <u>(B) Members of the council shall serve at the pleasure of their appointing authorities. Vacancies shall be filled in the</u> | 53412 |
| | 53413 |

manner provided for original appointments. 53414

(C) Members shall receive no compensation for their service 53415
on the council, except to the extent that serving on the council 53416
is part of their regular duties of employment. 53417

(D) The board of nursing shall appoint one of its members or 53418
a representative of the board to serve as the council's 53419
chairperson. 53420

Sec. 4723.621. The medication aide advisory council created 53421
under section 4723.62 of the Revised Code shall make 53422
recommendations to the board of nursing with respect to all of the 53423
following: 53424

(A) The design and operation of the medication aide pilot 53425
program conducted under section 4723.63 of the Revised Code, 53426
including a method of collecting data through reports submitted by 53427
participating nursing homes and residential care facilities; 53428

(B) The content of the course of instruction required to 53429
obtain certification as a medication aide, including the 53430
examination to be used to evaluate the ability to administer 53431
prescription medications safely and the score that must be 53432
attained to pass the examination; 53433

(C) Whether medication aides may administer prescription 53434
medications through a gastrostomy or jejunostomy tube and the 53435
amount and type of training a medication aide needs to be 53436
adequately prepared to administer prescription medications through 53437
a gastrostomy or jejunostomy tube; 53438

(D) Protection of the health and welfare of the residents of 53439
nursing homes and residential care facilities participating in the 53440
pilot program and using medication aides pursuant to section 53441
4723.64 of the Revised Code on or after July 1, 2007; 53442

(E) The board's adoption of rules under section 4723.69 of 53443

the Revised Code; 53444

(F) Any other issue the council considers relevant to the use 53445
of medication aides in nursing homes and residential care 53446
facilities. 53447

Sec. 4723.63. (A) In consultation with the medication aide 53448
advisory council established under section 4723.62 of the Revised 53449
Code, the board of nursing shall conduct a pilot program for the 53450
use of medication aides in nursing homes and residential care 53451
facilities. The board shall conduct the pilot program in a manner 53452
consistent with human protection and other ethical concerns 53453
typically associated with research studies involving live 53454
subjects. The pilot program shall be commenced not later than May 53455
1, 2006, and shall be conducted until July 1, 2007. 53456

During the period the pilot program is conducted, a nursing 53457
home or residential care facility participating in the pilot 53458
program may use one or more medication aides to administer 53459
prescription medications to its residents, subject to both of the 53460
following conditions: 53461

(1) Each individual used as a medication aide must hold a 53462
current, valid medication aide certificate issued by the board of 53463
nursing under this chapter. 53464

(2) The nursing home or residential care facility shall 53465
ensure that the requirements of section 4723.67 of the Revised 53466
Code are met. 53467

(B) The board, in consultation with the medication aide 53468
advisory council, shall do all of the following not later than 53469
February 1, 2006: 53470

(1) Design the pilot program; 53471

(2) Establish standards to govern medication aides and the 53472
nursing homes and residential care facilities participating in the 53473

pilot program, including standards for the training of medication aides and the staff of participating nursing homes and residential care facilities; 53474
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(3) Establish standards to protect the health and safety of the residents of the nursing homes and residential care facilities participating in the program; 53477
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(4) Implement a process for selecting the nursing homes and residential care facilities to participate in the program. 53480
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(C)(1) A nursing home or residential care facility may volunteer to participate in the pilot program by submitting an application to the board on a form prescribed and provided by the board. From among the applicants, the board shall select eighty nursing homes and forty residential care facilities to participate in the pilot program. 53482
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(2) To be eligible to participate, a nursing home or residential care facility shall agree to observe the standards established by the board for the use of medication aides. A nursing home is eligible to participate only if the department of health has found in the two most recent surveys or inspections of the home that the home is free from deficiencies related to the administration of medication. A residential care facility is eligible to participate only if the department has found that the facility is free from deficiencies related to the provision of skilled nursing care or the administration of medication. 53488
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(D) As a condition of participation in the pilot program, a nursing home and residential care facility selected by the board shall pay the participation fee established in rules adopted under section 4723.69 of the Revised Code. The participation fee is not reimbursable under the medicaid program established under Chapter 5111. of the Revised Code. 53498
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(E) On receipt of evidence found credible by the board that 53504

continued participation by a nursing home or residential care facility poses an imminent danger, risk of serious harm, or jeopardy to a resident of the home or facility, the board may terminate the authority of the home or facility to participate in the pilot program. 53505
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(F)(1) With the assistance of the medication aide advisory council, the board shall conduct an evaluation of the pilot program. In conducting the evaluation, the board shall do all of the following: 53510
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(a) Assess whether medication aides are able to administer prescription medications safely to nursing home and residential care facility residents; 53514
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(b) Determine the financial implications of using medication aides in nursing homes and residential care facilities; 53517
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(c) Consider any other issue the board or council considers relevant to the evaluation. 53519
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(2) Not later than March 1, 2007, the board shall prepare a report of its findings and recommendations derived from the evaluation of the pilot program. The board shall submit the report to the governor, president and minority leader of the senate, speaker and minority leader of the house of representatives, and director of health. 53521
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Sec. 4723.64. On and after July 1, 2007, any nursing home or residential care facility may use one or more medication aides to administer prescription medications to its residents, subject to both of the following conditions: 53527
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(A) Each individual used as a medication aide must hold a current, valid medication aide certificate issued by the board of nursing under this chapter. 53531
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(B) The nursing home or residential care facility shall 53534

ensure that the requirements of section 4723.67 of the Revised Code are met. 53535
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Sec. 4723.65. (A) An individual seeking certification as a medication aide shall apply to the board of nursing on a form prescribed and provided by the board. If the application is submitted on or after July 1, 2007, the application shall be accompanied by the certification fee established in rules adopted under section 4723.69 of the Revised Code. 53537
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(B)(1) Except as provided in division (B)(2) of this section, an applicant for a medication aide certificate shall submit a request to the bureau of criminal identification and investigation for a criminal records check. The request shall be on the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and shall be accompanied by a standard impression sheet to obtain fingerprints prescribed pursuant to division (C)(2) of that section. The request shall also be accompanied by the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code. On receipt of the completed form, the completed impression sheet, and the fee, the bureau shall conduct a criminal records check of the applicant. On completion of the criminal records check, the bureau shall send the results of the check to the board. An applicant requesting a criminal records check under this division shall ask the superintendent of the bureau of criminal identification and investigation to also request that the federal bureau of investigation provide the superintendent with any information it has with respect to the applicant. 53543
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(2) If a criminal records check of an applicant was completed pursuant to section 3721.121 of the Revised Code not more than five years prior to the date the application is submitted, the applicant may include a certified copy of the criminal records 53562
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check completed pursuant to that section and is not required to 53566
comply with division (B)(1) of this section. 53567

(3) A criminal records check provided to the board in 53568
accordance with division (B)(1) or (B)(2) of this section shall 53569
not be made available to any person or for any purpose other than 53570
the following: 53571

(a) The results may be made available to any person for use 53572
in determining whether the individual who is the subject of the 53573
check should be issued a medication aide certificate. 53574

(b) The results may be made available to the person who is 53575
the subject of the check or a representative of that person. 53576

Sec. 4723.651. (A) To be eligible to receive a medication 53577
aide certificate, an applicant shall meet all of the following 53578
conditions: 53579

(1) Be at least eighteen years of age; 53580

(2) Have a high school diploma or a high school equivalence 53581
diploma as defined in section 5107.40 of the Revised Code; 53582

(3) If the applicant is to practice as a medication aide in a 53583
nursing home, be a nurse aide who satisfies the requirements of 53584
division (A)(1), (2), (3), (4), (5), (6), or (8) of section 53585
3721.32 of the Revised Code; 53586

(4) If the applicant is to practice as a medication aide in a 53587
residential care facility, be a nurse aide who satisfies the 53588
requirements of division (A)(1), (2), (3), (4), (5), (6), or (8) 53589
of section 3721.32 of the Revised Code or an individual who has at 53590
least one year of direct care experience in a residential care 53591
facility; 53592

(5) Successfully complete the course of instruction provided 53593
by a training program approved by the board under section 4723.66 53594
of the Revised Code; 53595

(6) Have results on the criminal records check provided to the board under division (B)(1) or (2) of section 4723.65 of the Revised Code indicating that the applicant has not been convicted of, has not pleaded guilty to, and has not had a judicial finding of guilt for violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a substantially similar law of another state, the United States, or another country;

(7) Meet all other requirements for a medication aide certificate established in rules adopted under section 4723.69 of the Revised Code.

(B) If an applicant meets the requirement specified in division (A) of this section, the board shall issue a medication aide certificate to the applicant. If a medication aide certificate is issued to an individual on the basis of having at least one year of direct care experience working in a residential care facility, as provided in division (A)(4) of this section, the certificate is valid for use only in a residential care facility. The board shall state the limitation on the certificate issued to the individual.

(C) A medication aide certificate is valid for two years, unless earlier suspended or revoked. The certificate may be renewed in accordance with procedures specified by the board in rules adopted under section 4723.69 of the Revised Code. To be eligible for renewal, an applicant shall pay the renewal fee established in the rules and meet all renewal qualifications specified in the rules.

Sec. 4723.652. (A) The board of nursing, by vote of a quorum, may impose one or more of the following sanctions against any individual who applies for, or holds, a medication aide certificate: deny, revoke, suspend, or place restrictions on the

certificate; reprimand or otherwise discipline the holder of a 53627
medication aide certificate; or impose a fine of not more than 53628
five hundred dollars per violation. The sanctions may be imposed 53629
for any of the reasons specified in division (B) of section 53630
4723.28 of the Revised Code, to the extent that those reasons are 53631
applicable to medication aides as specified in rules adopted under 53632
section 4723.69 of the Revised Code. 53633

(B) Disciplinary actions taken by the board under this 53634
section shall be taken pursuant to an adjudication conducted under 53635
Chapter 119. of the Revised Code, except that in lieu of a 53636
hearing, the board may enter into a consent agreement with an 53637
individual to resolve an allegation of a violation of this chapter 53638
or any rule adopted under it. A consent agreement, when ratified 53639
by vote of a quorum, shall constitute the findings and order of 53640
the board with respect to the matter addressed in the agreement. 53641
If the board refuses to ratify a consent agreement, the admissions 53642
and findings contained in the agreement shall be of no effect. 53643

(C) In taking actions under this section, the board has the 53644
same powers and duties that it has when taking actions under 53645
section 4723.28 of the Revised Code. In addition, the board may 53646
issue an order to summarily suspend or automatically suspend a 53647
medication aide certificate in the same manner that the board is 53648
authorized to take those actions under section 4723.281 of the 53649
Revised Code. 53650

Sec. 4723.66. (A) A person or government entity seeking 53651
approval to provide a medication aide training program shall apply 53652
to the board of nursing on a form prescribed and provided by the 53653
board. If the application is submitted on or after July 1, 2007, 53654
the application shall be accompanied by the fee established in 53655
rules adopted under section 4723.69 of the Revised Code. 53656

(B) The board shall approve the applicant to provide a medication aide training program if the content of the course of instruction to be provided by the program meets the standards specified by the board in rules adopted under section 4723.69 of the Revised Code and includes all of the following: 53657
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(1) At least seventy clock-hours of instruction, including both classroom instruction on medication administration and at least twenty clock-hours of supervised clinical practice in medication administration; 53662
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(2) A mechanism for evaluating whether an individual's reading, writing, and mathematical skills are sufficient for the individual to be able to administer prescription medications safely; 53666
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(3) An examination that tests the ability to administer prescription medications safely and that meets the requirements established by the board in rules adopted under section 4723.69 of the Revised Code. 53670
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(C) The board may deny, suspend, or revoke the approval granted to the provider of a medication aide training program for reasons specified in rules adopted under section 4723.69 of the Revised Code. All actions taken by the board to deny, suspend, or revoke the approval of a training program shall be taken in accordance with Chapter 119. of the Revised Code. 53674
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Sec. 4723.67. (A) Except for the prescription medications specified in division (C) of this section and the methods of medication administration specified in division (D) of this section, a medication aide who holds a current, valid medication aide certificate issued under this chapter may administer prescription medications to the residents of nursing homes and residential care facilities that use medication aides pursuant to section 4723.63 or 4723.64 of the Revised Code. A medication aide 53680
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shall administer prescription medications only pursuant to the 53688
delegation of a registered nurse or a licensed practical nurse 53689
acting at the direction of a registered nurse. 53690

Delegation of medication administration to a medication aide 53691
shall be carried out in accordance with the rules for nursing 53692
delegation adopted under this chapter by the board of nursing. A 53693
nurse who has delegated to a medication aide responsibility for 53694
the administration of prescription medications to the residents of 53695
a nursing home or residential care facility shall not withdraw the 53696
delegation on an arbitrary basis or for any purpose other than 53697
patient safety. 53698

(B) In exercising the authority to administer prescription 53699
medications pursuant to nursing delegation, a medication aide may 53700
administer prescription medications in any of the following 53701
categories: 53702

(1) Oral medications; 53703

(2) Topical medications; 53704

(3) Medications administered as drops to the eye, ear, or 53705
nose; 53706

(4) Rectal and vaginal medications; 53707

(5) Medications prescribed with a designation authorizing or 53708
requiring administration on an as-needed basis, but only if a 53709
nursing assessment of the patient is completed before the 53710
medication is administered. 53711

(C) A medication aide shall not administer prescription 53712
medications in either of the following categories: 53713

(1) Medications containing a schedule II controlled 53714
substance, as defined in section 3719.01 of the Revised Code; 53715

(2) Medications requiring dosage calculations. 53716

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| <u>(D) A medication aide shall not administer prescription</u> | 53717 |
| <u>medications by any of the following methods:</u> | 53718 |
| <u>(1) Injection;</u> | 53719 |
| <u>(2) Intravenous therapy procedures;</u> | 53720 |
| <u>(3) Splitting pills for purposes of changing the dose being</u> | 53721 |
| <u>given.</u> | 53722 |
| <u>(E) A nursing home or residential care facility that uses</u> | 53723 |
| <u>medication aides shall ensure that medication aides do not have</u> | 53724 |
| <u>access to any schedule II controlled substances within the home or</u> | 53725 |
| <u>facility for use by its residents.</u> | 53726 |
| <u>Sec. 4723.68. (A) A registered nurse, or licensed practical</u> | 53727 |
| <u>nurse acting at the direction of a registered nurse, who delegates</u> | 53728 |
| <u>medication administration to a medication aide who holds a</u> | 53729 |
| <u>current, valid medication aide certificate issued under this</u> | 53730 |
| <u>chapter is not liable in damages to any person or government</u> | 53731 |
| <u>entity in a civil action for injury, death, or loss to person or</u> | 53732 |
| <u>property that allegedly arises from an action or omission of the</u> | 53733 |
| <u>medication aide in performing the medication administration, if</u> | 53734 |
| <u>the delegating nurse delegates the medication administration in</u> | 53735 |
| <u>accordance with this chapter and the rules adopted under this</u> | 53736 |
| <u>chapter.</u> | 53737 |
| <u>(B) A person employed by a nursing home or residential care</u> | 53738 |
| <u>facility that uses medication aides pursuant to section 4723.63 or</u> | 53739 |
| <u>4723.64 of the Revised Code who reports in good faith a medication</u> | 53740 |
| <u>error at the nursing home or residential care facility is not</u> | 53741 |
| <u>subject to disciplinary action by the board of nursing or any</u> | 53742 |
| <u>other government entity regulating that person's professional</u> | 53743 |
| <u>practice and is not liable in damages to any person or government</u> | 53744 |
| <u>entity in a civil action for injury, death, or loss to person or</u> | 53745 |
| <u>property that allegedly results from reporting the medication</u> | 53746 |

error. 53747

Sec. 4723.69. (A) In consultation with the medication aide advisory council created under section 4723.62 of the Revised Code, the board of nursing shall adopt rules to implement sections 4723.61 to 4723.68 of the Revised Code. Initial rules shall be adopted not later than February 1, 2006. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. 53748
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(B) The rules adopted under this section shall establish or specify all of the following: 53755
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(1) Fees, in an amount sufficient to cover the costs the board incurs in implementing sections 4723.61 to 4723.68 of the Revised Code, for participation in the medication aide pilot program, certification as a medication aide, and approval of a medication aide training program; 53757
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(2) Requirements to obtain a medication aide certificate that are not otherwise specified in section 4723.651 of the Revised Code; 53762
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(3) Procedures for renewal of medication aide certificates; 53765

(4) The extent to which the board determines that the reasons for taking disciplinary actions under section 4723.28 of the Revised Code are applicable reasons for taking disciplinary actions under section 4723.652 of the Revised Code against an applicant for or holder of a medication aide certificate; 53766
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(5) Standards for approval of peer support programs for the holders of medication aide certificates; 53771
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(6) Standards for medication aide training programs, including the examination to be administered by the training program to test an individual's ability to administer prescription medications safely; 53773
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| <u>(7) Reasons for denying, revoking, or suspending approval of a medication aide training program;</u> | 53777 |
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| <u>(8) Other standards and procedures the board considers necessary to implement sections 4723.61 to 4723.68 of the Revised Code.</u> | 53779 |
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| Sec. 4723.63 4723.91. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the board of nursing shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a nursing license, <u>medication aide certificate</u> , dialysis technician certificate, or community health worker certificate issued pursuant to this chapter. | 53782 |
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| Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the Revised Code: | 53789 |
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| (A)(1) "Clinical laboratory services" means either of the following: | 53791 |
| | 53792 |
| (a) Any examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment or for the assessment of health; | 53793 |
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| (b) Procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body. | 53797 |
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| (2) "Clinical laboratory services" does not include the mere collection or preparation of specimens. | 53800 |
| | 53801 |
| (B) "Designated health services" means any of the following: | 53802 |
| (1) Clinical laboratory services; | 53803 |
| (2) Home health care services; | 53804 |

of section 4731.226 of the Revised Code formed for the purpose of 53836
providing a combination of the professional services of 53837
optometrists who are licensed, certificated, or otherwise legally 53838
authorized to practice optometry under Chapter 4725. of the 53839
Revised Code, chiropractors who are licensed, certificated, or 53840
otherwise legally authorized to practice chiropractic under 53841
Chapter 4734. of the Revised Code, psychologists who are licensed, 53842
certificated, or otherwise legally authorized to practice 53843
psychology under Chapter 4732. of the Revised Code, registered or 53844
licensed practical nurses who are licensed, certificated, or 53845
otherwise legally authorized to practice nursing under Chapter 53846
4723. of the Revised Code, pharmacists who are licensed, 53847
certificated, or otherwise legally authorized to practice pharmacy 53848
under Chapter 4729. of the Revised Code, physical therapists who 53849
are licensed, certificated, or otherwise legally authorized to 53850
practice physical therapy under sections 4755.40 to 4755.53 of the 53851
Revised Code, mechanotherapists who are licensed, certificated, or 53852
otherwise legally authorized to practice mechanotherapy under 53853
section 4731.151 of the Revised Code, and doctors of medicine and 53854
surgery, osteopathic medicine and surgery, or podiatric medicine 53855
and surgery who are licensed, certificated, or otherwise legally 53856
authorized for their respective practices under this chapter, to 53857
which all of the following apply: 53858

(a) Each physician who is a member of the group practice 53859
provides substantially the full range of services that the 53860
physician routinely provides, including medical care, 53861
consultation, diagnosis, or treatment, through the joint use of 53862
shared office space, facilities, equipment, and personnel. 53863

(b) Substantially all of the services of the members of the 53864
group are provided through the group and are billed in the name of 53865
the group and amounts so received are treated as receipts of the 53866
group. 53867

(c) The overhead expenses of and the income from the practice 53868
are distributed in accordance with methods previously determined 53869
by members of the group. 53870

(d) The group practice meets any other requirements that the 53871
state medical board applies in rules adopted under section 4731.70 53872
of the Revised Code. 53873

(2) In the case of a faculty practice plan associated with a 53874
hospital with a medical residency training program in which 53875
physician members may provide a variety of specialty services and 53876
provide professional services both within and outside the group, 53877
as well as perform other tasks such as research, the criteria in 53878
division (E)(1) of this section apply only with respect to 53879
services rendered within the faculty practice plan. 53880

(F) "Home health care services" and "immediate family" have 53881
the same meanings as in the rules adopted under section 4731.70 of 53882
the Revised Code. 53883

(G) "Hospital" has the same meaning as in section 3727.01 of 53884
the Revised Code. 53885

(H) A "referral" includes both of the following: 53886

(1) A request by a holder of a certificate under this chapter 53887
for an item or service, including a request for a consultation 53888
with another physician and any test or procedure ordered by or to 53889
be performed by or under the supervision of the other physician; 53890

(2) A request for or establishment of a plan of care by a 53891
certificate holder that includes the provision of designated 53892
health services. 53893

(I) "Third-party payer" has the same meaning as in section 53894
3901.38 of the Revised Code. 53895

Sec. 4731.71. The auditor of state may implement procedures 53896
to detect violations of section 4731.66 or 4731.69 of the Revised 53897

Code within governmental health care programs administered by the 53898
state. The auditor of state shall report any violation of either 53899
section to the state medical board and shall certify to the 53900
attorney general in accordance with section 131.02 of the Revised 53901
Code the amount of any refund owed to a state-administered 53902
governmental health care program under section 4731.69 of the 53903
Revised Code as a result of a violation. If a refund is owed to 53904
the medical assistance program established under Chapter 5111. of 53905
the Revised Code ~~or the disability medical assistance program~~ 53906
~~established under Chapter 5115. of the Revised Code~~, the auditor 53907
of state also shall report the amount to the department of 53908
commerce. 53909

The state medical board also may implement procedures to 53910
detect violations of section 4731.66 or 4731.69 of the Revised 53911
Code. 53912

Sec. 4736.11. The state board of sanitarian registration 53913
shall issue a certificate of registration to any applicant whom it 53914
registers as a sanitarian or a sanitarian-in-training. Such 53915
certificate shall bear: 53916

(A) The name of the person; 53917

(B) The date of issue; 53918

(C) A serial number, designated by the board; 53919

(D) The seal of the board and signature of the ~~chairman~~ 53920
chairperson of the board; 53921

(E) The designation "registered sanitarian" or 53922
"sanitarian-in-training." 53923

Certificates of registration shall expire annually on the 53924
date fixed by the board and become invalid on that date unless 53925
renewed pursuant to this section. All registered sanitarians shall 53926
be required annually to complete a continuing education program in 53927

subjects relating to practices of the profession as a sanitarian 53928
to the end that the utilization and application of new techniques, 53929
scientific advancements, and research findings will assure 53930
comprehensive service to the public. The board shall prescribe by 53931
rule a continuing education program for registered sanitarians to 53932
meet this requirement. The length of study for this program shall 53933
be determined by the board but shall be not less than six nor more 53934
than twenty-five hours during the calendar year. At least once 53935
annually the board shall ~~mail~~ provide to each registered 53936
sanitarian a list of courses approved by the board as satisfying 53937
the program prescribed by rule. Upon the request of a registered 53938
sanitarian, the secretary shall supply a list of ~~any additional~~ 53939
applicable courses that the board has approved ~~since the most~~ 53940
~~recent mailing~~. A certificate may be renewed for a period of one 53941
year at any time prior to the date of expiration upon payment of 53942
the renewal fee prescribed by section 4736.12 of the Revised Code 53943
and upon showing proof of having complied with the continuing 53944
education requirements of this section. The state board of 53945
sanitarian registration may waive the continuing education 53946
requirement in cases of certified illness or disability which 53947
prevents the attendance at any qualified educational seminars 53948
during the twelve months immediately preceding the annual 53949
certificate of registration renewal date. Certificates which 53950
expire may be reinstated under rules adopted by the board. 53951

Sec. 4736.12. (A) The state board of sanitarian registration 53952
shall charge the following fees: 53953

(1) To apply as a sanitarian-in-training, ~~seventy-five~~ eighty 53954
dollars; 53955

(2) For sanitarians-in-training to apply for registration as 53956
sanitarians, ~~seventy-five~~ eighty dollars. The applicant shall pay 53957
this fee only once regardless of the number of times the applicant 53958

takes an examination required under section 4736.08 of the Revised Code. 53959
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(3) For persons other than sanitarians-in-training to apply for registration as sanitarians, including persons meeting the requirements of section 4736.16 of the Revised Code, one hundred ~~fifty~~ sixty dollars. The applicant shall pay this fee only once regardless of the number of times the applicant takes an examination required under section 4736.08 of the Revised Code. 53961
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(4) The renewal fee for registered sanitarians shall be ~~sixty-nine~~ seventy-four dollars. 53967
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(5) The renewal fee for sanitarians-in-training shall be ~~sixty-nine~~ seventy-four dollars. 53969
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(6) For late application for renewal, ~~twenty-five~~ twenty-seven dollars. 53971
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The board of sanitarian registration, with the approval of the controlling board, may establish fees in excess of the amounts provided in this section, provided that such fees do not exceed the amounts permitted by this section by more than fifty per cent. 53973
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(B) The board of sanitarian registration shall charge separate fees for examinations as required by section 4736.08 of the Revised Code, provided that the fees are not in excess of the actual cost to the board of conducting the examinations. 53977
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(C) The board of sanitarian registration may adopt rules establishing fees for all of the following: 53981
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(1) Application for the registration of a training agency approved under rules adopted by the board pursuant to section 4736.11 of the Revised Code and for the annual registration renewal of an approved training agency. 53983
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(2) Application for the review of continuing education hours submitted for the board's approval by approved training agencies 53987
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or by registered sanitarians or sanitarians-in-training. 53989

Sec. 4740.14. (A) There is hereby created within the 53990
department of commerce the residential construction advisory 53991
committee consisting of ~~eight~~ nine persons the director of 53992
commerce appoints. Of the advisory committee's members, three 53993
shall be general contractors who have recognized ability and 53994
experience in the construction of residential buildings, two shall 53995
be building officials who have experience administering and 53996
enforcing a residential building code, one, chosen from a list of 53997
three names the Ohio fire chief's association submits, shall be 53998
from the fire service certified as a fire safety inspector who has 53999
at least ten years of experience enforcing fire or building codes, 54000
one shall be a residential contractor who has recognized ability 54001
and experience in the remodeling and construction of residential 54002
buildings, ~~and~~ one shall be an architect registered pursuant to 54003
Chapter 4703. of the Revised Code, with recognized ability and 54004
experience in the architecture of residential buildings, and one, 54005
chosen from a list of three names the Ohio municipal league 54006
submits to the director, shall be a mayor of a municipal 54007
corporation in which the Ohio residential building code is being 54008
enforced in the municipal corporation by a certified building 54009
department. 54010

(B) The director shall make appointments to the advisory 54011
committee within ninety days after ~~the effective date of this~~ 54012
~~section~~ May 27, 2005. Terms of office shall be for three years, 54013
with each term ending on the date three years after the date of 54014
appointment. Each member shall hold office from the date of 54015
appointment until the end of the term for which the member was 54016
appointed. The director shall fill a vacancy in the manner 54017
provided for initial appointments. Any member appointed to fill a 54018
vacancy in an unexpired term shall hold office for the remainder 54019
of that term. 54020

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| (C) The advisory committee shall do all of the following: | 54021 |
| (1) Recommend to the board of building standards a building code for residential buildings. The committee shall recommend a code that it models on a residential building code a national model code organization issues, with adaptations necessary to implement the code in this state. If the board of building standards decides not to adopt a code the committee recommends, the committee shall revise the code and resubmit it until the board adopts a code the committee recommends as the state residential building code; | 54022 54023 54024 54025 54026 54027 54028 54029 54030 |
| (2) Advise the board regarding the establishment of standards for certification of building officials who enforce the state residential building code; | 54031 54032 54033 |
| (3) Assist the board in providing information and guidance to residential contractors and building officials who enforce the state residential building code; | 54034 54035 54036 |
| (4) Advise the board regarding the interpretation of the state residential building code; | 54037 54038 |
| (5) Provide other assistance the committee considers necessary. | 54039 54040 |
| (D) In making its recommendation to the board pursuant to division (C)(1) of this section, the advisory committee shall consider all of the following: | 54041 54042 54043 |
| (1) The impact that the state residential building code may have upon the health, safety, and welfare of the public; | 54044 54045 |
| (2) The economic reasonableness of the residential building code; | 54046 54047 |
| (3) The technical feasibility of the residential building code; | 54048 54049 |
| (4) The financial impact that the residential building code | 54050 |

may have on the public's ability to purchase affordable housing. 54051

(E) Members of the advisory committee shall receive no salary 54052
for the performance of their duties as members, but shall receive 54053
their actual and necessary expenses incurred in the performance of 54054
their duties as members of the advisory committee and shall 54055
receive a per diem for each day in attendance at an official 54056
meeting of the committee, to be paid from the industrial 54057
compliance operating fund in the state treasury, using fees 54058
collected in connection with residential buildings pursuant to 54059
division (F)(2) of section 3781.102 of the Revised Code and 54060
deposited in that fund. 54061

(F) The advisory committee is not subject to divisions (A) 54062
and (B) of section 101.84 of the Revised Code. 54063

Sec. 4753.03. There is hereby created the board of 54064
speech-language pathology and audiology consisting of eight 54065
residents of this state to be appointed by the governor with the 54066
advice and consent of the senate. Three members of the board shall 54067
be licensed speech-language pathologists, and three members shall 54068
be licensed audiologists, who have been licensed and engaged in 54069
the practice, teaching, administration, or research in the area of 54070
appointment for at least five years prior to the dates of their 54071
appointment. Beginning with the first appointment of an 54072
audiologist to the board after ~~the effective date of this~~ 54073
~~amendment~~ November 5, 1992, at all times one of the audiologists 54074
serving on the board must be an audiologist engaged in the 54075
practice of fitting and dispensing hearing aids. At all times, two 54076
members shall be representatives of the general public, and 54077
neither shall be a speech-language pathologist or audiologist or a 54078
person licensed under this chapter. At least one of the members 54079
representing the general public shall be at least sixty years of 54080
age. ~~Any speech language pathologists and audiologists among the~~ 54081

~~initial appointees shall have at least a bachelor's degree in 54082
speech language pathology or audiology and shall meet the 54083
standards for licensure, other than examination, established by 54084
section 4753.06 or 4753.08 of the Revised Code. Any 54085
speech language pathologist or audiologist appointed to the board 54086
after the effective date of this amendment, must hold a master's 54087
or doctorate degree. 54088~~

Terms of office shall be for three years, each term 54089
commencing on the twenty-seventh day of September and ending on 54090
the twenty-sixth day of September. Each member shall hold office 54091
from the date of ~~his~~ appointment until the end of the term for 54092
which ~~he was~~ appointed. Any member appointed to fill a vacancy 54093
occurring prior to the expiration of the term for which ~~his~~ the 54094
member's predecessor was appointed shall hold office for the 54095
remainder of such term. Any member shall continue in office 54096
subsequent to the expiration date of ~~his~~ the member's term until 54097
~~his~~ the member's successor takes office, or until a period of 54098
sixty days has elapsed, whichever occurs first. No person shall be 54099
appointed to serve consecutively more than two full terms. The 54100
executive council of the Ohio speech and hearing association may 54101
recommend, within forty-five days after any vacancy or expiration 54102
of a member's term occurs, no more than three persons to fill each 54103
position or vacancy on the board, and the governor may make ~~his~~ 54104
the appointment from the persons so recommended. If the council 54105
fails to make recommendations within the required time, the 54106
governor shall make the appointment without its recommendations. 54107

The terms of all speech-language pathology members shall not 54108
end in the same year; the terms of all audiology members shall not 54109
end in the same year. Upon the first appointment following ~~the~~ 54110
~~effective date of this amendment~~ November 5, 1992, the governor 54111
shall appoint speech-language pathology members and audiology 54112
members to one-, two-, or three-year terms to prevent the terms of 54113

all speech-language pathology members or all audiology members 54114
from ending in the same year. Thereafter, all terms shall be for 54115
three years. 54116

Sec. 4753.06. No person is eligible for licensure as a 54117
speech-language pathologist or audiologist unless: 54118

(A) ~~He~~ The person has obtained a broad general education to 54119
serve as a background for ~~his~~ the person's specialized academic 54120
training and preparatory professional experience. Such background 54121
may include study from among the areas of human psychology, 54122
sociology, psychological and physical development, the physical 54123
sciences, especially those that pertain to acoustic and biological 54124
phenomena, and human anatomy and physiology, including 54125
neuroanatomy and neurophysiology. 54126

(B) ~~He~~ If the person seeks licensure as a speech-language 54127
pathologist, the person submits to the board of speech-language 54128
pathology and audiology an official transcript demonstrating that 54129
~~he~~ the person has at least a master's degree in ~~the area in which~~ 54130
~~licensure is sought~~ speech-language pathology or the equivalent as 54131
determined by the board. ~~His~~ The person's academic credit must 54132
include course work accumulated in the completion of a 54133
well-integrated course of study approved by the board and 54134
delineated by rule dealing with the normal aspects of human 54135
communication, development and disorders thereof, and clinical 54136
techniques for the evaluation and the improvement or eradication 54137
of such disorders. The course work must have been completed at 54138
colleges or universities accredited by regional or national 54139
accrediting organizations recognized by the board. 54140

(C) ~~He~~ If the person seeks licensure as an audiologist, the 54141
person submits to the board an official transcript demonstrating 54142
that the person has at least a doctor of audiology degree or the 54143
equivalent as determined by the board. The person's academic 54144

credit must include course work accumulated in the completion of a 54145
well-integrated course of study approved by the board and 54146
delineated by rules dealing with the normal aspects of human 54147
hearing, balance, and related development and clinical evaluation, 54148
audiologic diagnosis, and treatment of disorders of human hearing, 54149
balance, and related development. The course work must have been 54150
completed in an audiology program that is accredited by an 54151
organization recognized by the United States department of 54152
education and operated by a college or university accredited by a 54153
regional or national accrediting organization recognized by the 54154
board. 54155

(D) The person submits to the board evidence of the 54156
completion of appropriate, supervised clinical experience in the 54157
professional area, speech-language pathology or audiology, for 54158
which licensure is requested, dealing with a variety of 54159
communication disorders. The appropriateness of the experience 54160
shall be determined under rules of the board. This experience 54161
shall have been obtained in an accredited college or university, 54162
in a cooperating program of an accredited college or university, 54163
or in another program approved by the board. 54164

~~(D) He~~ (E) The person submits to the board evidence that the 54165
person has passed the examination for licensure to practice 54166
speech-language pathology or audiology pursuant to division (B) of 54167
section 4753.05 of the Revised Code. 54168

(F) If the person submits to the board an application for 54169
licensure as an audiologist before January 1, 2006, and meets the 54170
requirements of division (B) of this section regarding a master's 54171
degree in audiology as that division existed on December 31, 2005, 54172
but not the requirements of division (C) of this section regarding 54173
a doctor of audiology degree or if the person seeks licensure as a 54174
speech-language pathologist, the person presents to the board 54175
written evidence that ~~he~~ the person has obtained professional 54176

experience. The professional experience shall be appropriately 54177
supervised as determined by board rule. The amount of professional 54178
experience shall be determined by board rule and shall be bona 54179
fide clinical work that has been accomplished in the major 54180
professional area, speech-language pathology or audiology, in 54181
which licensure is being sought. ~~This~~ If the person seeks 54182
licensure as a speech-language pathologist, this experience shall 54183
not begin until the requirements of divisions (B) ~~and (C), (D),~~ 54184
~~and (E)~~ of this section have been completed unless approved by the 54185
board. If the person seeks licensure as an audiologist, this 54186
experience shall not begin until the requirements of division (B) 54187
of this section, as that division existed on December 31, 2005, 54188
and divisions (D) and (E) of this section have been completed 54189
unless approved by the board. Before beginning the supervised 54190
professional experience pursuant to this section, ~~any~~ the 54191
applicant for licensure to practice speech-language pathology or 54192
audiology shall ~~meet the requirements for~~ obtain a conditional 54193
license pursuant to section 4753.071 of the Revised Code. 54194

~~(E) He submits to the board evidence that he has passed the~~ 54195
~~examination for licensure to practice speech language pathology or~~ 54196
~~audiology pursuant to division (B) of section 4753.05 of the~~ 54197
~~Revised Code.~~ 54198

Sec. 4753.071. A person who is required to meet the 54199
supervised professional experience requirement of division (F) of 54200
section 4753.06 of the Revised Code shall submit to the board of 54201
speech-language pathology and audiology an application for a 54202
conditional license. The application shall include a plan for the 54203
content of the supervised professional experience on a form the 54204
board shall prescribe. The board of ~~speech language pathology and~~ 54205
~~audiology~~ shall issue a the conditional license to ~~an~~ the 54206
applicant ~~who, except for the supervised professional experience+~~ 54207

~~(A) Meets if the applicant meets the academic, practicum, and examination requirements of divisions (B), (C), and (E) of section 4753.06 of the Revised Code.~~ 54208
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~~(B) Submits an application to the board, including a plan for the content of the supervised professional experience on a form prescribed by the board, other than the requirement to have obtained the supervised professional experience, and pays to the board the appropriate fee for a conditional license. An applicant may not begin employment until the conditional license has been approved issued.~~ 54211
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A conditional license authorizes an individual to practice speech-language pathology or audiology while completing the supervised professional experience as required by division ~~(D)~~(E) of section 4753.06 of the Revised Code. A person holding a conditional license may practice speech-language pathology or audiology while working under the supervision of a person fully licensed in accordance with this chapter. A conditional license is valid for eighteen months unless suspended or revoked pursuant to section 3123.47 or 4753.10 of the Revised Code. 54218
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A person holding a conditional license may perform services for which reimbursement will be sought under the medicare program established under Title XVIII of the "Social Security Act," ~~49~~ 79 Stat. ~~620~~ 286 (~~1935~~ 1965), 42 U.S.C. ~~301~~ 1395, as amended, or the ~~medical assistance~~ medicaid program established under Chapter 5111. of the Revised Code ~~and Title XIX of the "Social Security Act"~~ but all requests for reimbursement for such services shall be made by the person who supervises the person performing the services. 54227
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Sec. 4753.08. The board of speech-language pathology and audiology shall waive the examination, educational, and professional experience requirements for any applicant who meets 54236
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any of the following requirements: 54239

(A) On September 26, 1975, has at least a bachelor's degree 54240
with a major in speech-language pathology or audiology from an 54241
accredited college or university, or who has been employed as a 54242
speech-language pathologist or audiologist for at least nine 54243
months at any time within the three years prior to September 26, 54244
1975, if an application providing bona fide proof of such degree 54245
or employment is filed with the board within one year after 54246
September 26, 1975, and is accompanied by the application fee as 54247
prescribed in division (A) of section 4753.11 of the Revised Code; 54248

(B) Presents proof of current certification or licensure in 54249
good standing in the area in which licensure is sought in a state 54250
which that has standards at least equal to those the standards for 54251
licensure that are in effect in this state at the time the 54252
applicant applies for the license; 54253

(C) Presents proof of both of the following: 54254

(1) Having current certification or licensure in good 54255
standing in audiology in a state that has standards at least equal 54256
to the standards for licensure as an audiologist that were in 54257
effect in this state on December 31, 2005; 54258

(2) Having first obtained that certification or licensure not 54259
later than December 31, 2007. 54260

(D) Presents proof of a current certificate of clinical 54261
competence in speech-language pathology or audiology that is in 54262
good standing and received from the American 54263
speech-language-hearing association in the area in which licensure 54264
is sought. 54265

Sec. 4753.09. Except as provided in this section and in 54266
section 4753.10 of the Revised Code, a license issued by the board 54267
of speech-language pathology and audiology shall be renewed 54268

biennially in accordance with the standard renewal procedure 54269
contained in Chapter 4745. of the Revised Code. If the application 54270
for renewal is made ~~after~~ one year or longer after the renewal 54271
application is due, the person shall apply for licensure as 54272
provided in section 4753.06 or division (B) ~~or~~ (C), or (D) of 54273
section 4753.08 of the Revised Code. The board shall not renew a 54274
conditional license; however, the board may grant an applicant a 54275
second conditional license. 54276

The board shall establish by rule adopted pursuant to Chapter 54277
119. of the Revised Code the qualifications for license renewal. 54278
Applicants shall demonstrate continued competence, which may 54279
include continuing education, examination, self-evaluation, peer 54280
review, performance appraisal, or practical simulation. The board 54281
may establish other requirements as a condition for license 54282
renewal as considered appropriate by the board. 54283

The board may renew a license which expires while the license 54284
is suspended, but the renewal shall not affect the suspension. The 54285
board shall not renew a license which has been revoked. If a 54286
revoked license is reinstated under section 4753.10 of the Revised 54287
Code after it has expired, the licensee, as a condition of 54288
reinstatement, shall pay a reinstatement fee in the amount equal 54289
to the renewal fee in effect on the last preceding regular renewal 54290
date on which it is reinstated, plus any delinquent fees accrued 54291
from the time of the revocation, if such a fee is prescribed by 54292
the board by rule. ~~A license shall not be renewed six years after~~ 54293
~~the initial date on which the license was granted for a person~~ 54294
~~initially licensed by exemption until that person presents to the~~ 54295
~~board proof of completion of the following requirements:~~ 54296

~~(A) Upon presentation of proof of a bachelor's degree with a~~ 54297
~~major in the area of licensure or successful completion of at~~ 54298
~~least eighteen semester hours of academic credit, or its~~ 54299
~~equivalent as determined by the board by rule for colleges and~~ 54300

~~universities not using semesters, accumulated from accredited 54301
colleges and universities. These eighteen semester hours shall be 54302
in a variety of courses that provide instruction related to the 54303
nature of communication disorders and present information 54304
pertaining to and training in the evaluation and management of 54305
speech, language, and hearing disorders and shall be in the 54306
professional area, speech language pathology or audiology, for 54307
which licensure is requested. 54308~~

~~(B) Successful completion of at least one hundred fifty clock 54309
hours of appropriately supervised, as determined by board rule, 54310
clinical experience in the professional area, speech language 54311
pathology or audiology, for which licensure is requested, with 54312
individuals who present a variety of communication disorders, and 54313
the experience shall have been obtained under the supervision of a 54314
licensed speech language pathologist or audiologist, or within 54315
another program approved by the board. 54316~~

Sec. 4755.03. There is hereby created the Ohio occupational 54317
therapy, physical therapy, and athletic trainers board consisting 54318
of sixteen residents of this state, who shall be appointed by the 54319
governor with the advice and consent of the senate. The board 54320
shall be composed of a physical therapy section, an occupational 54321
therapy section, and an athletic trainers section. 54322

Five members of the board shall be physical therapists who 54323
are licensed to practice physical therapy and who have been 54324
engaged in or actively associated with the practice of physical 54325
therapy in this state for at least five years immediately 54326
preceding appointment. Such members of the board shall sit on the 54327
physical therapy section. The physical therapy section also shall 54328
consist of four additional members, appointed by the governor with 54329
the advice and consent of the senate, who satisfy the same 54330
qualifications as the members of the board sitting on the physical 54331

therapy section, but who are not members of the board. Such 54332
additional members of the physical therapy section are vested with 54333
only such powers and shall perform only such duties as relate to 54334
the affairs of that section, shall serve for the same terms as do 54335
members of the board sitting on the physical therapy section, and 54336
shall subscribe to and file with the secretary of state the 54337
constitutional oath of office. 54338

~~Five~~ Four members of the board shall be occupational 54339
therapists ~~who~~ and one member shall be a licensed occupational 54340
therapy assistant, all of whom have been engaged in or actively 54341
associated with the practice of occupational therapy or practice 54342
as an occupational therapy assistant in this state for at least 54343
five years immediately preceding appointment. Such members of the 54344
board shall sit on the occupational therapy section. 54345

Four members of the board shall be athletic trainers who have 54346
been engaged in the practice of athletic training in Ohio for at 54347
least five years immediately preceding appointment. One member of 54348
the board shall be a physician licensed to practice medicine and 54349
surgery in this state. Such members of the board shall sit on the 54350
athletic trainers section. 54351

One member of the board shall represent the public and shall 54352
be at least sixty years of age. This member shall sit on the 54353
board. 54354

Terms of office are for three years, each term commencing on 54355
the twenty-eighth day of August and ending on the twenty-seventh 54356
day of August. Each member shall serve subsequent to the 54357
expiration of ~~his~~ the member's term until ~~his~~ the member's 54358
successor is appointed and qualifies, or until a period of sixty 54359
days has elapsed, whichever occurs first. Each member, before 54360
entering upon ~~the~~ official duties ~~of his office~~, shall subscribe 54361
to and file with the secretary of state the constitutional oath of 54362
office. All vacancies shall be filled in the manner prescribed for 54363

the regular appointments to the board and are limited to the 54364
unexpired terms. 54365

Annually, upon the qualification of the member or members 54366
appointed in that year, the board shall organize by selecting from 54367
its members a president and secretary. Each section of the board 54368
shall organize by selecting from its members a ~~chairman~~ 54369
chairperson and secretary. 54370

The majority of the members of the board constitutes a quorum 54371
to transact and vote on the business of the board. A majority of 54372
the members of each section constitutes a quorum to transact and 54373
vote on the affairs of that section. 54374

Each member of the board and each additional member of the 54375
physical therapy section shall receive an amount fixed pursuant to 54376
division (J) of section 124.15 of the Revised Code for each day 54377
employed in the discharge of ~~his~~ official duties. In addition, 54378
each member of the board and each additional member of the 54379
physical therapy section shall receive ~~his~~ the member's actual and 54380
necessary expenses incurred in the performance of ~~his~~ official 54381
duties. 54382

The board of trustees of the Ohio occupational therapy 54383
association, inc., may recommend, after any term expires or 54384
vacancy occurs in an occupational therapy position, at least three 54385
persons to fill each such position or vacancy on the board, and 54386
the governor may make ~~his~~ the appointment from the persons so 54387
recommended. The executive board of the Ohio chapter, inc., of the 54388
American physical therapy association may recommend, after any 54389
term expires or vacancy occurs in a physical therapy position, at 54390
least three persons to fill each such vacancy on the board, and 54391
the governor may make ~~his~~ appointments from the persons so 54392
recommended. The Ohio athletic trainers association shall 54393
recommend to the governor at least three persons for each of the 54394
initial appointments to an athletic trainer's position. The Ohio 54395

athletic trainers association shall also recommend to the governor 54396
at least three persons when any term expires or any vacancy occurs 54397
in such a position. The governor may select one of the 54398
association's recommendations in making such an appointment. 54399

The board shall meet as a whole to determine all 54400
administrative, personnel, and budgetary matters. The executive 54401
director of the board appointed by the board shall not be a 54402
physical therapist, an occupational therapist, or an athletic 54403
trainer who has been licensed to practice physical therapy, 54404
occupational therapy, or as an athletic trainer in this state 54405
within three years immediately preceding appointment. The 54406
executive director shall serve at the pleasure of the board. 54407

The occupational therapy section of the board shall have the 54408
full authority to act on behalf of the board on all matters 54409
concerning the practice of occupational therapy and, in 54410
particular, the examination, licensure, and suspension or 54411
revocation of licensure of applicants, occupational therapists, 54412
and occupational therapy assistants. The physical therapy section 54413
of the board shall have the full authority to act on behalf of the 54414
board on all matters concerning the practice of physical therapy 54415
and, in particular, the examination, licensure, and suspension or 54416
revocation of licensure of applicants, physical therapists, and 54417
physical therapist assistants. The athletic trainers section of 54418
the board shall have the full authority to act on behalf of the 54419
board on all matters concerning the practice of athletic training 54420
and, in particular, the examination, licensure, and suspension or 54421
revocation of licensure of applicants and athletic trainers. All 54422
actions taken by any section of the board under this paragraph 54423
shall be in accordance with Chapter 119. of the Revised Code. 54424

Sec. 4755.48. (A) No person shall employ fraud or deception 54425
in applying for or securing a license to practice physical therapy 54426

or to be a physical therapist assistant. 54427

(B) No person shall practice or in any way claim to the 54428
public to be able to practice physical therapy, including practice 54429
as a physical therapist assistant, unless the person holds a valid 54430
license under sections 4755.40 to 4755.56 of the Revised Code or 54431
except as provided in section 4755.56 of the Revised Code. 54432

(C) No person shall use the words or letters, physical 54433
therapist, physical therapy, physiotherapist, licensed physical 54434
therapist, P.T., Ph.T., P.T.T., R.P.T., L.P.T., M.P.T., D.P.T., 54435
M.S.P.T., P.T.A., physical therapy assistant, physical therapist 54436
assistant, physical therapy technician, licensed physical 54437
therapist assistant, L.P.T.A., R.P.T.A., or any other letters, 54438
words, abbreviations, or insignia, indicating or implying that the 54439
person is a physical therapist or physical therapist assistant 54440
without a valid license under sections 4755.40 to 4755.56 of the 54441
Revised Code. 54442

(D) No person who practices physical therapy or assists in 54443
the provision of physical therapy treatments under the supervision 54444
of a physical therapist shall fail to display the person's current 54445
license granted under sections 4755.40 to 4755.56 of the Revised 54446
Code in a conspicuous location in the place where the person 54447
spends the major part of the person's time so engaged. 54448

(E) Nothing in sections 4755.40 to 4755.56 of the Revised 54449
Code shall affect or interfere with the performance of the duties 54450
of any physical therapist or physical therapist assistant in 54451
active service in the army, navy, coast guard, marine corps, air 54452
force, public health service, or marine hospital service of the 54453
United States, while so serving. 54454

(F) No person shall practice physical therapy other than on 54455
the prescription of, or the referral of a patient by, a person who 54456
is licensed in this or another state to practice medicine and 54457

surgery, chiropractic, dentistry, osteopathic medicine and 54458
surgery, podiatric medicine and surgery, or to practice nursing as 54459
a certified registered nurse anesthetist, clinical nurse 54460
specialist, certified nurse-midwife, or certified nurse 54461
practitioner, within the scope of such practices, and whose 54462
license is in good standing, unless either of the following 54463
conditions is met: 54464

(1) The person holds a master's or doctorate degree from a 54465
professional physical therapy program that is accredited by a 54466
national accreditation agency recognized by the United States 54467
department of education and by the Ohio occupational therapy, 54468
physical therapy, and athletic trainers board. 54469

(2) On or before December 31, ~~2003~~ 2004, the person has 54470
completed at least two years of practical experience as a licensed 54471
physical therapist. 54472

(G) In the prosecution of any person for violation of 54473
division (B) or (C) of this section, it is not necessary to allege 54474
or prove want of a valid license to practice physical therapy or 54475
to practice as a physical therapist assistant, but such matters 54476
shall be a matter of defense to be established by the accused. 54477

Sec. 4766.09. (A) This chapter does not apply to any of the 54478
following: 54479

~~(A)~~(1) A person rendering services with an ambulance in the 54480
event of a disaster situation when licensees' vehicles based in 54481
the locality of the disaster situation are incapacitated or 54482
insufficient in number to render the services needed; 54483

~~(B)~~(2) Any person operating an ambulance, ambulette, 54484
rotorcraft air ambulance, or fixed wing air ambulance outside this 54485
state unless receiving a person within this state for transport to 54486
a location within this state; 54487

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|---|--|
| (C) (3) A publicly owned or operated emergency medical service organization and the vehicles it owns or leases and operates, except as provided in section 307.051, division (G) of section 307.055, division (F) of section 505.37, division (B) of section 505.375, and division (B)(3) of section 505.72 of the Revised Code; | 54488 54489 54490 54491 54492 54493 |
| (D) (4) An ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, or nontransport vehicle owned or leased and operated by the federal government; | 54494 54495 54496 |
| (E) (5) A publicly owned and operated fire department vehicle; | 54497 |
| (F) (6) Emergency vehicles owned by a corporation and operating only on the corporation's premises, for the sole use by that corporation; | 54498 54499 54500 |
| (G) (7) An ambulance, nontransport vehicle, or other emergency medical service organization vehicle owned and operated by a municipal corporation; | 54501 54502 54503 |
| (H) (8) A motor vehicle titled in the name of a volunteer rescue service organization, as defined in section 4503.172 of the Revised Code; | 54504 54505 54506 |
| (I) (9) A public emergency medical service organization; | 54507 |
| (J) (10) A fire department, rescue squad, or life squad comprised of volunteers who provide services without expectation of remuneration and do not receive payment for services other than reimbursement for expenses; | 54508 54509 54510 54511 |
| (K) (11) A private, nonprofit emergency medical service organization when fifty per cent or more of its personnel are volunteers, as defined in section 4765.01 of the Revised Code; | 54512 54513 54514 |
| (L) (12) Emergency medical service personnel who are regulated by the state board of emergency medical services under Chapter 4765. of the Revised Code; | 54515 54516 54517 |

~~(M)~~(13) A public nonemergency medical service organization. 54518

(B) Except for the requirements specified in section 4766.14 of the Revised Code, this chapter does not apply to an ambulette service provider operating under standards adopted by rule by the department of aging, but only during the period of time on any day that the provider is solely serving the department or the department's designee. This chapter applies to an ambulette service provider at any time that the ambulette service provider is not solely serving the department or the department's designee. 54519
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Sec. 4766.14. (A) An ambulette service provider described in division (B) of section 4766.09 of the Revised Code shall do all of the following: 54527
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(1) Make available to all its ambulette drivers while operating ambulette vehicles a means of two-way communication using either ambulette vehicle radios or cellular telephones; 54530
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(2) Equip every ambulette vehicle with one isolation and biohazard disposal kit that is permanently installed or secured in the vehicle's cabin; 54533
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(3) Before hiring an applicant for employment as an ambulette driver, obtain all of the following: 54536
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(a) A valid copy of a signed statement from a licensed physician acting within the scope of the physician's practice declaring that the applicant does not have a medical condition or physical condition, including vision impairment that cannot be corrected, that could interfere with safe driving, passenger assistance, and emergency treatment activity or could jeopardize the health and welfare of a client or the general public; 54538
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(b) All of the certificates and results required under divisions (A)(2), (3), and (4) of section 4766.15 of the Revised Code. 54545
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(B) No ambulette service provider described in division (B) of section 4766.09 of the Revised Code shall employ an applicant as an ambulette driver if the applicant has six or more points on the applicant's driving record pursuant to section 4510.036 of the Revised Code.

(C) The department of aging shall administer and enforce this section.

Sec. 4905.10. (A) For the sole purpose of maintaining and administering the public utilities commission and exercising its supervision and jurisdiction over the railroads and public utilities of this state, an amount equivalent to the appropriation from the public utilities fund created under division (B) of this section to the public utilities commission for railroad and public utilities regulation in each fiscal year shall be apportioned among and assessed against each railroad and public utility within this state by the commission by first computing an assessment as though it were to be made in proportion to the intrastate gross earnings or receipts, excluding earnings or receipts from sales to other public utilities for resale, of the railroad or public utility for the calendar year next preceding that in which the assessment is made. The commission may include in that first computation any amount of a railroad's or public utility's intrastate gross earnings or receipts that were underreported in a prior year. In addition to whatever penalties apply under the Revised Code to such underreporting, the commission shall assess the railroad or public utility interest at the rate stated in division (A) of section 1343.01 of the Revised Code. The commission shall deposit any interest so collected into the public utilities fund. The commission may exclude from that first computation any such amounts that were overreported in a prior year.

The final computation of the assessment shall consist of 54579
imposing upon each railroad and public utility whose assessment 54580
under the first computation would have been ~~fifty~~ one hundred 54581
dollars or less an assessment of ~~fifty~~ one hundred dollars and 54582
recomputing the assessments of the remaining railroads and public 54583
utilities by apportioning an amount equal to the appropriation to 54584
the public utilities commission for administration of the 54585
utilities division in each fiscal year less the total amount to be 54586
recovered from those paying the minimum assessment, in proportion 54587
to the intrastate gross earnings or receipts of the remaining 54588
railroads and public utilities for the calendar year next 54589
preceding that in which the assessments are made. 54590

In the case of an assessment based on intrastate gross 54591
receipts under this section against a public utility that is an 54592
electric utility as defined in section 4928.01 of the Revised 54593
Code, or an electric services company, electric cooperative, or 54594
governmental aggregator subject to certification under section 54595
4928.08 of the Revised Code, such receipts shall be those 54596
specified in the utility's, company's, cooperative's, or 54597
aggregator's most recent report of intrastate gross receipts and 54598
sales of kilowatt hours of electricity, filed with the commission 54599
pursuant to division (F) of section 4928.06 of the Revised Code, 54600
and verified by the commission. 54601

In the case of an assessment based on intrastate gross 54602
receipts under this section against a retail natural gas supplier 54603
or governmental aggregator subject to certification under section 54604
4929.20 of the Revised Code, such receipts shall be those 54605
specified in the supplier's or aggregator's most recent report of 54606
intrastate gross receipts and sales of hundred cubic feet of 54607
natural gas, filed with the commission pursuant to division (B) of 54608
section 4929.23 of the Revised Code, and verified by the 54609
commission. However, no such retail natural gas supplier or such 54610

governmental aggregator serving or proposing to serve customers of 54611
a particular natural gas company, as defined in section 4929.01 of 54612
the Revised Code, shall be assessed under this section until after 54613
the commission, pursuant to section 4905.26 or 4909.18 of the 54614
Revised Code, has removed from the base rates of the natural gas 54615
company the amount of assessment under this section that is 54616
attributable to the value of commodity sales service, as defined 54617
in section 4929.01 of the Revised Code, in the base rates paid by 54618
those customers of the company that do not purchase that service 54619
from the natural gas company. 54620

(B) ~~On~~ Through calendar year 2005, on or before the first day 54621
of October in each year, the commission shall notify each such 54622
railroad and public utility of the sum assessed against it, 54623
whereupon payment shall be made to the commission, which shall 54624
deposit it into the state treasury to the credit of the public 54625
utilities fund, which is hereby created. Beginning in calendar 54626
year 2006, on or before the fifteenth day of May in each year, the 54627
commission shall notify each railroad and public utility that had 54628
a sum assessed against it for the current fiscal year of more than 54629
one thousand dollars that fifty per cent of that amount shall be 54630
paid to the commission by the twentieth day of June of that year 54631
as an initial payment of the assessment against the company for 54632
the next fiscal year. On or before the first day of October in 54633
each year, the commission shall make a final determination of the 54634
sum of the assessment against each railroad and public utility and 54635
shall notify each railroad and public utility of the sum assessed 54636
against it. The commission shall deduct from the assessment for 54637
each railroad or public utility any initial payment received. 54638
Payment of the assessment shall be made to the commission by the 54639
first day of November of that year. The commission shall deposit 54640
the payments received into the state treasury to the credit of the 54641
public utilities fund. Any such amounts paid into the fund but not 54642
expended by the commission shall be credited ratably, after first 54643

deducting any deficits accumulated from prior years, by the 54644
commission to railroads and public utilities that pay more than 54645
the minimum assessment, according to the respective portions of 54646
such sum assessable against them for the ensuing ~~calendar~~ fiscal 54647
year. The assessments for such ~~calendar~~ fiscal year shall be 54648
reduced correspondingly. 54649

(C) Within five days after the beginning of each fiscal year 54650
through fiscal year 2006, the director of budget and management 54651
shall transfer from the general revenue fund to the public 54652
utilities fund an amount sufficient for maintaining and 54653
administering the public utilities commission and exercising its 54654
supervision and jurisdiction over the railroads and public 54655
utilities of the state during the first four months of the fiscal 54656
year. The director shall transfer the same amount back to the 54657
general revenue fund from the public utilities fund at such time 54658
as the director determines that the balance of the public 54659
utilities fund is sufficient to support the appropriations from 54660
the fund for the fiscal year. The director may transfer less than 54661
that amount if the director determines that the revenues of the 54662
public utilities fund during the fiscal year will be insufficient 54663
to support the appropriations from the fund for the fiscal year, 54664
in which case the amount not paid back to the general revenue fund 54665
shall be payable to the general revenue fund in future fiscal 54666
years. 54667

(D) For the purpose of this section only, "public utility" 54668
includes: 54669

(1) In addition to an electric utility as defined in section 54670
4928.01 of the Revised Code, an electric services company, an 54671
electric cooperative, or a governmental aggregator subject to 54672
certification under section 4928.08 of the Revised Code, to the 54673
extent of the company's, cooperative's, or aggregator's engagement 54674
in the business of supplying or arranging for the supply in this 54675

state of any retail electric service for which it must be so certified; 54676
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(2) In addition to a natural gas company as defined in section 4929.01 of the Revised Code, a retail natural gas supplier or governmental aggregator subject to certification under section 4929.20 of the Revised Code, to the extent of the supplier's or aggregator's engagement in the business of supplying or arranging for the supply in this state of any competitive retail natural gas service for which it must be certified. 54678
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(E) Each public utilities commissioner shall receive a salary fixed at the level set by pay range 49 under schedule E-2 of section 124.152 of the Revised Code. 54685
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Sec. 4905.261. The public utilities commission shall operate a telephone call center for consumer complaints, to receive complaints by any person, firm, or corporation against any public utility. The commission shall expeditiously provide the consumers' counsel with all information concerning residential consumer complaints received by the commission in the operation of the telephone call center and with any materials produced in the operation of the telephone call center by the commission concerning residential consumer complaints. If technology is reasonably available, the commission shall provide the consumers' counsel with real-time access to the commission's residential consumer complaint information. 54688
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Sec. 4905.54. Every public utility or railroad and every officer of a public utility or railroad shall comply with every order, direction, and requirement of the public utilities commission made under authority of this chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code, so long as they remain in force. Except as otherwise specifically 54700
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provided in sections 4905.83, 4905.95, 4919.99, 4921.99, and 54706
4923.99 of the Revised Code, the public utilities commission may 54707
assess a forfeiture of not more than ten thousand dollars for each 54708
violation or failure against a public utility or railroad that 54709
violates a provision of those chapters or that after due notice 54710
fails to comply with an order, direction, or requirement of the 54711
commission that was officially promulgated ~~shall forfeit to the~~ 54712
~~state not more than one thousand dollars for each such violation~~ 54713
~~or failure~~. Each day's continuance of the violation or failure is 54714
a separate offense. All forfeitures collected under this section 54715
shall be credited to the general revenue fund. 54716

Sec. 4905.95. (A) Except as otherwise provided in division 54717
(C) of this section: 54718

(1) The public utilities commission, regarding any proceeding 54719
under this section, shall provide reasonable notice and the 54720
opportunity for a hearing in accordance with rules adopted under 54721
section 4901.13 of the Revised Code. 54722

(2) Sections 4903.02 to 4903.082, 4903.09 to 4903.16, and 54723
4903.20 to 4903.23 of the Revised Code apply to all proceedings 54724
and orders of the commission under this section and to all 54725
operators subject to those proceedings and orders. 54726

(B) If, pursuant to a proceeding it specially initiates or to 54727
any other proceeding and after the hearing provided for under 54728
division (A) of this section, the commission finds that: 54729

(1) An operator has violated or failed to comply with, or is 54730
violating or failing to comply with, sections 4905.90 to 4905.96 54731
of the Revised Code or the pipe-line safety code, the commission 54732
by order: 54733

(a) Shall require the operator to comply and to undertake 54734
corrective action necessary to protect the public safety; 54735

(b) May assess upon the operator forfeitures of not more than 54736
~~ten~~ one hundred thousand dollars for each day of each violation or 54737
noncompliance, except that the aggregate of such forfeitures shall 54738
not exceed five hundred thousand dollars for any related series of 54739
violations or noncompliances. In determining the amount of any 54740
such forfeiture, the commission shall consider all of the 54741
following: 54742

(i) The gravity of the violation or noncompliance; 54743

(ii) The operator's history of prior violations or 54744
noncompliances; 54745

(iii) The operator's good faith efforts to comply and 54746
undertake corrective action; 54747

(iv) The operator's ability to pay the forfeiture; 54748

(v) The effect of the forfeiture on the operator's ability to 54749
continue as an operator; 54750

(vi) Such other matters as justice may require. 54751

All forfeitures collected under this division or section 4905.96 54752
of the Revised Code shall be deposited in the state treasury to 54753
the credit of the general revenue fund. 54754

(c) May direct the attorney general to seek the remedies 54755
provided in section 4905.96 of the Revised Code. 54756

(2) An intrastate pipe-line transportation facility is 54757
hazardous to life or property, the commission by order: 54758

(a) Shall require the operator of the facility to take 54759
corrective action to remove the hazard. Such corrective action may 54760
include suspended or restricted use of the facility, physical 54761
inspection, testing, repair, replacement, or other action. 54762

(b) May direct the attorney general to seek the remedies 54763
provided in section 4905.96 of the Revised Code. 54764

(C) If, pursuant to a proceeding it specially initiates or to any other proceeding, the commission finds that an emergency exists due to a condition on an intrastate pipe-line transportation facility posing a clear and immediate danger to life or health or threatening a significant loss of property and requiring immediate corrective action to protect the public safety, the commission may issue, without notice or prior hearing, an order reciting its finding and may direct the attorney general to seek the remedies provided in section 4905.96 of the Revised Code. The order shall remain in effect for not more than forty days after the date of its issuance. The order shall provide for a hearing as soon as possible, but not later than thirty days after the date of its issuance. After the hearing the commission shall continue, revoke, or modify the order and may make findings under and seek appropriate remedies as provided in division (B) of this section.

Sec. 4911.021. The consumers' counsel shall not operate a telephone call center for consumer complaints. Any calls received by the consumers' counsel concerning consumer complaints shall be forwarded to the public utilities commission's call center.

Sec. 4911.18. (A) For the sole purpose of maintaining and administering the office of the consumers' counsel and exercising the powers of the consumers' counsel under this chapter, an amount equal to the appropriation to the office of the consumers' counsel in each fiscal year shall be apportioned among and assessed against each public utility within this state, as defined in section 4911.01 of the Revised Code, by first computing an assessment as though it were to be made in proportion to the intrastate gross earnings or receipts of the public utility for the calendar year next preceding that in which the assessment is made, excluding earnings or receipts from sales to other public

utilities for resale. The office may include in that first 54796
computation any amount of a public utility's intrastate gross 54797
earnings or receipts underreported in a prior year. In addition to 54798
whatever penalties apply under the Revised Code to such 54799
underreporting, the office shall assess the public utility 54800
interest at the rate stated in division (A) of section 1343.01 of 54801
the Revised Code. The office shall deposit any interest so 54802
collected into the consumers' counsel operating fund. The office 54803
may exclude from that first computation any such amounts that were 54804
over-reported in a prior year. 54805

The final computation of the assessment shall consist of 54806
imposing upon each public utility whose assessment under the first 54807
computation would have been ~~fifty~~ one hundred dollars or less an 54808
assessment of ~~fifty~~ one hundred dollars and recomputing the 54809
assessment of the remaining companies by apportioning an amount 54810
equal to the appropriation to the office of consumers' counsel in 54811
each fiscal year less the total amount to be recovered from those 54812
paying the minimum assessment, in proportion to the intrastate 54813
gross earnings or receipts of the remaining companies for the 54814
calendar year next preceding that in which the assessments are 54815
made, excluding earnings or receipts from sales to other public 54816
utilities for resale. 54817

In the case of an assessment based on intrastate gross 54818
receipts under this section against a public utility that is an 54819
electric utility as defined in section 4928.01 of the Revised 54820
Code, or an electric services company, electric cooperative, or 54821
governmental aggregator subject to certification under section 54822
4928.08 of the Revised Code, such receipts shall be those 54823
specified in the utility's, company's, cooperative's, or 54824
aggregator's most recent report of intrastate gross receipts and 54825
sales of kilowatt hours of electricity, filed with the public 54826
utilities commission pursuant to division (F) of section 4928.06 54827

of the Revised Code, and verified by the commission. 54828

In the case of an assessment based on intrastate gross 54829
receipts under this section against a retail natural gas supplier 54830
or governmental aggregator subject to certification under section 54831
4929.20 of the Revised Code, such receipts shall be those 54832
specified in the supplier's or aggregator's most recent report of 54833
intrastate gross receipts and sales of hundred cubic feet of 54834
natural gas, filed with the commission pursuant to division (B) of 54835
section 4929.23 of the Revised Code, and verified by the 54836
commission. However, no such retail natural gas supplier or such 54837
governmental aggregator serving or proposing to serve customers of 54838
a particular natural gas company, as defined in section 4929.01 of 54839
the Revised Code, shall be assessed under this section until after 54840
the commission, pursuant to section 4905.26 or 4909.18 of the 54841
Revised Code, has removed from the base rates of the natural gas 54842
company the amount of assessment under this section that is 54843
attributable to the value of commodity sales service, as defined 54844
in section 4929.01 of the Revised Code, in the base rates paid by 54845
those customers of the company that do not purchase that service 54846
from the natural gas company. 54847

(B) ~~On~~ Through calendar year 2005, on or before the first day 54848
of October in each year, the office of consumers' counsel shall 54849
notify each public utility of the sum assessed against it, 54850
whereupon payment shall be made to the counsel, who shall deposit 54851
it into the state treasury to the credit of the consumers' counsel 54852
operating fund, which is hereby created. Beginning in calendar 54853
year 2006, on or before the fifteenth day of May in each year, the 54854
consumers' counsel shall notify each public utility that had a sum 54855
assessed against it for the current fiscal year of more than one 54856
thousand dollars that fifty per cent of that amount shall be paid 54857
to the consumers' counsel by the twentieth day of June of that 54858
year as an initial payment of the assessment against the company 54859

for the next fiscal year. On or before the first day of October in 54860
each year, the consumers' counsel shall make a final determination 54861
of the sum of the assessment against each public utility and shall 54862
notify each public utility of the sum assessed against it. The 54863
consumers' counsel shall deduct from the assessment for each 54864
public utility any initial payment received. Payment of the 54865
assessment shall be made to the consumers' counsel by the first 54866
day of November of that year. The consumers' counsel shall deposit 54867
the payments received into the state treasury to the credit of the 54868
consumers' counsel operating fund. Any such amounts paid into the 54869
fund but not expended by the office shall be credited ratably by 54870
the office to the public utilities that pay more than the minimum 54871
assessment, according to the respective portions of such sum 54872
assessable against them for the ensuing ~~calendar~~ fiscal year, 54873
after first deducting any deficits accumulated from prior years. 54874
The assessments for such ~~calendar~~ fiscal year shall be reduced 54875
correspondingly. 54876

(C) Within five days after the beginning of each fiscal year 54877
through fiscal year 2006, the director of budget and management 54878
shall transfer from the general revenue fund to the consumers' 54879
counsel operating fund an amount sufficient for maintaining and 54880
administering the office of the consumers' counsel and exercising 54881
the powers of the consumers' counsel under this chapter during the 54882
first four months of the fiscal year. Not later than the 54883
thirty-first day of December of the fiscal year, the same amount 54884
shall be transferred back to the general revenue fund from the 54885
consumers' counsel operating fund. 54886

(D) As used in this section, "public utility" includes: 54887

(1) In addition to an electric utility as defined in section 54888
4928.01 of the Revised Code, an electric services company, an 54889
electric cooperative, or a governmental aggregator subject to 54890
certification under section 4928.08 of the Revised Code, to the 54891

extent of the company's, cooperative's, or aggregator's engagement 54892
in the business of supplying or arranging for the supply in this 54893
state of any retail electric service for which it must be so 54894
certified; 54895

(2) In addition to a natural gas company as defined in 54896
section 4929.01 of the Revised Code, a retail natural gas supplier 54897
or governmental aggregator subject to certification under section 54898
4929.20 of the Revised Code, to the extent of the supplier's or 54899
aggregator's engagement in the business of supplying or arranging 54900
for the supply in this state of any competitive retail natural gas 54901
service for which it must be certified. 54902

Sec. 4973.171. (A) As used in this section, "felony" has the 54903
same meaning as in section 109.511 of the Revised Code. 54904

(B)(1) The ~~governor~~ secretary of state shall not appoint or 54905
commission a person as a police officer for a railroad company 54906
under division (B) of section 4973.17 of the Revised Code and 54907
shall not appoint or commission a person as a police officer for a 54908
hospital under division (D) of section 4973.17 of the Revised Code 54909
on a permanent basis, on a temporary basis, for a probationary 54910
term, or on other than a permanent basis if the person previously 54911
has been convicted of or has pleaded guilty to a felony. 54912

(2)(a) The ~~governor~~ secretary of state shall revoke the 54913
appointment or commission of a person appointed or commissioned as 54914
a police officer for a railroad company or as a police officer for 54915
a hospital under division (B) or (D) of section 4973.17 of the 54916
Revised Code if that person does either of the following: 54917

(i) Pleads guilty to a felony; 54918

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 54919
plea agreement as provided in division (D) of section 2929.43 of 54920
the Revised Code in which the person agrees to surrender the 54921

certificate awarded to that person under section 109.77 of the Revised Code. 54922
54923

(b) The ~~governor~~ secretary of state shall suspend the appointment or commission of a person appointed or commissioned as a police officer for a railroad company or as a police officer for a hospital under division (B) or (D) of section 4973.17 of the Revised Code if that person is convicted, after trial, of a felony. If the person files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the person does not file a timely appeal, the ~~governor~~ secretary of state shall revoke the appointment or commission of that person as a police officer for a railroad company or as a police officer for a hospital. If the person files an appeal that results in that person's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that person, the ~~governor~~ secretary of state shall reinstate the appointment or commission of that person as a police officer for a railroad company or as a police officer for a hospital. A person whose appointment or commission is reinstated under division (B)(2)(b) of this section shall not receive any back pay unless that person's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the person of the felony. 54924
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(3) Division (B) of this section does not apply regarding an offense that was committed prior to January 1, 1997. 54945
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(4) The suspension or revocation of the appointment or commission of a person as a police officer for a railroad company or as a police officer for a hospital under division (B)(2) of this section shall be in accordance with Chapter 119. of the Revised Code. 54947
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(C)(1) A judge of a municipal court or county court that has territorial jurisdiction over an amusement park shall not appoint 54952
54953

or commission a person as a police officer for the amusement park 54954
under division (E) of section 4973.17 of the Revised Code on a 54955
permanent basis, on a temporary basis, for a probationary term, or 54956
on other than a permanent basis if the person previously has been 54957
convicted of or has pleaded guilty to a felony. 54958

(2) The judge shall revoke the appointment or commission of a 54959
person appointed or commissioned as a police officer for an 54960
amusement park under division (E) of section 4973.17 of the 54961
Revised Code if that person does either of the following: 54962

(a) Pleads guilty to a felony; 54963

(b) Pleads guilty to a misdemeanor pursuant to a negotiated 54964
plea agreement as provided in division (D) of section 2929.43 of 54965
the Revised Code in which the person agrees to surrender the 54966
certificate awarded to that person under section 109.77 of the 54967
Revised Code. 54968

(3) The judge shall suspend the appointment or commission of 54969
a person appointed or commissioned as a police officer for an 54970
amusement park under division (E) of section 4973.17 of the 54971
Revised Code if that person is convicted, after trial, of a 54972
felony. If the person files an appeal from that conviction and 54973
that conviction is upheld by the highest court to which the appeal 54974
is taken or if the person does not file a timely appeal, the judge 54975
shall revoke the appointment or commission of that person as a 54976
police officer for an amusement park. If the person files an 54977
appeal that results in that person's acquittal of the felony or 54978
conviction of a misdemeanor or in the dismissal of the felony 54979
charge against that person, the judge shall reinstate the 54980
appointment or commission of that person as a police officer for 54981
an amusement park. A person whose appointment or commission is 54982
reinstated under division (C)(3) of this section shall not receive 54983
any back pay unless that person's conviction of the felony was 54984
reversed on appeal, or the felony charge was dismissed, because 54985

the court found insufficient evidence to convict the person of a 54986
felony. 54987

(4) Division (C) of this section does not apply regarding an 54988
offense that was committed prior to January 1, 1997. 54989

(5) The suspension or revocation of the appointment or 54990
commission of a person as a police officer for an amusement park 54991
under division (C)(2) of this section shall be in accordance with 54992
Chapter 119. of the Revised Code. 54993

Sec. 5101.07. There is hereby created in the state treasury 54994
the support services federal operating fund. The fund shall 54995
consist of federal funds the department of job and family services 54996
receives and that the director of job and family services 54997
determines are appropriate for deposit into the fund. Money in the 54998
fund shall be used to pay the federal share of both of the 54999
following: 55000

(A) The department's costs for computer projects; 55001

(B) The operating costs of the parts of the department that 55002
provide general support services for the department's work units 55003
established under section 5101.06 of the Revised Code. 55004

Sec. 5101.071. There is hereby created in the state treasury 55005
the support services state operating fund. The fund shall consist 55006
of payments made to the fund from other appropriation items by 55007
intrastate transfer voucher. Money in the fund shall be used to 55008
pay for both of the following: 55009

(A) The department of job and family services' costs for 55010
computer projects; 55011

(B) The operating costs of the parts of the department that 55012
provide general support services for the department's work units 55013
established under section 5101.06 of the Revised Code. 55014

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| Sec. 5101.16. (A) As used in this section and sections | 55015 |
| 5101.161 and 5101.162 of the Revised Code: | 55016 |
| (1) "Disability financial assistance" means the financial | 55017 |
| assistance program established under Chapter 5115. of the Revised | 55018 |
| Code. | 55019 |
| (2) "Disability medical assistance" means the medical | 55020 |
| assistance program established under Chapter 5115. of the Revised | 55021 |
| Code. | 55022 |
| (3) "Food stamps" means the program administered by the | 55023 |
| department of job and family services pursuant to section 5101.54 | 55024 |
| of the Revised Code. | 55025 |
| (4) "Medicaid" means the medical assistance program | 55026 |
| established by Chapter 5111. of the Revised Code, excluding | 55027 |
| transportation services provided under that chapter. | 55028 |
| (5) "Ohio works first" means the program established by | 55029 |
| Chapter 5107. of the Revised Code. | 55030 |
| (6) "Prevention, retention, and contingency" means the | 55031 |
| program established by Chapter 5108. of the Revised Code. | 55032 |
| (7) "Public assistance expenditures" means expenditures for | 55033 |
| all of the following: | 55034 |
| (a) Ohio works first; | 55035 |
| (b) County administration of Ohio works first; | 55036 |
| (c) Prevention, retention, and contingency; | 55037 |
| (d) County administration of prevention, retention, and | 55038 |
| contingency; | 55039 |
| (e) Disability financial assistance; | 55040 |
| (f) Disability medical assistance; | 55041 |
| (g) County administration of disability financial assistance; | 55042 |

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| (h) County administration of disability medical assistance; | 55043 |
| (i) County administration of food stamps; | 55044 |
| (j) County administration of medicaid. | 55045 |
| (8) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code. | 55046 55047 |
| (B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter: | 55048 55049 55050 55051 55052 55053 |
| (1) The amount that is twenty-five per cent of the county's total expenditures for disability financial assistance and disability medical assistance and county administration of those programs during the state fiscal year ending in the previous calendar year that the department of job and family services determines are allowable. | 55054 55055 55056 55057 55058 55059 |
| (2) The amount that is ten per cent, or other percentage determined under division (D) of this section, of the county's total expenditures for county administration of food stamps and medicaid during the state fiscal year ending in the previous calendar year that the department determines are allowable, less the amount of federal reimbursement credited to the county under division (E) of this section for the state fiscal year ending in the previous calendar year; | 55060 55061 55062 55063 55064 55065 55066 55067 |
| (3) A percentage of the actual amount of the county share of program and administrative expenditures during federal fiscal year 1994 for assistance and services, other than child care, provided under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as those titles existed prior to the enactment of the "Personal Responsibility and Work Opportunity | 55068 55069 55070 55071 55072 55073 |

Reconciliation Act of 1996," 110 Stat. 2105. The department of job and family services shall determine the actual amount of the county share from expenditure reports submitted to the United States department of health and human services. The percentage shall be the percentage established in rules adopted under division (F) of this section.

(C)(1) If a county's share of public assistance expenditures determined under division (B) of this section for a state fiscal year exceeds one hundred ten per cent of the county's share for those expenditures for the immediately preceding state fiscal year, the department of job and family services shall reduce the county's share for expenditures under divisions (B)(1) and (2) of this section so that the total of the county's share for expenditures under division (B) of this section equals one hundred ten per cent of the county's share of those expenditures for the immediately preceding state fiscal year.

(2) A county's share of public assistance expenditures determined under division (B) of this section may be increased pursuant to section 5101.163 of the Revised Code and a sanction under section 5101.24 of the Revised Code. An increase made pursuant to section 5101.163 of the Revised Code may cause the county's share to exceed the limit established by division (C)(1) of this section.

(D)(1) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and division (D)(2) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the per capita tax duplicate of the county and the denominator is the per capita tax duplicate of the state as a whole. The department of job and family services shall compute the per capita tax duplicate for the state and for each county by

dividing the tax duplicate for the most recent available year by 55106
the current estimate of population prepared by the department of 55107
development. 55108

(2) If the percentage of families in a county with an annual 55109
income of less than three thousand dollars is greater than the 55110
percentage of such families in the state and division (D)(1) of 55111
this section does not apply to the county, the percentage to be 55112
used for the purpose of division (B)(2) of this section is the 55113
product of ten multiplied by a fraction of which the numerator is 55114
the percentage of families in the state with an annual income of 55115
less than three thousand dollars a year and the denominator is the 55116
percentage of such families in the county. The department of job 55117
and family services shall compute the percentage of families with 55118
an annual income of less than three thousand dollars for the state 55119
and for each county by multiplying the most recent estimate of 55120
such families published by the department of development, by a 55121
fraction, the numerator of which is the estimate of average annual 55122
personal income published by the bureau of economic analysis of 55123
the United States department of commerce for the year on which the 55124
census estimate is based and the denominator of which is the most 55125
recent such estimate published by the bureau. 55126

(3) If the per capita tax duplicate of a county is less than 55127
the per capita tax duplicate of the state as a whole and the 55128
percentage of families in the county with an annual income of less 55129
than three thousand dollars is greater than the percentage of such 55130
families in the state, the percentage to be used for the purpose 55131
of division (B)(2) of this section shall be determined as follows: 55132

(a) Multiply ten by the fraction determined under division 55133
(D)(1) of this section; 55134

(b) Multiply the product determined under division (D)(3)(a) 55135
of this section by the fraction determined under division (D)(2) 55136
of this section. 55137

(4) The department of job and family services shall 55138
determine, for each county, the percentage to be used for the 55139
purpose of division (B)(2) of this section not later than the 55140
first day of July of the year preceding the state fiscal year for 55141
which the percentage is used. 55142

(E) The department of job and family services shall credit to 55143
a county the amount of federal reimbursement the department 55144
receives from the United States departments of agriculture and 55145
health and human services for the county's expenditures for 55146
administration of food stamps and medicaid that the department 55147
determines are allowable administrative expenditures. 55148

(F)(1) The director of job and family services shall adopt 55149
rules in accordance with section 111.15 of the Revised Code to 55150
establish all of the following: 55151

(a) The method the department is to use to change a county's 55152
share of public assistance expenditures determined under division 55153
(B) of this section as provided in division (C) of this section; 55154

(b) The allocation methodology and formula the department 55155
will use to determine the amount of funds to credit to a county 55156
under this section; 55157

(c) The method the department will use to change the payment 55158
of the county share of public assistance expenditures from a 55159
calendar-year basis to a state fiscal year basis; 55160

(d) The percentage to be used for the purpose of division 55161
(B)(3) of this section, which shall, except as provided in section 55162
5101.163 of the Revised Code, meet both of the following 55163
requirements: 55164

(i) The percentage shall not be less than seventy-five per 55165
cent nor more than eighty-two per cent; 55166

(ii) The percentage shall not exceed the percentage that the 55167

state's qualified state expenditures is of the state's historic 55168
state expenditures as those terms are defined in 42 U.S.C. 55169
609(a)(7). 55170

(e) Other procedures and requirements necessary to implement 55171
this section. 55172

(2) The director of job and family services may amend the 55173
rule adopted under division (F)(1)(d) of this section to modify 55174
the percentage on determination that the amount the general 55175
assembly appropriates for Title IV-A programs makes the 55176
modification necessary. The rule shall be adopted and amended as 55177
if an internal management rule and in consultation with the 55178
director of budget and management. 55179

Sec. 5101.163. As used in this section, "maintenance of 55180
effort" means qualified state expenditures as defined in 42 U.S.C. 55181
609(a)(7)(B)(i). 55182

The department of job and family services may increase a 55183
county's share of public assistance expenditures determined under 55184
division (B) of section 5101.16 of the Revised Code if the United 55185
States secretary of health and human services requires an increase 55186
in the state's maintenance of effort because of one or more 55187
failures, resulting from the actions or inactions of one or more 55188
county family services agencies, to meet a requirement under Title 55189
IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 55190
U.S.C. 601, as amended. The department may so increase a county's 55191
share of public assistance expenditures only to the amount the 55192
county's county family services agencies are responsible for the 55193
increase in the state's maintenance of effort as determined 55194
pursuant to rules the director of job and family services shall 55195
adopt under section 111.15 of the Revised Code. The department is 55196
not required to make the increase in accordance with section 55197
5101.24 of the Revised Code. 55198

Sec. 5101.181. (A) As used in this section and section 55199
5101.182 of the Revised Code, "public assistance" includes, in 55200
addition to Ohio works first, all of the following: 55201

(1) Prevention, retention, and contingency; 55202

(2) Medicaid; 55203

(3) Disability financial assistance; 55204

(4) Disability medical assistance provided before October 1, 55205
2005, under former Chapter 5115. of the Revised Code; 55206

(5) General assistance provided prior to July 17, 1995, under 55207
former Chapter 5113. of the Revised Code. 55208

(B) As part of the procedure for the determination of 55209
overpayment to a recipient of public assistance under Chapter 55210
5107., 5108., 5111., or 5115. of the Revised Code, the director of 55211
job and family services shall furnish quarterly the name and 55212
social security number of each individual who receives public 55213
assistance to the director of administrative services, the 55214
administrator of the bureau of workers' compensation, and each of 55215
the state's retirement boards. Within fourteen days after 55216
receiving the name and social security number of an individual who 55217
receives public assistance, the director of administrative 55218
services, administrator, or board shall inform the auditor of 55219
state as to whether such individual is receiving wages or 55220
benefits, the amount of any wages or benefits being received, the 55221
social security number, and the address of the individual. The 55222
director of administrative services, administrator, boards, and 55223
any agent or employee of those officials and boards shall comply 55224
with the rules of the director of job and family services 55225
restricting the disclosure of information regarding recipients of 55226
public assistance. Any person who violates this provision shall 55227
thereafter be disqualified from acting as an agent or employee or 55228

in any other capacity under appointment or employment of any state board, commission, or agency.

(C) The auditor of state may enter into a reciprocal agreement with the director of job and family services or comparable officer of any other state for the exchange of names, current or most recent addresses, or social security numbers of persons receiving public assistance under Title IV-A or under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(D)(1) The auditor of state shall retain, for not less than two years, at least one copy of all information received under this section and sections 145.27, 742.41, 3307.20, 3309.22, 4123.27, 5101.182, and 5505.04 of the Revised Code. The auditor shall review the information to determine whether overpayments were made to recipients of public assistance under Chapters 5107., 5108., 5111., and 5115. of the Revised Code. The auditor of state shall initiate action leading to prosecution, where warranted, of recipients who received overpayments by forwarding the name of each recipient who received overpayment, together with other pertinent information, to the director of job and family services and the attorney general, to the district director of job and family services of the district through which public assistance was received, and to the county director of job and family services and county prosecutor of the county through which public assistance was received.

(2) The auditor of state and the attorney general or their designees may examine any records, whether in computer or printed format, in the possession of the director of job and family services or any county director of job and family services. They shall provide safeguards which restrict access to such records to purposes directly connected with an audit or investigation, prosecution, or criminal or civil proceeding conducted in

connection with the administration of the programs and shall 55261
comply with the rules of the director of job and family services 55262
restricting the disclosure of information regarding recipients of 55263
public assistance. Any person who violates this provision shall 55264
thereafter be disqualified from acting as an agent or employee or 55265
in any other capacity under appointment or employment of any state 55266
board, commission, or agency. 55267

(3) Costs incurred by the auditor of state in carrying out 55268
the auditor of state's duties under this division shall be borne 55269
by the auditor of state. 55270

Sec. 5101.184. (A) The director of job and family services 55271
shall work with the tax commissioner to collect overpayments of 55272
assistance under Chapter 5107., 5111., or 5115., former Chapter 55273
5113., or section 5101.54 of the Revised Code from refunds of 55274
state income taxes for taxable year 1992 and thereafter that are 55275
payable to the recipients of such overpayments. 55276

Any overpayment of assistance, whether obtained by fraud or 55277
misrepresentation, as the result of an error by the recipient or 55278
by the agency making the payment, or in any other manner, may be 55279
collected under this section. Any reduction under section 5747.12 55280
or 5747.121 of the Revised Code to an income tax refund shall be 55281
made before a reduction under this section. No reduction shall be 55282
made under this section if the amount of the refund is less than 55283
twenty-five dollars after any reduction under section 5747.12 of 55284
the Revised Code. A reduction under this section shall be made 55285
before any part of the refund is contributed under section 55286
5747.113 of the Revised Code ~~to the natural areas and preserves~~ 55287
~~fund or the nongame and endangered wildlife fund~~, or is credited 55288
under section 5747.12 of the Revised Code against tax due in any 55289
subsequent year. 55290

The director and the tax commissioner, by rules adopted in 55291

accordance with Chapter 119. of the Revised Code, shall establish 55292
procedures to implement this division. The procedures shall 55293
provide for notice to a recipient of assistance and an opportunity 55294
for the recipient to be heard before the recipient's income tax 55295
refund is reduced. 55296

(B) The director of job and family services may enter into 55297
agreements with the federal government to collect overpayments of 55298
assistance from refunds of federal income taxes that are payable 55299
to recipients of the overpayments. 55300

Sec. 5101.21. (A) As used in this section, "county signer" 55301
means all of the following: 55302

(1) A board of county commissioners; 55303

(2) A county children services board appointed under section 55304
5153.03 of the Revised Code if required by division (B) of this 55305
section to enter into a fiscal agreement; 55306

(3) A county elected official that is a child support 55307
enforcement agency if required by division (B) of this section to 55308
enter into a fiscal agreement. 55309

(B) The director of job and family services may enter into 55310
one or more written fiscal agreements with boards of county 55311
commissioners under which financial assistance is awarded for 55312
family services duties included in the agreements. Boards of 55313
county commissioners shall select which family services duties to 55314
include in a fiscal agreement. If a board of county commissioners 55315
elects to include family services duties of a public children 55316
services agency and a county children services board appointed 55317
under section 5153.03 of the Revised Code serves as the county's 55318
public children services agency, the board of county commissioners 55319
and county children services board shall jointly enter into the 55320
fiscal agreement with the director. If a board of county 55321

commissioners elects to include family services duties of a child support enforcement agency and the entity designated under former section 2301.35 of the Revised Code prior to October 1, 1997, or designated under section 307.981 of the Revised Code as the county's child support enforcement agency is an elected official of the county, the board of county commissioners and county elected official shall jointly enter into the fiscal agreement with the director. A fiscal agreement shall do all of the following:

(1) Specify the family services duties included in the agreement and the private and government entities designated under section 307.981 of the Revised Code to serve as the county family services agencies performing the family services duties;

(2) Provide for the department of job and family services to award financial assistance for the family services duties included in the agreement in accordance with a methodology for determining the amount of the award established by rules adopted under division (D) of this section;

(3) Specify the form of the award of financial assistance which may be an allocation, cash draw, reimbursement, property, or, to the extent authorized by an appropriation made by the general assembly and to the extent practicable and not in conflict with a federal or state law, a consolidated funding allocation for two or more family services duties included in the agreement;

(4) Provide that the award of financial assistance is subject to the availability of federal funds and appropriations made by the general assembly;

(5) Specify annual financial, administrative, or other incentive awards, if any, to be provided in accordance with section 5101.23 of the Revised Code;

(6) Include the assurance of each county signer that the

county signer will do all of the following: 55353

(a) Ensure that the financial assistance awarded under the 55354
agreement is used, and the family services duties included in the 55355
agreement are performed, in accordance with requirements for the 55356
duties established by the department, a federal or state law, or 55357
any of the following that concern the family services duties 55358
included in the fiscal agreement and are published under section 55359
5101.212 of the Revised Code: state plans for receipt of federal 55360
financial participation, grant agreements between the department 55361
and a federal agency, and executive orders issued by the governor; 55362

(b) Ensure that the board and county family services agencies 55363
utilize a financial management system and other accountability 55364
mechanisms for the financial assistance awarded under the 55365
agreement that meet requirements the department establishes; 55366

(c) Require the county family services agencies to do both of 55367
the following: 55368

(i) Monitor all private and government entities that receive 55369
a payment from financial assistance awarded under the agreement to 55370
ensure that each entity uses the payment in accordance with 55371
requirements for the family services duties included in the 55372
agreement; 55373

(ii) Take action to recover payments that are not used in 55374
accordance with the requirements for the family services duties 55375
included in the agreement. 55376

(d) Require county family services agencies to promptly 55377
reimburse the department the amount that represents the amount an 55378
agency is responsible for, pursuant to action the department takes 55379
under division (C) of section 5101.24 of the Revised Code, of 55380
funds the department pays to any entity because of an adverse 55381
audit finding, adverse quality control finding, final disallowance 55382
of federal financial participation, or other sanction or penalty; 55383

(e) Require county family services agencies to take prompt corrective action, including paying amounts resulting from an adverse finding, sanction, or penalty, if the department, auditor of state, federal agency, or other entity authorized by federal or state law to determine compliance with requirements for a family services duty included in the agreement determines compliance has not been achieved; 55384
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~~(f) If the department establishes a consolidated funding allocation for two or more family services duties included in the agreement, require the county family services agencies to use funds available in the consolidated funding allocation only for the purpose for which the funds are appropriated. 55391
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(7) Provide for the department taking action pursuant to division (C) of section 5101.24 of the Revised Code if authorized by division (B)(1), (2), (3), or (4) of that section; 55396
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(8) Provide for timely audits required by federal and state law and require prompt release of audit findings and prompt action to correct problems identified in an audit; 55399
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(9) Comply with all of the requirements for the family services duties that are included in the agreement and have been established by the department, federal or state law, or any of the following that concern the family services duties included in the fiscal agreement and are published under section 5101.212 of the Revised Code: state plans for receipt of federal financial participation, grant agreements between the department and a federal agency, and executive orders issued by the governor; 55402
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(10) Provide for dispute resolution procedures in accordance with section 5101.24 of the Revised Code; 55410
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(11) Establish the method of amending or terminating the agreement and an expedited process for correcting terms or conditions of the agreement that the director and each county 55412
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signer agree are erroneous; 55415

(12) Except as provided in rules adopted under division (D) 55416
of this section, begin on the first day of July of an odd-numbered 55417
year and end on the last day of June of the next odd-numbered 55418
year. 55419

(C) The department shall make payments authorized by a fiscal 55420
agreement on vouchers it prepares and may include any funds 55421
appropriated or allocated to it for carrying out family services 55422
duties included in the agreement, including funds for personal 55423
services and maintenance. 55424

(D)(1) The director shall adopt rules in accordance with 55425
section 111.15 of the Revised Code governing fiscal agreements. 55426
The director shall adopt the rules as if they were internal 55427
management rules. Before adopting the rules, the director shall 55428
give the public an opportunity to review and comment on the 55429
proposed rules. The rules shall establish methodologies to be used 55430
to determine the amount of financial assistance to be awarded 55431
under the agreements. The rules also shall establish terms and 55432
conditions under which an agreement may be entered into after the 55433
first day of July of an odd-numbered year. The rules may do any or 55434
all of the following: 55435

~~(a) Govern the establishment of consolidated funding 55436
allocations and specify the time period for which a consolidated 55437
funding allocation is to be provided if the effective date of the 55438
agreement is after the first day of July of an odd-numbered year, 55439
which may include a time period before the effective date of the 55440
agreement;~~ 55441

~~(b)~~ Govern the establishment of ~~other~~ allocations; 55442

~~(e)~~(b) Specify allowable uses of financial assistance awarded 55443
under the agreements; 55444

~~(d)~~(c) Establish reporting, cash management, audit, and other 55445

requirements the director determines are necessary to provide 55446
accountability for the use of financial assistance awarded under 55447
the agreements and determine compliance with requirements 55448
established by the department, a federal or state law, or any of 55449
the following that concern the family services duties included in 55450
the agreements and are published under section 5101.212 of the 55451
Revised Code: state plans for receipt of federal financial 55452
participation, grant agreements between the department and a 55453
federal entity, and executive orders issued by the governor. 55454

(2) A requirement of a fiscal agreement established by a rule 55455
adopted under this division is applicable to a fiscal agreement 55456
without having to be restated in the fiscal agreement. 55457

Sec. 5101.241. (A) As used in this section: 55458

(1) "Local area" and "chief elected official" have the same 55459
meaning as in section 5101.20 of the Revised Code. 55460

(2) "Responsible entity" means the chief elected officials of 55461
a local area. 55462

(B) The department of job and family services may take action 55463
under division (C) of this section against the responsible entity, 55464
regardless of who performs the workforce development activity, if 55465
the department determines any of the following are the case: 55466

(1) A requirement of a grant agreement entered into under 55467
section 5101.20 of the Revised Code that includes the workforce 55468
development activity, including a requirement for grant agreements 55469
established by rules adopted under that section, is not complied 55470
with; 55471

(2) A performance standard for the workforce development 55472
activity established by the federal government or the department 55473
is not met; 55474

(3) A requirement for the workforce development activity 55475

established by the department or any of the following is not 55476
complied with: a federal or state law, state plan for receipt of 55477
federal financial participation, grant agreement between the 55478
department and a federal agency, or executive order; 55479

(4) The responsible entity is solely or partially 55480
responsible, as determined by the director of job and family 55481
services, for an adverse audit finding, adverse quality control 55482
finding, final disallowance of federal financial participation, or 55483
other sanction or penalty regarding the workforce development 55484
activity. 55485

(C) The department may take one or more of the following 55486
actions against the responsible entity when authorized by division 55487
(B)(1), (2), (3), or (4) of this section: 55488

(1) Require the responsible entity to submit to and comply 55489
with a corrective action plan, established or approved by the 55490
department, pursuant to a time schedule specified by the 55491
department; 55492

(2) Require the responsible entity to do one of the 55493
following: 55494

(a) Share with the department a final disallowance of federal 55495
financial participation or other sanction or penalty; 55496

(b) Reimburse the department the amount the department pays 55497
to the federal government or another entity that represents the 55498
amount the responsible entity is responsible for of an adverse 55499
audit finding, adverse quality control finding, final disallowance 55500
of federal financial participation, or other sanction or penalty 55501
issued by the federal government, auditor of state, or other 55502
entity; 55503

(c) Pay the federal government or another entity the amount 55504
that represents the amount the responsible entity is responsible 55505
for of an adverse audit finding, adverse quality control finding, 55506

final disallowance of federal financial participation, or other 55507
sanction or penalty issued by the federal government, auditor of 55508
state, or other entity; 55509

(d) Pay the department the amount that represents the amount 55510
the responsible entity is responsible for of an adverse audit 55511
finding, adverse quality control finding, or other sanction or 55512
penalty issued by the department. 55513

(3) Impose a financial or administrative sanction or adverse 55514
audit finding issued by the department against the responsible 55515
entity, which may be increased with each subsequent action taken 55516
against the responsible entity-*i* 55517

(4) Perform or contract with a government or private entity 55518
for the entity to perform the workforce development activity until 55519
the department is satisfied that the responsible entity ensures 55520
that the activity will be performed to the department's 55521
satisfaction. If the department performs or contracts with an 55522
entity to perform the workforce development activity under 55523
division (C)(4) of this section, the department may withhold funds 55524
allocated to or reimbursements due to the responsible entity for 55525
the activity and use those funds to implement division (C)(4) of 55526
this section. 55527

(5) Request the attorney general to bring mandamus 55528
proceedings to compel the responsible entity to take or cease the 55529
actions listed in division (B) of this section. The attorney 55530
general shall bring any mandamus proceedings in the Franklin 55531
county court of appeals at the department's request. 55532

(6) If the department takes action under this division 55533
because of division (B)(3) of this section, withhold funds 55534
allocated or reimbursement due to the responsible entity until the 55535
department determines that the responsible entity is in compliance 55536
with the requirement. The department shall release the funds when 55537

the department determines that compliance has been achieved. 55538

(7) Issue a notice of intent to revoke approval of all or 55539
part of the local plan effected that conflicts with state or 55540
federal law and effectuate the revocation. 55541

(D) The department shall notify the responsible entity and 55542
the appropriate county auditor when the department proposes to 55543
take action under division (C) of this section. The notice shall 55544
be in writing and specify the action the department proposes to 55545
take. The department shall send the notice by regular United 55546
States mail. Except as provided in division (E) of this section, 55547
the responsible entity may request an administrative review of a 55548
proposed action in accordance with administrative review 55549
procedures the department shall establish. The administrative 55550
review procedures shall comply with all of the following: 55551

(1) A request for an administrative review shall state 55552
specifically all of the following: 55553

(a) The proposed action specified in the notice from the 55554
department for which the review is requested; 55555

(b) The reason why the responsible entity believes the 55556
proposed action is inappropriate; 55557

(c) All facts and legal arguments that the responsible entity 55558
wants the department to consider; 55559

(d) The name of the person who will serve as the responsible 55560
entity's representative in the review. 55561

(2) If the department's notice specifies more than one 55562
proposed action and the responsible entity does not specify all of 55563
the proposed actions in its request pursuant to division (D)(1)(a) 55564
of this section, the proposed actions not specified in the request 55565
shall not be subject to administrative review and the parts of the 55566
notice regarding those proposed actions shall be final and binding 55567

on the responsible entity. 55568

~~(3) In the case of a proposed action under division (C)(1) of~~ 55569
~~this section, the~~ The responsible entity shall have fifteen 55570
calendar days after the department mails the notice to the 55571
responsible entity to send a written request to the department for 55572
an administrative review. ~~If it receives such a request within the~~ 55573
~~required time, the department shall postpone taking action under~~ 55574
~~division (C)(1) of this section for fifteen calendar days~~ 55575
~~following the day it receives the request to allow a~~ 55576
~~representative of the department and a representative of the~~ 55577
~~responsible entity an informal opportunity to resolve any dispute~~ 55578
~~during that fifteen day period. The responsible entity and the~~ 55579
department shall attempt to resolve informally any dispute and may 55580
develop a written resolution to the dispute at any time prior to 55581
submitting the written report described in division (D)(7) of this 55582
section to the director. 55583

~~(4) In the case of a proposed action under division (C)(2),~~ 55584
~~(3), or (4) of this section, the responsible entity shall have~~ 55585
~~thirty calendar days after the department mails the notice to the~~ 55586
~~responsible entity to send a written request to the department for~~ 55587
~~an administrative review. If it receives such a request within the~~ 55588
~~required time, the department shall postpone taking action under~~ 55589
~~division (C)(2), (3), or (4) of this section for thirty calendar~~ 55590
~~days following the day it receives the request to allow a~~ 55591
~~representative of the department and a representative of the~~ 55592
~~responsible entity an informal opportunity to resolve any dispute~~ 55593
~~during that thirty day period.~~ 55594

~~(5)~~ In the case of a proposed action under division (C)(2) of 55595
this section, the responsible entity may not include in its 55596
request disputes over a finding, final disallowance of federal 55597
financial participation, or other sanction or penalty issued by 55598
the federal government, auditor of state, or other entity other 55599

than the department. 55600

~~(6)~~(5) If the responsible entity fails to request an 55601
administrative review within the required time, the responsible 55602
entity loses the right to request an administrative review of the 55603
proposed actions specified in the notice and the notice becomes 55604
final and binding on the responsible entity. 55605

~~(7) If the informal opportunity provided in division (D)(3)~~ 55606
~~or (4) of this section does not result in a written resolution to~~ 55607
~~the dispute, the~~ (6) The director of job and family services shall 55608
appoint an administrative review panel to conduct the 55609
administrative review. The review panel shall consist of 55610
department employees who are not involved in the department's 55611
proposal to take action against the responsible entity. The review 55612
panel shall review the responsible entity's request. The review 55613
panel may require that the department or responsible entity submit 55614
additional information and schedule and conduct an informal 55615
hearing to obtain testimony or additional evidence. A review of a 55616
proposal to take action under division (C)(2) of this section 55617
shall be limited solely to the issue of the amount the responsible 55618
entity shall share with the department, reimburse the department, 55619
or pay to the federal government, department, or other entity 55620
under division (C)(2) of this section. The review panel is not 55621
required to make a stenographic record of its hearing or other 55622
proceedings. 55623

~~(8)~~(7) After finishing an administrative review, an 55624
administrative review panel appointed under division (D)~~(7)~~(6) of 55625
this section shall submit a written report to the director setting 55626
forth its findings of fact, conclusions of law, and 55627
recommendations for action. The director may approve, modify, or 55628
disapprove the recommendations. ~~If the director modifies or~~ 55629
~~disapproves the recommendations, the director shall state the~~ 55630
~~reasons for the modification or disapproval and the actions to be~~ 55631

~~taken against the responsible entity.~~ 55632

~~(9)~~(8) The director's approval, modification, or disapproval 55633
under division (D)~~(8)~~(7) of this section shall be final and 55634
binding on the responsible entity and shall not be subject to 55635
further ~~departmental~~ review. 55636

(E) The responsible entity is not entitled to an 55637
administrative review under division (D) of this section for any 55638
of the following: 55639

(1) An action taken under division (C)(5) or (6) of this 55640
section; 55641

(2) An action taken under section 5101.242 of the Revised 55642
Code; 55643

(3) An action taken under division (C)(2) of this section if 55644
the federal government, auditor of state, or entity other than the 55645
department has identified the responsible entity as being solely 55646
or partially responsible for an adverse audit finding, adverse 55647
quality control finding, final disallowance of federal financial 55648
participation, or other sanction or penalty; 55649

(4) An adjustment to an allocation, cash draw, advance, or 55650
reimbursement to the responsible entity's local area that the 55651
department determines necessary for budgetary reasons; 55652

(5) Withholding of a cash draw or reimbursement due to 55653
noncompliance with a reporting requirement established in rules 55654
adopted under section 5101.243 of the Revised Code. 55655

(F) This section does not apply to other actions the 55656
department takes against the responsible entity pursuant to 55657
authority granted by another state law unless the other state law 55658
requires the department to take the action in accordance with this 55659
section. 55660

(G) The director of job and family services may adopt rules 55661

in accordance with Chapter 119. of the Revised Code as necessary 55662
to implement this section. 55663

(H) The governor may decertify a local workforce development 55664
board for any of the following reasons in accordance with 55665
subsection (e) of section 117 of the "Workforce Investment Act of 55666
1998" 112 Stat. 936, 29 U.S.C. 2801, as amended: 55667

(1) Fraud or abuse; 55668

(2) Failure to carry out the requirements of the federal 55669
"Workforce Investment Act," 112 Stat. 936, 29 U.S.C. 2801, as 55670
amended, including failure to meet performance standards 55671
established by the federal government for two consecutive years. 55672

If the governor finds that access to basic "Workforce 55673
Investment Act" services is not being provided in a local area, 55674
the governor may declare an emergency and, in consultation with 55675
the chief elected officials of the local area affected, arrange 55676
for provision of these services through an alternative entity 55677
during the time period in which resolution of the problem 55678
preventing service delivery in the local area is pending. An 55679
action taken by the governor pursuant to this section is not 55680
subject to appeal under this section. 55681

Sec. 5101.244. If a county family services agency submits an 55682
expenditure report to the department of job and family services 55683
and the department subsequently determines that an allocation, 55684
advance, or reimbursement the department makes to the agency, or a 55685
cash draw the agency makes, for an expenditure exceeds the 55686
allowable amount for the expenditure, the department may adjust, 55687
offset, withhold, or reduce an allocation, cash draw, advance, 55688
reimbursement, or other financial assistance to the agency as 55689
necessary to recover the amount of the excess allocation, advance, 55690
reimbursement, or cash draw. The department is not required to 55691
make the adjustment, offset, withholding, or reduction in 55692

accordance with section 5101.24 of the Revised Code. 55693

The director of job and family services may adopt rules under 55694
section 111.15 of the Revised Code as necessary to implement this 55695
section. The director shall adopt the rules as if they were 55696
internal management rules. 55697

Sec. 5101.26. As used in this section and in sections 5101.27 55698
to 5101.30 of the Revised Code: 55699

(A) "County agency" means a county department of job and 55700
family services or a public children services agency. 55701

(B) "Fugitive felon" means an individual who is fleeing to 55702
avoid prosecution, or custody or confinement after conviction, 55703
under the laws of the place from which the individual is fleeing, 55704
for a crime or an attempt to commit a crime that is a felony under 55705
the laws of the place from which the individual is fleeing or, in 55706
the case of New Jersey, a high misdemeanor, regardless of whether 55707
the individual has departed from the individual's usual place of 55708
residence. 55709

(C) "Information" means records as defined in section 149.011 55710
of the Revised Code, any other documents in any format, and data 55711
derived from records and documents that are generated, acquired, 55712
or maintained by the department of job and family services, a 55713
county agency, or an entity performing duties on behalf of the 55714
department or a county agency. 55715

(D) "Law enforcement agency" means the state highway patrol, 55716
an agency that employs peace officers as defined in section 109.71 55717
of the Revised Code, the adult parole authority, a county 55718
department of probation, a prosecuting attorney, the attorney 55719
general, similar agencies of other states, federal law enforcement 55720
agencies, and postal inspectors. "Law enforcement agency" includes 55721
the peace officers and other law enforcement officers employed by 55722

the agency. 55723

(E) "Medical assistance provided under a public assistance 55724
program" means medical assistance provided under the programs 55725
established under sections 5101.49, 5101.50 to 5101.503, and 55726
5101.51 to 5101.5110, ~~Chapters~~ Chapter 5111. ~~and 5115.~~, or any 55727
other provision of the Revised Code. 55728

(F) "Public assistance" means financial assistance, medical 55729
assistance, or social services provided under a program 55730
administered by the department of job and family services or a 55731
county agency pursuant to Chapter 329., 5101., 5104., 5107., 55732
5108., 5111., or 5115. of the Revised Code or an executive order 55733
issued under section 107.17 of the Revised Code. 55734

(G) "Public assistance recipient" means an applicant for or 55735
recipient or former recipient of public assistance. 55736

Sec. 5101.31. Any record, data, pricing information, or other 55737
information regarding a drug rebate agreement or a supplemental 55738
drug rebate agreement for the medicaid program established under 55739
Chapter 5111. of the Revised Code ~~or the disability medical~~ 55740
~~assistance program established under section 5115.10 of the~~ 55741
~~Revised Code~~ that the department of job and family services 55742
receives from a pharmaceutical manufacturer or creates pursuant to 55743
negotiation of the agreement is not a public record under section 55744
149.43 of the Revised Code and shall be treated by the department 55745
as confidential information. 55746

Sec. 5101.35. (A) As used in this section: 55747

(1) "Agency" means the following entities that administer a 55748
family services program: 55749

(a) The department of job and family services; 55750

(b) A county department of job and family services; 55751

(c) A public children services agency; 55752

(d) A private or government entity administering, in whole or 55753
in part, a family services program for or on behalf of the 55754
department of job and family services or a county department of 55755
job and family services or public children services agency. 55756

(2) "Appellant" means an applicant, participant, former 55757
participant, recipient, or former recipient of a family services 55758
program who is entitled by federal or state law to a hearing 55759
regarding a decision or order of the agency that administers the 55760
program. 55761

(3) "Family services program" means assistance provided under 55762
a Title IV-A program as defined in section 5101.80 of the Revised 55763
Code or under Chapter 5104., 5111., or 5115. or section 173.35, 55764
5101.141, 5101.46, 5101.461, 5101.54, 5153.163, or 5153.165 of the 55765
Revised Code, other than assistance provided under section 5101.46 55766
of the Revised Code by the department of mental health, the 55767
department of mental retardation and developmental disabilities, a 55768
board of alcohol, drug addiction, and mental health services, or a 55769
county board of mental retardation and developmental disabilities. 55770

(B) Except as provided by ~~division~~divisions (G) and (H) of 55771
this section, an appellant who appeals under federal or state law 55772
a decision or order of an agency administering a family services 55773
program shall, at the appellant's request, be granted a state 55774
hearing by the department of job and family services. This state 55775
hearing shall be conducted in accordance with rules adopted under 55776
this section. The state hearing shall be tape-recorded, but 55777
neither the recording nor a transcript of the recording shall be 55778
part of the official record of the proceeding. A state hearing 55779
decision is binding upon the agency and department, unless it is 55780
reversed or modified on appeal to the director of job and family 55781
services or a court of common pleas. 55782

(C) Except as provided by division (G) of this section, an 55783
appellant who disagrees with a state hearing decision may make an 55784
administrative appeal to the director of job and family services 55785
in accordance with rules adopted under this section. This 55786
administrative appeal does not require a hearing, but the director 55787
or the director's designee shall review the state hearing decision 55788
and previous administrative action and may affirm, modify, remand, 55789
or reverse the state hearing decision. Any person designated to 55790
make an administrative appeal decision on behalf of the director 55791
shall have been admitted to the practice of law in this state. An 55792
administrative appeal decision is the final decision of the 55793
department and is binding upon the department and agency, unless 55794
it is reversed or modified on appeal to the court of common pleas. 55795

(D) An agency shall comply with a decision issued pursuant to 55796
division (B) or (C) of this section within the time limits 55797
established by rules adopted under this section. If a county 55798
department of job and family services or a public children 55799
services agency fails to comply within these time limits, the 55800
department may take action pursuant to section 5101.24 of the 55801
Revised Code. If another agency fails to comply within the time 55802
limits, the department may force compliance by withholding funds 55803
due the agency or imposing another sanction established by rules 55804
adopted under this section. 55805

(E) An appellant who disagrees with an administrative appeal 55806
decision of the director of job and family services or the 55807
director's designee issued under division (C) of this section may 55808
appeal from the decision to the court of common pleas pursuant to 55809
section 119.12 of the Revised Code. The appeal shall be governed 55810
by section 119.12 of the Revised Code except that: 55811

(1) The person may appeal to the court of common pleas of the 55812
county in which the person resides, or to the court of common 55813
pleas of Franklin county if the person does not reside in this 55814

state. 55815

(2) The person may apply to the court for designation as an indigent and, if the court grants this application, the appellant shall not be required to furnish the costs of the appeal. 55816
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(3) The appellant shall mail the notice of appeal to the department of job and family services and file notice of appeal with the court within thirty days after the department mails the administrative appeal decision to the appellant. For good cause shown, the court may extend the time for mailing and filing notice of appeal, but such time shall not exceed six months from the date the department mails the administrative appeal decision. Filing notice of appeal with the court shall be the only act necessary to vest jurisdiction in the court. 55819
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(4) The department shall be required to file a transcript of the testimony of the state hearing with the court only if the court orders the department to file the transcript. The court shall make such an order only if it finds that the department and the appellant are unable to stipulate to the facts of the case and that the transcript is essential to a determination of the appeal. The department shall file the transcript not later than thirty days after the day such an order is issued. 55828
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(F) The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including rules governing the following: 55836
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(1) State hearings under division (B) of this section. The rules shall include provisions regarding notice of eligibility termination and the opportunity of an appellant appealing a decision or order of a county department of job and family services to request a county conference with the county department before the state hearing is held. 55839
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(2) Administrative appeals under division (C) of this 55845

section; 55846

(3) Time limits for complying with a decision issued under 55847
division (B) or (C) of this section; 55848

(4) Sanctions that may be applied against an agency under 55849
division (D) of this section. 55850

(G) The department of job and family services may adopt rules 55851
in accordance with Chapter 119. of the Revised Code establishing 55852
an appeals process for an appellant who appeals a decision or 55853
order regarding a Title IV-A program identified under division 55854
(A)~~(3)~~(4)(c) ~~or~~, (d), (e), or (f) of section 5101.80 of the 55855
Revised Code that is different from the appeals process 55856
established by this section. The different appeals process may 55857
include having a state agency that administers the Title IV-A 55858
program pursuant to an interagency agreement entered into under 55859
section 5101.801 of the Revised Code administer the appeals 55860
process. 55861

(H) If an appellant receiving medicaid through a health 55862
insuring corporation that holds a certificate of authority under 55863
Chapter 1751. of the Revised Code is appealing a denial of 55864
medicaid services based on lack of medical necessity or other 55865
clinical issues regarding coverage by the health insuring 55866
corporation, the person hearing the appeal may order an 55867
independent medical review if that person determines that a review 55868
is necessary. The review shall be performed by a health care 55869
professional with appropriate clinical expertise in treating the 55870
recipient's condition or disease. The department shall pay the 55871
costs associated with the review. 55872

A review ordered under this division shall be part of the 55873
record of the hearing and shall be given appropriate evidentiary 55874
consideration by the person hearing the appeal. 55875

(I) The requirements of Chapter 119. of the Revised Code 55876

apply to a state hearing or administrative appeal under this 55877
section only to the extent, if any, specifically provided by rules 55878
adopted under this section. 55879

Sec. 5101.36. Any application for public assistance gives a 55880
right of subrogation to the department of job and family services 55881
for any workers' compensation benefits payable to a person who is 55882
subject to a support order, as defined in section 3119.01 of the 55883
Revised Code, on behalf of the applicant, to the extent of any 55884
public assistance payments made on the applicant's behalf. If the 55885
director of job and family services, in consultation with a child 55886
support enforcement agency and the administrator of the bureau of 55887
workers' compensation, determines that a person responsible for 55888
support payments to a recipient of public assistance is receiving 55889
workers' compensation, the director shall notify the administrator 55890
of the amount of the benefit to be paid to the department of job 55891
and family services. 55892

For purposes of this section, "public assistance" means 55893
medical assistance provided through the medical assistance program 55894
established under section 5111.01 of the Revised Code; Ohio works 55895
first provided under Chapter 5107. of the Revised Code; 55896
prevention, retention, and contingency benefits and services 55897
provided under Chapter 5108. of the Revised Code; disability 55898
financial assistance provided under Chapter 5115. of the Revised 55899
Code; or disability medical assistance provided under former 55900
Chapter 5115. of the Revised Code. 55901

Sec. 5101.46. (A) As used in this section: 55902

(1) "Title XX" means Title XX of the "Social Security Act," 55903
88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 55904

(2) "Respective local agency" means, with respect to the 55905
department of job and family services, a county department of job 55906

and family services; with respect to the department of mental 55907
health, a board of alcohol, drug addiction, and mental health 55908
services; and with respect to the department of mental retardation 55909
and developmental disabilities, a county board of mental 55910
retardation and developmental disabilities. 55911

(3) "Federal poverty guidelines" means the poverty guidelines 55912
as revised annually by the United States department of health and 55913
human services in accordance with section 673(2) of the "Omnibus 55914
Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 55915
9902, as amended, for a family size equal to the size of the 55916
family of the person whose income is being determined. 55917

(B) The departments of job and family services, mental 55918
health, and mental retardation and developmental disabilities, 55919
with their respective local agencies, shall administer the 55920
provision of social services funded through grants made under 55921
Title XX. The social services furnished with Title XX funds shall 55922
be directed at the following goals: 55923

(1) Achieving or maintaining economic self-support to 55924
prevent, reduce, or eliminate dependency; 55925

(2) Achieving or maintaining self-sufficiency, including 55926
reduction or prevention of dependency; 55927

(3) Preventing or remedying neglect, abuse, or exploitation 55928
of children and adults unable to protect their own interests, or 55929
preserving, rehabilitating, or reuniting families; 55930

(4) Preventing or reducing inappropriate institutional care 55931
by providing for community-based care, home-based care, or other 55932
forms of less intensive care; 55933

(5) Securing referral or admission for institutional care 55934
when other forms of care are not appropriate, or providing 55935
services to individuals in institutions. 55936

(C)(1) All federal funds received under Title XX shall be 55937
appropriated as follows: 55938

(a) Seventy-two and one-half per cent to the department of 55939
job and family services; 55940

(b) Twelve and ninety-three one-hundredths per cent to the 55941
department of mental health; 55942

(c) Fourteen and fifty-seven one-hundredths per cent to the 55943
department of mental retardation and developmental disabilities. 55944

(2) Each state department shall, subject to the approval of 55945
the controlling board, develop formulas for the distribution of 55946
their Title XX appropriations to their respective local agencies. 55947
The formulas shall take into account the total population of the 55948
area that is served by the agency, the percentage of the 55949
population in the area that falls below the federal poverty 55950
guidelines, and the agency's history of and ability to utilize 55951
Title XX funds. 55952

(3) Each of the state departments shall expend no more than 55953
three per cent of its Title XX appropriation for state 55954
administrative costs. Each of the department's respective local 55955
agencies shall expend no more than fourteen per cent of its Title 55956
XX appropriation for local administrative costs. 55957

(4) The department of job and family services shall expend no 55958
more than two per cent of its Title XX appropriation for the 55959
training of the following: 55960

(a) Employees of county departments of job and family 55961
services; 55962

(b) Providers of services under contract with the state 55963
departments' respective local agencies; 55964

(c) Employees of a public children services agency directly 55965
engaged in providing Title XX services. 55966

(D) The department of job and family services shall prepare a biennial comprehensive Title XX social services plan on the intended use of Title XX funds. The department shall develop a method for obtaining public comment during the development of the plan and following its completion.

For each state fiscal year, the department of job and family services shall prepare a report on the actual use of Title XX funds. The department shall make the annual report available for public inspection.

The departments of mental health and mental retardation and developmental disabilities shall prepare and submit to the department of job and family services the portions of each biennial plan and annual report that apply to services for mental health and mental retardation and developmental disabilities. Each respective local agency of the three state departments shall submit information as necessary for the preparation of biennial plans and annual reports.

(E) Each county department shall adopt a county profile for the administration and provision of Title XX social services in the county. In developing its county profile, the county department shall take into consideration the comments and recommendations received from the public by the county family services planning committee pursuant to section 329.06 of the Revised Code. As part of its preparation of the county profile, the county department may prepare a local needs report analyzing the need for Title XX social services.

The county department shall submit the county profile to the board of county commissioners for its review. Once the county profile has been approved by the board, the county department shall file a copy of the county profile with the department of job and family services. The department shall approve the county profile if the department determines the profile provides for the

Title XX social services to meet the goals specified in division 55999
(B) of this section. 56000

~~(F) Not less often than every two years, the departments of 56001
job and family services, mental health, and mental retardation and 56002
developmental disabilities each shall commission an entity 56003
independent of itself to conduct an audit of its Title XX 56004
expenditures in accordance with generally accepted auditing 56005
principles. Within thirty days following the completion of its 56006
audit, each department shall submit a copy of the audit to the 56007
general assembly and to the United States secretary of health and 56008
human services. 56009~~

~~(G) Any of the three state departments and their respective 56010
local agencies may require that an entity under contract to 56011
provide social services with Title XX funds submit to an audit on 56012
the basis of alleged misuse or improper accounting of funds. The 56013
If an audit is required, the social services provider shall 56014
reimburse the state department or local agency for the cost it 56015
incurred in conducting the audit or having the audit conducted. 56016~~

~~If an audit demonstrates that a social services provider is 56017
responsible for one or more adverse findings, the provider shall 56018
reimburse the appropriate state department or its respective local 56019
agency the amount of the adverse findings. The amount shall not be 56020
reimbursed with Title XX funds received under this section. The 56021
three state departments and their respective local agencies may 56022
terminate or refuse to enter into a Title XX contract with a 56023
provider of social services provider if there are adverse findings 56024
in an audit that are the responsibility of the provider. The 56025
amount of any adverse findings shall not be reimbursed with Title 56026
XX funds. The cost of conducting an audit shall be reimbursed 56027
under a subsequent or amended Title XX contract with the provider. 56028~~

~~(H) If federal funds received by the department of job and 56029
family services for use under Chapters 5107. and 5108. of the 56030~~

~~Revised Code are transferred by the controlling board for use in providing social services under this section, the distribution and use of the funds are not subject to the provisions of division (C) of this section. The department may do one or both of the following with the funds:~~

~~(1) Distribute the funds to the county departments of job and family services;~~

~~(2) Use the funds for services that benefit individuals eligible for services consistent with the principles of Title IV A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.~~

~~(I) Except for the authority to adopt rules under division (J) of this section as necessary to carry out this division, this section does not apply to any distribution by the department of job and family services of funds for reimbursement of allowable Title XX expenditures when the funds for the reimbursement are received from a federal funding source other than Title XX.~~

~~(J)(G) The department of job and family services may adopt rules necessary to implement and carry out the purposes of this section. Rules adopted under this division shall be adopted in accordance with Chapter 119. of the Revised Code, unless they are internal management rules governing fiscal and administrative matters. Internal governing financial and operational matters of the department or matters between the department and county departments of job and family services shall be adopted as internal management rules may be adopted in accordance with section 111.15 of the Revised Code. Rules governing eligibility for services, program participation, and other matters pertaining to applicants and participants shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 5101.461. (A) As used in this section:

(1) "Title IV-A" means Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 56062
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(2) "Title XX" has the same meaning as in section 5101.46 of the Revised Code. 56064
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(B) To the extent authorized by federal law, the department of job and family services may use funds received through the Title IV-A temporary assistance for needy families block grant for purposes of providing Title XX social services. The amount used under this section shall not exceed the maximum amount permitted by federal law. The funds and provision of Title XX social services with the funds are not subject to section 5101.46 of the Revised Code. 56066
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(C) The department and any county department of job and family services may require an entity under contract to provide Title XX social services with funds used under this section to submit to an audit on the basis of alleged misuse or improper accounting of funds. If an audit is required, the social services provider shall reimburse the state department or county department for the cost it incurred in conducting the audit or having the audit conducted. 56074
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If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the state department or county department the amount of the adverse findings. The amount shall not be reimbursed with funds received under this section. The state department and county departments may terminate or refuse to enter into a contract with a social services provider to provide services with funds available pursuant to this section if there are adverse findings in an audit that are the responsibility of the provider. 56082
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(D) The state department of job and family services may adopt rules to implement and carry out the purposes of this section. 56091
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Rules governing financial and operational matters of the 56093
department or matters between the department and county 56094
departments of job and family services shall be adopted as 56095
internal management rules in accordance with section 111.15 of the 56096
Revised Code. Rules governing eligibility for services, program 56097
participation, and other matters pertaining to applicants and 56098
participants shall be adopted in accordance with Chapter 119. of 56099
the Revised Code. 56100

Sec. 5101.47. (A) The Except as provided in division (B) of 56101
this section, the director of job and family services may accept 56102
applications, determine eligibility, redetermine eligibility, and 56103
perform related administrative activities for one or more of the 56104
following: 56105

(1) The medicaid program established by Chapter 5111. of the 56106
Revised Code; 56107

(2) The children's health insurance program parts I and II 56108
provided for under sections 5101.50 and 5101.51 of the Revised 56109
Code; 56110

(3) Publicly funded child care provided under Chapter 5104. 56111
of the Revised Code; 56112

(4) The food stamp program administered by the department of 56113
job and family services pursuant to section 5101.54 of the Revised 56114
Code; 56115

(5) Other programs the director determines are supportive of 56116
children, adults, or families with at least one employed member; 56117

(6) Other programs regarding which the director determines 56118
administrative cost savings and efficiency may be achieved through 56119
the department accepting applications, determining eligibility, 56120
redetermining eligibility, or performing related administrative 56121
activities. 56122

(B) If federal law requires a face-to-face interview to complete an eligibility determination for a program specified in or pursuant to division (A) of this section, the face-to-face interview shall not be conducted by the department of job and family services. 56123
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(C) Subject to division (B) of this section, if the director 56128
elects to accept applications, determine eligibility, redetermine 56129
eligibility, and perform related administrative activities for a 56130
program specified in or pursuant to division (A) of this section, 56131
both of the following apply: 56132

(1) An individual seeking services under the program may 56133
apply for the program to the director or to the entity that state 56134
law governing the program authorizes to accept applications for 56135
the program. 56136

(2) The director is subject to federal statutes and 56137
regulations and state ~~law~~ statutes and rules that require, permit, 56138
or prohibit an action regarding accepting applications, 56139
determining or redetermining eligibility, and performing related 56140
administrative activities for the program. 56141

~~(C)~~(D) The director may adopt rules as necessary to implement 56142
this section. 56143

Sec. 5101.80. (A) As used in this section and in section 56144
5101.801 of the Revised Code: 56145

(1) "County family services agency" has the same meaning as 56146
in section 307.981 of the Revised Code. 56147

(2) "State agency" has the same meaning as in section 9.82 of 56148
the Revised Code. 56149

(3) "Title IV-A administrative agency" means both of the 56150
following: 56151

(a) A county family services agency or state agency 56152

administering a Title IV-A program under the supervision of the 56153
department of job and family services; 56154

(b) A government agency or private, not-for-profit entity 56155
administering a project funded in whole or in part with funds 56156
provided under the Title IV-A demonstration program created under 56157
section 5101.803 of the Revised Code. 56158

(4) "Title IV-A program" means all of the following that are 56159
funded in part with funds provided under the temporary assistance 56160
for needy families block grant established by Title IV-A of the 56161
"Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as 56162
amended: 56163

(a) The Ohio works first program established under Chapter 56164
5107. of the Revised Code; 56165

(b) The prevention, retention, and contingency program 56166
established under Chapter 5108. of the Revised Code; 56167

(c) A program established by the general assembly or an 56168
executive order issued by the governor that is administered or 56169
supervised by the department of job and family services pursuant 56170
to section 5101.801 of the Revised Code; 56171

(d) The kinship permanency incentive program created under 56172
section 5101.802 of the Revised Code; 56173

(e) The Title IV-A demonstration program created under 56174
section 5101.803 of the Revised Code; 56175

(f) A component of a Title IV-A program identified under 56176
divisions (A)~~(3)~~(4)(a) to ~~(e)~~(e) of this section that the Title 56177
IV-A state plan prepared under division (C)(1) of this section 56178
identifies as a component. 56179

(B) The department of job and family services shall act as 56180
the single state agency to administer and supervise the 56181
administration of Title IV-A programs. The Title IV-A state plan 56182

and amendments to the plan prepared under division (C) of this 56183
section are binding on ~~county family services agencies and state~~ 56184
~~agencies that administer a~~ Title IV-A ~~program~~ administrative 56185
agencies. No ~~county family services agency or state agency~~ 56186
~~administering a~~ Title IV-A ~~program~~ administrative agency may 56187
establish, by rule or otherwise, a policy governing ~~the~~ a Title 56188
IV-A program that is inconsistent with a Title IV-A program policy 56189
established, in rule or otherwise, by the director of job and 56190
family services. 56191

(C) The department of job and family services shall do all of 56192
the following: 56193

(1) Prepare and submit to the United States secretary of 56194
health and human services a Title IV-A state plan for Title IV-A 56195
programs; 56196

(2) Prepare and submit to the United States secretary of 56197
health and human services amendments to the Title IV-A state plan 56198
that the department determines necessary, including amendments 56199
necessary to implement Title IV-A programs identified in ~~division~~ 56200
divisions (A)~~(3)~~(4)(c) and ~~(d)~~ to (f) of this section; 56201

(3) Prescribe forms for applications, certificates, reports, 56202
records, and accounts of ~~county family services agencies and state~~ 56203
~~agencies administering a~~ Title IV-A ~~program~~ administrative 56204
agencies, and other matters related to Title IV-A programs; 56205

(4) Make such reports, in such form and containing such 56206
information as the department may find necessary to assure the 56207
correctness and verification of such reports, regarding Title IV-A 56208
programs; 56209

(5) Require reports and information from each ~~county family~~ 56210
~~services agency and state agency administering a~~ Title IV-A 56211
~~program~~ administrative agency as may be necessary or advisable 56212
regarding ~~the~~ a Title IV-A program; 56213

(6) Afford a fair hearing in accordance with section 5101.35 56214
of the Revised Code to any applicant for, or participant or former 56215
participant of, a Title IV-A program aggrieved by a decision 56216
regarding the program; 56217

(7) Administer and expend, pursuant to Chapters 5104., 5107., 56218
and 5108. of the Revised Code and ~~section~~ sections 5101.801, 56219
5101.802, and 5101.803 of the Revised Code, any sums appropriated 56220
by the general assembly for the purpose of those chapters and 56221
~~section~~ sections and all sums paid to the state by the secretary 56222
of the treasury of the United States as authorized by Title IV-A 56223
of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 56224
601, as amended; 56225

(8) Conduct investigations and audits as are necessary 56226
regarding Title IV-A programs; 56227

(9) Enter into reciprocal agreements with other states 56228
relative to the provision of Ohio works first and prevention, 56229
retention, and contingency to residents and nonresidents; 56230

(10) Contract with a private entity to conduct an independent 56231
on-going evaluation of the Ohio works first program and the 56232
prevention, retention, and contingency program. The contract must 56233
require the private entity to do all of the following: 56234

(a) Examine issues of process, practice, impact, and 56235
outcomes; 56236

(b) Study former participants of Ohio works first who have 56237
not participated in Ohio works first for at least one year to 56238
determine whether they are employed, the type of employment in 56239
which they are engaged, the amount of compensation they are 56240
receiving, whether their employer provides health insurance, 56241
whether and how often they have received benefits or services 56242
under the prevention, retention, and contingency program, and 56243
whether they are successfully self sufficient; 56244

(c) Provide the department with reports at times the department specifies.

(11) Not later than January 1, 2001, and the first day of each January and July thereafter, prepare a report containing information on the following:

(a) Individuals exhausting the time limits for participation in Ohio works first set forth in section 5107.18 of the Revised Code.

(b) Individuals who have been exempted from the time limits set forth in section 5107.18 of the Revised Code and the reasons for the exemption.

~~(12) Not later than January 1, 2001, and on a quarterly basis thereafter until December 1, 2003, prepare, to the extent the necessary data is available to the department, a report based on information determined under section 5107.80 of the Revised Code that states how many former Ohio works first participants entered the workforce during the most recent previous quarter for which the information is known and includes information regarding the earnings of those former participants. The report shall include a county by county breakdown and shall not contain the names or social security numbers of former participants.~~

~~(13) To the extent authorized by section 5101.801 of the Revised Code, enter into interagency agreements with state agencies for the administration of Title IV A programs identified under division (A)(3)(c) and (d) of this section.~~

(D) The department shall provide copies of the reports it receives under division (C)(10) of this section and prepares under ~~divisions~~ division (C)(11) and ~~(12)~~ of this section to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The department shall provide copies of the reports to any private or

government entity on request. 56276

(E) An authorized representative of the department or a 56277
county family services agency or state agency administering a 56278
Title IV-A program shall have access to all records and 56279
information bearing thereon for the purposes of investigations 56280
conducted pursuant to this section. An authorized representative 56281
of a government entity or private, not-for-profit entity 56282
administering a project funded in whole or in part with funds 56283
provided under the Title IV-A demonstration program shall have 56284
access to all records and information bearing on the project for 56285
the purpose of investigations conducted pursuant to this section. 56286

Sec. 5101.801. (A) Except as otherwise provided by the law 56287
enacted by the general assembly or executive order issued by the 56288
governor establishing the Title IV-A program, a Title IV-A program 56289
identified under division (A)~~(3)~~(4)(c) ~~or~~, (d), (e), or (f) of 56290
section 5101.80 of the Revised Code shall provide benefits and 56291
services that are not "assistance" as defined in 45 C.F.R. 56292
260.31(a) and are benefits and services that 45 C.F.R. 260.31(b) 56293
excludes from the definition of assistance. 56294

(B)~~(1)~~ Except as otherwise provided by the law enacted by the 56295
general assembly or executive order issued by the governor 56296
establishing the Title IV-A program, the department of job and 56297
family services shall do either of the following regarding a Title 56298
IV-A program identified under division (A)~~(3)~~(4)(c) ~~or~~, (d), (e), 56299
or (f) of section 5101.80 of the Revised Code: 56300

~~(1)~~(a) Administer the program or supervise a county family 56301
services agency's administration of the program; 56302

~~(2)~~(b) Enter into an interagency agreement with a state 56303
agency for the state agency to administer the program under the 56304
department's supervision. 56305

(2) The department may enter into an agreement with a government entity and, to the extent permitted by federal law, a private, not-for-profit entity for the entity to receive funding for a project under the Title IV-A demonstration program. 56306
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~~(C) If the department administers or supervises the administration of a Title IV-A program identified under division (A)(3)(c) or (d) of section 5101.80 of the Revised Code pursuant to division (B)(1) of this section, the~~ The department may adopt rules governing the program Title IV-A programs identified under divisions (A)(4)(c), (d), (e), and (f) of section 5101.80 of the Revised Code. Rules governing financial and operational matters of the department or between the department and ~~the~~ county family services ~~agency~~ agencies shall be adopted as internal management rules adopted in accordance with section 111.15 of the Revised Code. All other rules shall be adopted in accordance with Chapter 119. of the Revised Code. 56310
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(D) If the department enters into an ~~interagency~~ agreement regarding a Title IV-A program identified under division ~~(A)(3)(4)(c) or (d),~~ (e), or (f) of section 5101.80 of the Revised Code pursuant to division ~~(B)(1)(b) or~~ (2) of this section, the agreement shall include at least all of the following: 56322
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(1) A requirement that the state agency or entity comply with the requirements for the program or project, including all of the following requirements established by federal statutes and regulations, state statutes and rules, the United States office of management and budget, and the Title IV-A state plan prepared under section 5101.80 of the Revised Code: 56327
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(a) Eligibility; 56333

(b) Reports; 56334

(c) Benefits and services; 56335

(d) Use of funds; 56336

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| (e) Appeals for applicants for, and recipients and former recipients of, the benefits and services; | 56337 |
| | 56338 |
| (f) Audits. | 56339 |
| (2) A complete description of all of the following: | 56340 |
| (a) The benefits and services that the program <u>or project</u> is to provide; | 56341 |
| | 56342 |
| (b) The methods of program <u>or project</u> administration; | 56343 |
| (c) The appeals process under section 5101.35 of the Revised Code for applicants for, and recipients and former recipients of, the program's <u>program or project's</u> benefits and services; | 56344 |
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| (d) Other program and administrative requirements that the department requires be included. | 56347 |
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| (3) Procedures for the department to approve a policy, established by rule or otherwise, that the state agency <u>or entity</u> establishes for the program <u>or project</u> before the policy is established; | 56349 |
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| (4) Provisions regarding how the department is to reimburse the state agency <u>or entity</u> for allowable expenditures under the program <u>or project</u> that the department approves, including all of the following: | 56353 |
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| (a) Limitations on administrative costs; | 56357 |
| (b) The department, at its discretion, withholding doing <u>either of the following:</u> | 56358 |
| | 56359 |
| (i) <u>Withholding</u> no more than five per cent of the funds that the department would otherwise provide to the state agency <u>or entity</u> for the program or charging <u>project;</u> | 56360 |
| | 56361 |
| | 56362 |
| (ii) <u>Charging</u> the state agency <u>or entity</u> for the costs to the department of performing, or contracting for the performance of, audits and other administrative functions associated with the | 56363 |
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program or project. 56366

(5) If the state agency or entity arranges by contract, 56367
grant, or other agreement for another entity to perform a function 56368
the state agency or entity would otherwise perform regarding the 56369
program or project, the state ~~agency's~~ agency or entity's 56370
responsibilities for both of the following: 56371

(a) Ensuring that the other entity complies with the 56372
~~interagency~~ agreement between the state agency or entity and 56373
department and federal statutes and regulations and state statutes 56374
and rules governing the use of funds for the program or project; 56375

(b) Auditing the other entity in accordance with requirements 56376
established by the United States office of management and budget. 56377

(6) The state ~~agency's~~ agency or entity's responsibilities 56378
regarding the prompt payment, including any interest assessed, of 56379
any adverse audit finding, final disallowance of federal funds, or 56380
other sanction or penalty imposed by the federal government, 56381
auditor of state, department, a court, or other entity regarding 56382
funds for the program or project; 56383

(7) Provisions for the department to terminate the 56384
~~interagency~~ agreement or withhold reimbursement from the state 56385
agency or entity if either of the following occur: 56386

(a) The federal government disapproves the program or project 56387
or reduces federal funds for the program or project; 56388

(b) The state agency or entity fails to comply with the terms 56389
of the ~~interagency~~ agreement. 56390

(8) Provisions for both of the following: 56391

(a) The department and state agency or entity determining the 56392
performance outcomes expected for the program or project; 56393

(b) An evaluation of the program or project to determine its 56394
success in achieving the performance outcomes determined under 56395

division (D)(8)(a) of this section. 56396

(E) To the extent consistent with the law enacted by the 56397
general assembly or executive order issued by the governor 56398
establishing the Title IV-A program and subject to the approval of 56399
the director of budget and management, the director of job and 56400
family services may terminate a Title IV-A program identified 56401
under division (A)~~(3)~~(4)(c) ~~or~~, (d), (e), or (f) of section 56402
5101.80 of the Revised Code or reduce funding for the program if 56403
the director of job and family services determines that federal or 56404
state funds are insufficient to fund the program. If the director 56405
of budget and management approves the termination or reduction in 56406
funding for such a program, the director of job and family 56407
services shall issue instructions for the termination or funding 56408
reduction. If a ~~county family services agency or state~~ Title IV-A 56409
administrative agency is administering the program, the ~~county~~ 56410
~~family services agency or state~~ agency is bound by the termination 56411
or funding reduction and shall comply with the director's 56412
instructions. 56413

(F) The director of job and family services may adopt 56414
internal management rules in accordance with section 111.15 of the 56415
Revised Code as necessary to implement this section. The rules are 56416
binding on each ~~county family services agency and state agency~~ 56417
~~administering, pursuant to this section, a Title IV-A program~~ 56418
~~identified in division (A)(3)(c) or (d) of section 5101.80 of the~~ 56419
~~Revised Code~~ administrative agency. 56420

Sec. 5101.802. (A) As used in this section: 56421

(1) "Custodian," "guardian," and "minor child" have the same 56422
meanings as in section 5107.02 of the Revised Code. 56423

(2) "Federal poverty guidelines" has the same meaning as in 56424
section 5101.46 of the Revised Code. 56425

(3) "Kinship caregiver" has the same meaning as in section 5101.85 of the Revised Code. 56426
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(B) Subject to division (E) of section 5101.801 of the Revised Code, there is hereby created the kinship permanency incentive program to promote permanency for a minor child in the legal and physical custody of a kinship caregiver. The program shall provide an initial one-time incentive payment to the kinship caregiver to defray the costs of initial placement of the minor child in the kinship caregiver's home. The program may provide additional permanency incentive payments for the minor child at six month intervals for a total period not to exceed thirty-six months. 56428
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(C) A kinship caregiver may participate in the program if all of the following requirements are met: 56438
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(1) The kinship caregiver applies to a public children services agency in accordance with the application process established in rules authorized by division (E) of this section; 56440
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(2) The minor child the kinship caregiver is caring for is a child with special needs as that term is defined in rules adopted under section 5153.163 of the Revised Code; 56443
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(3) A juvenile court has adjudicated the minor child to be an abused, neglected, dependent, or unruly child and determined that it is in the child's best interest to be in the legal custody of the kinship caregiver or the probate court has determined that it is in the child's best interest to be in the guardianship of the kinship caregiver; 56446
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(4) The kinship caregiver is either the minor child's custodian or guardian; 56452
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(5) The minor child resides with the kinship caregiver pursuant to a placement approval process established in rules authorized by division (E) of this section; 56454
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(6) The gross income of the kinship caregiver's family, including the minor child, does not exceed two hundred per cent of the federal poverty guidelines. 56457
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(D) Public children services agencies shall make initial and ongoing eligibility determinations for the kinship permanency incentive program in accordance with rules authorized by division (E) of this section. The director of job and family services shall supervise public children services agencies' duties under this section. 56460
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(E) The director of job and family services shall adopt rules under division (C) of section 5101.801 of the Revised Code as necessary to implement the kinship permanency incentive program. The rules shall establish all of the following: 56466
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(1) The application process for the program; 56470

(2) The placement approval process through which a minor child is placed with a kinship caregiver for the kinship caregiver to be eligible for the program; 56471
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(3) The initial and ongoing eligibility determination process for the program; 56474
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(4) The amount of the incentive payments provided under the program; 56476
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(5) The method by which the incentive payments are provided to a kinship caregiver; 56478
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(6) Anything else the director considers necessary to implement the program. 56480
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(F) The director shall begin implementation of the kinship permanency incentive program no later than January 1, 2006. 56482
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Sec. 5101.803. (A) Subject to division (E) of section 5101.801 of the Revised Code, there is hereby created the Title 56484
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IV-A demonstration program to provide funding for innovative and promising prevention and intervention projects that meet one or more of the four purposes of the temporary assistance for needy families block grant as specified in 42 U.S.C. 601 and are for individuals with specific and multiple barriers to achieving or maintaining self-sufficiency and personal responsibility. The department of job and family services may provide funding for such projects to government entities and, to the extent permitted by federal law, private, not-for-profit entities with which the department enters into agreements under division (B)(2) of section 5101.801 of the Revised Code.

In accordance with criteria the department develops, the department may solicit proposals for entities seeking to enter into an agreement with the department under division (B)(2) of section 5101.801 of the Revised Code. The department may enter into such agreements with entities that do both of the following:

(1) Meet the proposals' criteria;

(2) If the entity's proposed project does not potentially affect persons in each county of the state, provides the department evidence that the entity has notified, in writing, the county department of job and family services of each county where persons may be affected by the implementation of the project.

(B) In developing the criteria, soliciting the proposals, and entering in the agreements, the department shall comply with all applicable federal and state laws, the Title IV-A state plan submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, amendments to the Title IV-A state plan submitted to the United States secretary under that section, and federal waivers the United States secretary grants.

(C) The department shall begin implementation of the Title

IV-A demonstration program no later than January 1, 2006. 56517

Sec. 5101.821. Except as otherwise approved by the director 56518
of budget and management, the department of job and family 56519
services shall deposit federal funds received under Title IV-A of 56520
the "Social Security Act," 42 U.S.C.A. 601, 110 Stat. 2113 (1996), 56521
into the temporary assistance for needy families (TANF) federal 56522
fund, which is hereby created in the state treasury. The 56523
department shall use money in the fund for the Ohio works first 56524
program established under Chapter 5107. of the Revised Code; the 56525
prevention, retention, and contingency program established under 56526
Chapter 5108. of the Revised Code; social services provided 56527
pursuant to section 5101.461 of the Revised Code; and any other 56528
purposes consistent with Title IV-A, federal regulations, federal 56529
waivers granted by the United States secretary of health and human 56530
services, state law, the Title IV-A state plan and amendments 56531
submitted to the United States secretary of health and human 56532
services under section 5101.80 of the Revised Code, and rules 56533
adopted by the department under section 5107.05 of the Revised 56534
Code. 56535

Sec. 5101.93. (A) The director of job and family services 56536
shall determine whether a waiver of federal medicaid requirements 56537
is necessary to fulfill the requirements of section 3901.3814 of 56538
the Revised Code. If the director determines a waiver is 56539
necessary, the department of job and family services shall apply 56540
to the United States secretary of health and human services for 56541
the waiver. 56542

(B)(1) If the director determines that section 3901.3814 of 56543
the Revised Code can be implemented without a waiver or a waiver 56544
is granted, the department shall notify the department of 56545
insurance that the section can be implemented. Implementation of 56546
the section shall be effective eighteen months after the notice is 56547

sent. 56548

(2) At the time the notice is given under division (B)(1) of 56549
this section, the department shall also give notice to each health 56550
insuring corporation that provides coverage to medicaid 56551
recipients. The notice shall inform the corporation that sections 56552
3901.38 and 3901.381 to 3901.3814 of the Revised Code apply to 56553
claims for services rendered to recipients on the date determined 56554
under division (B)(1) of this section. That date shall be 56555
specified in the notice. 56556

Sec. 5101.98. (A) There is hereby created in the state 56557
treasury the military injury relief fund, which shall consist of 56558
money contributed to it under section 5747.113 of the Revised Code 56559
and of contributions made directly to it. Any person may 56560
contribute directly to the fund in addition to or independently of 56561
the income tax refund contribution system established in section 56562
5747.113 of the Revised Code. 56563

(B) Upon application, the director of job and family services 56564
shall grant money in the fund to individuals injured while in 56565
active service as a member of the armed forces of the United 56566
States and while serving under operation Iraqi freedom or 56567
operation enduring freedom. 56568

(C) An individual who receives a grant under this section is 56569
not precluded from receiving one or more additional grants under 56570
this section and is not precluded from being considered for or 56571
receiving other assistance offered by the department of job and 56572
family services. 56573

(D) The director shall adopt rules under Chapter 119. of the 56574
Revised Code establishing: 56575

(1) Forms and procedures by which individuals may apply for a 56576
grant under this section; 56577

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| <u>(2) Criteria for reviewing, evaluating, and ranking grant applications;</u> | 56578 |
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| <u>(3) Criteria for determining the amount of grants awarded under this section; and</u> | 56580 |
| | 56581 |
| <u>(4) Any other rules necessary to administer the grant program established in this section.</u> | 56582 |
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| Sec. 5104.01. As used in this chapter: | 56584 |
| (A) "Administrator" means the person responsible for the daily operation of a center or type A home. The administrator and the owner may be the same person. | 56585 |
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| (B) "Approved child day camp" means a child day camp approved pursuant to section 5104.22 of the Revised Code. | 56588 |
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| (C) "Authorized provider" means a person authorized by a county director of job and family services to operate a certified type B family day-care home. | 56590 |
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| (D) "Border state child care provider" means a child care provider that is located in a state bordering Ohio and that is licensed, certified, or otherwise approved by that state to provide child care. | 56593 |
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| (E) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child. | 56597 |
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| (F) "Certified type B family day-care home" and "certified type B home" mean a type B family day-care home that is certified by the director of the county department of job and family | 56605 |
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services pursuant to section 5104.11 of the Revised Code to 56608
receive public funds for providing child care pursuant to this 56609
chapter and any rules adopted under it. 56610

(G) "Chartered nonpublic school" means a school that meets 56611
standards for nonpublic schools prescribed by the state board of 56612
education for nonpublic schools pursuant to section 3301.07 of the 56613
Revised Code. 56614

(H) "Child" includes an infant, toddler, preschool child, or 56615
school child. 56616

(I) "Child care block grant act" means the "Child Care and 56617
Development Block Grant Act of 1990," established in section 5082 56618
of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 56619
1388-236 (1990), 42 U.S.C. 9858, as amended. 56620

(J) "Child day camp" means a program in which only school 56621
children attend or participate, that operates for no more than 56622
seven hours per day, that operates only during one or more public 56623
school district's regular vacation periods or for no more than 56624
fifteen weeks during the summer, and that operates outdoor 56625
activities for each child who attends or participates in the 56626
program for a minimum of fifty per cent of each day that children 56627
attend or participate in the program, except for any day when 56628
hazardous weather conditions prevent the program from operating 56629
outdoor activities for a minimum of fifty per cent of that day. 56630
For purposes of this division, the maximum seven hours of 56631
operation time does not include transportation time from a child's 56632
home to a child day camp and from a child day camp to a child's 56633
home. 56634

(K) "Child care" means administering to the needs of infants, 56635
toddlers, preschool children, and school children outside of 56636
school hours by persons other than their parents or guardians, 56637
custodians, or relatives by blood, marriage, or adoption for any 56638

part of the twenty-four-hour day in a place or residence other than a child's own home.

(L) "Child day-care center" and "center" mean any place in which child care or publicly funded child care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child care or publicly funded child care is provided for seven to twelve children at one time. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the center shall be counted. "Child day-care center" and "center" do not include any of the following:

(1) A place located in and operated by a hospital, as defined in section 3727.01 of the Revised Code, in which the needs of children are administered to, if all the children whose needs are being administered to are monitored under the on-site supervision of a physician licensed under Chapter 4731. of the Revised Code or a registered nurse licensed under Chapter 4723. of the Revised Code, and the services are provided only for children who, in the opinion of the child's parent, guardian, or custodian, are exhibiting symptoms of a communicable disease or other illness or are injured;

(2) A child day camp;

(3) A place that provides child care, but not publicly funded child care, if all of the following apply:

(a) An organized religious body provides the child care;

(b) A parent, custodian, or guardian of at least one child receiving child care is on the premises and readily accessible at all times;

(c) The child care is not provided for more than thirty days a year;

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| (d) The child care is provided only for preschool and school children. | 56670 56671 |
| (M) "Child care resource and referral service organization" means a community-based nonprofit organization that provides child care resource and referral services but not child care. | 56672 56673 56674 |
| (N) "Child care resource and referral services" means all of the following services: | 56675 56676 |
| (1) Maintenance of a uniform data base of all child care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data; | 56677 56678 56679 |
| (2) Provision of individualized consumer education to families seeking child care; | 56680 56681 |
| (3) Provision of timely referrals of available child care providers to families seeking child care; | 56682 56683 |
| (4) Recruitment of child care providers; | 56684 |
| (5) Assistance in the development, conduct, and dissemination of training for child care providers and provision of technical assistance to current and potential child care providers, employers, and the community; | 56685 56686 56687 56688 |
| (6) Collection and analysis of data on the supply of and demand for child care in the community; | 56689 56690 |
| (7) Technical assistance concerning locally, state, and federally funded child care and early childhood education programs; | 56691 56692 56693 |
| (8) Stimulation of employer involvement in making child care more affordable, more available, safer, and of higher quality for their employees and for the community; | 56694 56695 56696 |
| (9) Provision of written educational materials to caretaker parents and informational resources to child care providers; | 56697 56698 |

(10) Coordination of services among child care resource and 56699
referral service organizations to assist in developing and 56700
maintaining a statewide system of child care resource and referral 56701
services if required by the department of job and family services; 56702

(11) Cooperation with the county department of job and family 56703
services in encouraging the establishment of parent cooperative 56704
child care centers and parent cooperative type A family day-care 56705
homes. 56706

(O) "Child-care staff member" means an employee of a child 56707
day-care center or type A family day-care home who is primarily 56708
responsible for the care and supervision of children. The 56709
administrator may be a part-time child-care staff member when not 56710
involved in other duties. 56711

(P) "Drop-in child day-care center," "drop-in center," 56712
"drop-in type A family day-care home," and "drop-in type A home" 56713
mean a center or type A home that provides child care or publicly 56714
funded child care for children on a temporary, irregular basis. 56715

(Q) "Employee" means a person who either: 56716

(1) Receives compensation for duties performed in a child 56717
day-care center or type A family day-care home; 56718

(2) Is assigned specific working hours or duties in a child 56719
day-care center or type A family day-care home. 56720

(R) "Employer" means a person, firm, institution, 56721
organization, or agency that operates a child day-care center or 56722
type A family day-care home subject to licensure under this 56723
chapter. 56724

(S) "Federal poverty line" means the official poverty 56725
guideline as revised annually in accordance with section 673(2) of 56726
the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 56727
U.S.C. 9902, as amended, for a family size equal to the size of 56728

the family of the person whose income is being determined. 56729

(T) "Head start program" means a comprehensive child 56730
development program that receives funds distributed under the 56731
"Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as 56732
amended, ~~or under sections 3301.31 to 3301.37 of the Revised Code~~ 56733
and is licensed as a child day-care center. 56734

(U) "Income" means gross income, as defined in section 56735
5107.10 of the Revised Code, less any amounts required by federal 56736
statutes or regulations to be disregarded. 56737

(V) "Indicator checklist" means an inspection tool, used in 56738
conjunction with an instrument-based program monitoring 56739
information system, that contains selected licensing requirements 56740
that are statistically reliable indicators or predictors of a 56741
child day-care center or type A family day-care home's compliance 56742
with licensing requirements. 56743

(W) "Infant" means a child who is less than eighteen months 56744
of age. 56745

(X) "In-home aide" means a person certified by a county 56746
director of job and family services pursuant to section 5104.12 of 56747
the Revised Code to provide publicly funded child care to a child 56748
in a child's own home pursuant to this chapter and any rules 56749
adopted under it. 56750

(Y) "Instrument-based program monitoring information system" 56751
means a method to assess compliance with licensing requirements 56752
for child day-care centers and type A family day-care homes in 56753
which each licensing requirement is assigned a weight indicative 56754
of the relative importance of the requirement to the health, 56755
growth, and safety of the children that is used to develop an 56756
indicator checklist. 56757

(Z) "License capacity" means the maximum number in each age 56758
category of children who may be cared for in a child day-care 56759

center or type A family day-care home at one time as determined by 56760
the director of job and family services considering building 56761
occupancy limits established by the department of commerce, number 56762
of available child-care staff members, amount of available indoor 56763
floor space and outdoor play space, and amount of available play 56764
equipment, materials, and supplies. 56765

(AA) "Licensed preschool program" or "licensed school child 56766
program" means a preschool program or school child program, as 56767
defined in section 3301.52 of the Revised Code, that is licensed 56768
by the department of education pursuant to sections 3301.52 to 56769
3301.59 of the Revised Code. 56770

(BB) "Licensee" means the owner of a child day-care center or 56771
type A family day-care home that is licensed pursuant to this 56772
chapter and who is responsible for ensuring its compliance with 56773
this chapter and rules adopted pursuant to this chapter. 56774

(CC) "Operate a child day camp" means to operate, establish, 56775
manage, conduct, or maintain a child day camp. 56776

(DD) "Owner" includes a person, as defined in section 1.59 of 56777
the Revised Code, or government entity. 56778

(EE) "Parent cooperative child day-care center," "parent 56779
cooperative center," "parent cooperative type A family day-care 56780
home," and "parent cooperative type A home" mean a corporation or 56781
association organized for providing educational services to the 56782
children of members of the corporation or association, without 56783
gain to the corporation or association as an entity, in which the 56784
services of the corporation or association are provided only to 56785
children of the members of the corporation or association, 56786
ownership and control of the corporation or association rests 56787
solely with the members of the corporation or association, and at 56788
least one parent-member of the corporation or association is on 56789
the premises of the center or type A home during its hours of 56790

operation. 56791

(FF) "Part-time child day-care center," "part-time center," 56792
"part-time type A family day-care home," and "part-time type A 56793
home" mean a center or type A home that provides child care or 56794
publicly funded child care for no more than four hours a day for 56795
any child. 56796

(GG) "Place of worship" means a building where activities of 56797
an organized religious group are conducted and includes the 56798
grounds and any other buildings on the grounds used for such 56799
activities. 56800

(HH) "Preschool child" means a child who is three years old 56801
or older but is not a school child. 56802

(II) "Protective child care" means publicly funded child care 56803
for the direct care and protection of a child to whom either of 56804
the following applies: 56805

(1) A case plan prepared and maintained for the child 56806
pursuant to section 2151.412 of the Revised Code indicates a need 56807
for protective care and the child resides with a parent, 56808
stepparent, guardian, or another person who stands in loco 56809
parentis as defined in rules adopted under section 5104.38 of the 56810
Revised Code; 56811

(2) The child and the child's caretaker either temporarily 56812
reside in a facility providing emergency shelter for homeless 56813
families or are determined by the county department of job and 56814
family services to be homeless, and are otherwise ineligible for 56815
publicly funded child care. 56816

(JJ) "Publicly funded child care" means administering to the 56817
needs of infants, toddlers, preschool children, and school 56818
children under age thirteen during any part of the 56819
twenty-four-hour day by persons other than their caretaker parents 56820
for remuneration wholly or in part with federal or state funds, 56821

including funds available under the child care block grant act, 56822
Title IV-A, and Title XX, distributed by the department of job and 56823
family services. 56824

(KK) "Religious activities" means any of the following: 56825
worship or other religious services; religious instruction; Sunday 56826
school classes or other religious classes conducted during or 56827
prior to worship or other religious services; youth or adult 56828
fellowship activities; choir or other musical group practices or 56829
programs; meals; festivals; or meetings conducted by an organized 56830
religious group. 56831

(LL) "School child" means a child who is enrolled in or is 56832
eligible to be enrolled in a grade of kindergarten or above but is 56833
less than fifteen years old. 56834

(MM) "School child day-care center," "school child center," 56835
"school child type A family day-care home," and "school child type 56836
A family home" mean a center or type A home that provides child 56837
care for school children only and that does either or both of the 56838
following: 56839

(1) Operates only during that part of the day that 56840
immediately precedes or follows the public school day of the 56841
school district in which the center or type A home is located; 56842

(2) Operates only when the public schools in the school 56843
district in which the center or type A home is located are not 56844
open for instruction with pupils in attendance. 56845

(NN) "State median income" means the state median income 56846
calculated by the department of development pursuant to division 56847
(A)(1)(g) of section 5709.61 of the Revised Code. 56848

(OO) "Title IV-A" means Title IV-A of the "Social Security 56849
Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 56850

(PP) "Title XX" means Title XX of the "Social Security Act," 56851

88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 56852

(QQ) "Toddler" means a child who is at least eighteen months 56853
of age but less than three years of age. 56854

(RR) "Type A family day-care home" and "type A home" mean a 56855
permanent residence of the administrator in which child care or 56856
publicly funded child care is provided for seven to twelve 56857
children at one time or a permanent residence of the administrator 56858
in which child care is provided for four to twelve children at one 56859
time if four or more children at one time are under two years of 56860
age. In counting children for the purposes of this division, any 56861
children under six years of age who are related to a licensee, 56862
administrator, or employee and who are on the premises of the type 56863
A home shall be counted. "Type A family day-care home" does not 56864
include a residence in which the needs of children are 56865
administered to, if all of the children whose needs are being 56866
administered to are siblings of the same immediate family and the 56867
residence is the home of the siblings. "Type A family day-care 56868
home" and "type A home" do not include any child day camp. 56869

(SS) "Type B family day-care home" and "type B home" mean a 56870
permanent residence of the provider in which child care is 56871
provided for one to six children at one time and in which no more 56872
than three children are under two years of age at one time. In 56873
counting children for the purposes of this division, any children 56874
under six years of age who are related to the provider and who are 56875
on the premises of the type B home shall be counted. "Type B 56876
family day-care home" does not include a residence in which the 56877
needs of children are administered to, if all of the children 56878
whose needs are being administered to are siblings of the same 56879
immediate family and the residence is the home of the siblings. 56880
"Type B family day-care home" and "type B home" do not include any 56881
child day camp. 56882

Sec. 5104.02. (A) The director of job and family services is 56883
responsible for the licensing of child day-care centers and type A 56884
family day-care homes, ~~and. Each entity operating a head start~~ 56885
program shall meet the criteria for, and be licensed as, a child 56886
day-care center. The director is responsible for the enforcement 56887
of this chapter and of rules promulgated pursuant to this chapter. 56888
~~No~~ 56889

No person, firm, organization, institution, or agency shall 56890
operate, establish, manage, conduct, or maintain a child day-care 56891
center or type A family day-care home without a license issued 56892
under section 5104.03 of the Revised Code. The current license 56893
shall be posted in a conspicuous place in the center or type A 56894
home that is accessible to parents, custodians, or guardians and 56895
employees of the center or type A home at all times when the 56896
center or type A home is in operation. 56897

(B) A person, firm, institution, organization, or agency 56898
operating any of the following programs is exempt from the 56899
requirements of this chapter: 56900

(1) A program of child care that operates for two or less 56901
consecutive weeks; 56902

(2) Child care in places of worship during religious 56903
activities during which children are cared for while at least one 56904
parent, guardian, or custodian of each child is participating in 56905
such activities and is readily available; 56906

(3) Religious activities which do not provide child care; 56907

(4) Supervised training, instruction, or activities of 56908
children in specific areas, including, but not limited to: art; 56909
drama; dance; music; gymnastics, swimming, or another athletic 56910
skill or sport; computers; or an educational subject conducted on 56911
an organized or periodic basis no more than one day a week and for 56912

no more than six hours duration; 56913

(5) Programs in which the director determines that at least 56914
one parent, custodian, or guardian of each child is on the 56915
premises of the facility offering child care and is readily 56916
accessible at all times, except that child care provided on the 56917
premises at which a parent, custodian, or guardian is employed 56918
more than two and one-half hours a day shall be licensed in 56919
accordance with division (A) of this section; 56920

(6)(a) Programs that provide child care funded and regulated 56921
or operated and regulated by state departments other than the 56922
department of job and family services or the state board of 56923
education when the director of job and family services has 56924
determined that the rules governing the program are equivalent to 56925
or exceed the rules promulgated pursuant to this chapter. 56926

Notwithstanding any exemption from regulation under this 56927
chapter, each state department shall submit to the director of job 56928
and family services a copy of the rules that govern programs that 56929
provide child care and are regulated or operated and regulated by 56930
the department. Annually, each state department shall submit to 56931
the director a report for each such program it regulates or 56932
operates and regulates that includes the following information: 56933

(i) The site location of the program; 56934

(ii) The maximum number of infants, toddlers, preschool 56935
children, or school children served by the program at one time; 56936

(iii) The number of adults providing child care for the 56937
number of infants, toddlers, preschool children, or school 56938
children; 56939

(iv) Any changes in the rules made subsequent to the time 56940
when the rules were initially submitted to the director. 56941

The director shall maintain a record of the child care 56942

information submitted by other state departments and shall provide 56943
this information upon request to the general assembly or the 56944
public. 56945

(b) Child care programs conducted by boards of education or 56946
by chartered nonpublic schools that are conducted in school 56947
buildings and that provide child care to school children only 56948
shall be exempt from meeting or exceeding rules promulgated 56949
pursuant to this chapter. 56950

(7) Any preschool program or school child program, except a 56951
head start program, that is subject to licensure by the department 56952
of education under sections 3301.52 to 3301.59 of the Revised 56953
Code. 56954

(8) Any program providing child care that meets all of the 56955
following requirements and, on October 20, 1987, was being 56956
operated by a nonpublic school that holds a charter issued by the 56957
state board of education for kindergarten only: 56958

(a) The nonpublic school has given the notice to the state 56959
board and the director of job and family services required by 56960
Section 4 of Substitute House Bill No. 253 of the 117th general 56961
assembly; 56962

(b) The nonpublic school continues to be chartered by the 56963
state board for kindergarten, or receives and continues to hold a 56964
charter from the state board for kindergarten through grade five; 56965

(c) The program is conducted in a school building; 56966

(d) The program is operated in accordance with rules 56967
promulgated by the state board under sections 3301.52 to 3301.57 56968
of the Revised Code. 56969

(9) A youth development program operated outside of school 56970
hours by a community-based center to which all of the following 56971
apply: 56972

(a) The children enrolled in the program are under nineteen 56973
years of age and enrolled in or eligible to be enrolled in a grade 56974
of kindergarten or above. 56975

(b) The program provides informal child care and at least two 56976
of the following supervised activities: educational, recreational, 56977
culturally enriching, social, and personal development activities. 56978

(c) The state board of education has approved the program's 56979
participation in the child and adult care food program as an 56980
outside-school-hours care center pursuant to standards established 56981
under section 3313.813 of the Revised Code. 56982

(d) The community-based center operating the program is 56983
exempt from federal income taxation pursuant to 26 U.S.C. 501(a) 56984
and (c)(3). 56985

Sec. 5104.32. (A) Except as provided in division (C) of this 56986
section, all purchases of publicly funded child care shall be made 56987
under a contract entered into by a licensed child day-care center, 56988
licensed type A family day-care home, certified type B family 56989
day-care home, certified in-home aide, approved child day camp, 56990
licensed preschool program, licensed school child program, or 56991
border state child care provider and the county department of job 56992
and family services. A county department of job and family 56993
services may enter into a contract with a provider for publicly 56994
funded child care for a specified period of time or upon a 56995
continuous basis for an unspecified period of time. All contracts 56996
for publicly funded child care shall be contingent upon the 56997
availability of state and federal funds. The department of job and 56998
family services shall prescribe a standard form to be used for all 56999
contracts for the purchase of publicly funded child care, 57000
regardless of the source of public funds used to purchase the 57001
child care. To the extent permitted by federal law and 57002
notwithstanding any other provision of the Revised Code that 57003

regulates state or county contracts or contracts involving the 57004
expenditure of state, county, or federal funds, all contracts for 57005
publicly funded child care shall be entered into in accordance 57006
with the provisions of this chapter and are exempt from any other 57007
provision of the Revised Code that regulates state or county 57008
contracts or contracts involving the expenditure of state, county, 57009
or federal funds. 57010

(B) Each contract for publicly funded child care shall 57011
specify at least the following: 57012

(1) That the provider of publicly funded child care agrees to 57013
be paid for rendering services at the lowest of the rate 57014
customarily charged by the provider for children enrolled for 57015
child care, the reimbursement ceiling or rate of payment 57016
established pursuant to section 5104.30 of the Revised Code, or a 57017
rate the county department negotiates with the provider; 57018

(2) That, if a provider provides child care to an individual 57019
potentially eligible for publicly funded child care who is 57020
subsequently determined to be eligible, the county department 57021
agrees to pay for all child care provided between the date the 57022
county department receives the individual's completed application 57023
and the date the individual's eligibility is determined; 57024

(3) Whether the county department of job and family services, 57025
the provider, or a child care resource and referral service 57026
organization will make eligibility determinations, whether the 57027
provider or a child care resource and referral service 57028
organization will be required to collect information to be used by 57029
the county department to make eligibility determinations, and the 57030
time period within which the provider or child care resource and 57031
referral service organization is required to complete required 57032
eligibility determinations or to transmit to the county department 57033
any information collected for the purpose of making eligibility 57034
determinations; 57035

(4) That the provider, other than a border state child care provider ~~or except as provided in division (B) of section 3301.37 of the Revised Code~~, shall continue to be licensed, approved, or certified pursuant to this chapter and shall comply with all standards and other requirements in this chapter and in rules adopted pursuant to this chapter for maintaining the provider's license, approval, or certification;

(5) That, in the case of a border state child care provider, the provider shall continue to be licensed, certified, or otherwise approved by the state in which the provider is located and shall comply with all standards and other requirements established by that state for maintaining the provider's license, certificate, or other approval;

(6) Whether the provider will be paid by the county department of job and family services or the state department of job and family services;

(7) That the contract is subject to the availability of state and federal funds.

(C) Unless specifically prohibited by federal law, the county department of job and family services shall give individuals eligible for publicly funded child care the option of obtaining certificates for payment that the individual may use to purchase services from any provider qualified to provide publicly funded child care under section 5104.31 of the Revised Code. Providers of publicly funded child care may present these certificates for payment for reimbursement in accordance with rules that the director of job and family services shall adopt. Only providers may receive reimbursement for certificates for payment. The value of the certificate for payment shall be based on the lowest of the rate customarily charged by the provider, the reimbursement ceiling or rate of payment established pursuant to section 5104.30 of the Revised Code, or a rate the county department negotiates

with the provider. The county department may provide the 57068
certificates for payment to the individuals or may contract with 57069
child care providers or child care resource and referral service 57070
organizations that make determinations of eligibility for publicly 57071
funded child care pursuant to contracts entered into under section 57072
5104.34 of the Revised Code for the providers or resource and 57073
referral service organizations to provide the certificates for 57074
payment to individuals whom they determine are eligible for 57075
publicly funded child care. 57076

For each six-month period a provider of publicly funded child 57077
care provides publicly funded child day-care to the child of an 57078
individual given certificates for payment, the individual shall 57079
provide the provider certificates for days the provider would have 57080
provided publicly funded child care to the child had the child 57081
been present. County departments shall specify the maximum number 57082
of days providers will be provided certificates of payment for 57083
days the provider would have provided publicly funded child care 57084
had the child been present. The maximum number of days shall not 57085
exceed ten days in a six-month period during which publicly funded 57086
child care is provided to the child regardless of the number of 57087
providers that provide publicly funded child care to the child 57088
during that period. 57089

Sec. 5107.05. The director of job and family services shall 57090
adopt rules to implement this chapter. The rules shall be 57091
consistent with Title IV-A, Title IV-D, federal regulations, state 57092
law, the Title IV-A state plan submitted to the United States 57093
secretary of health and human services under section 5101.80 of 57094
the Revised Code, amendments to the plan, and waivers granted by 57095
the United States secretary. Rules governing eligibility, program 57096
participation, and other applicant and participant requirements 57097
shall be adopted in accordance with Chapter 119. of the Revised 57098
Code. Rules governing financial and other administrative 57099

requirements applicable to the department of job and family services and county departments of job and family services shall be adopted in accordance with section 111.15 of the Revised Code.

(A) The rules shall specify, establish, or govern all of the following:

(1) A payment standard for Ohio works first based on federal and state appropriations;

(2) The method of determining the amount of cash assistance an assistance group receives under Ohio works first;

(3) Requirements for initial and continued eligibility for Ohio works first, including requirements regarding income, citizenship, age, residence, and assistance group composition. The rules regarding income shall specify what is countable income, gross earned income, and gross unearned income for the purpose of section 5107.10 of the Revised Code.

(4) For the purpose of section 5107.12 of the Revised Code, application and verification procedures, including the minimum information an application must contain;

(5) The extent to which a participant of Ohio works first must notify, pursuant to section 5107.12 of the Revised Code, a county department of job and family services of additional income not previously reported to the county department;

(6) The department of job and family services providing written notice of a sanction under section 5107.161 of the Revised Code;

(7) Requirements for the collection and distribution of support payments owed participants of Ohio works first pursuant to section 5107.20 of the Revised Code;

(8) For the purpose of section 5107.22 of the Revised Code, what constitutes cooperating in establishing a minor child's

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paternity or establishing, modifying, or enforcing a child support 57130
order and good cause for failure or refusal to cooperate. The rule 57131
shall be consistent with 42 U.S.C.A. 654(29). 57132

(9) ~~The administration of requirements governing~~ the LEAP 57133
program provided for under section 5107.30 of the Revised Code, 57134
including the definitions of "equivalent of a high school diploma" 57135
and "good cause," and the incentives provided under the LEAP 57136
program; 57137

(10) If the director implements section 5107.301 of the 57138
Revised Code, the requirements governing the award provided under 57139
that section, including the form that the award is to take and 57140
requirements an individual must satisfy to receive the award; 57141

(11) Circumstances under which a county department of job and 57142
family services may exempt a minor head of household or adult from 57143
participating in a work activity or developmental activity for all 57144
or some of the weekly hours otherwise required by section 5107.43 57145
of the Revised Code. Circumstances shall include that a school or 57146
place of work is closed due to a holiday or weather or other 57147
emergency and that an employer grants the minor head of household 57148
or adult leave for illness or earned vacation. 57149

~~(11)~~(12) The maximum amount of time the department will 57150
subsidize positions created by state agencies and political 57151
subdivisions under division (C) of section 5107.52 of the Revised 57152
Code. 57153

(B) The rules may provide that a county department of job and 57154
family services is not required to take action under section 57155
5107.76 of the Revised Code to recover an erroneous payment that 57156
is below an amount the department specifies. 57157

Sec. 5107.10. (A) As used in this section: 57158

(1) "Countable income," "gross earned income," and "gross 57159

unearned income" have the meanings established in rules adopted 57160
under section 5107.05 of the Revised Code. 57161

(2) "Federal poverty guidelines" has the same meaning as in 57162
section 5101.46 of the Revised Code, except that references to a 57163
person's family in the definition shall be deemed to be references 57164
to the person's assistance group. 57165

(3) "Gross income" means gross earned income and gross 57166
unearned income. 57167

~~(3)~~(4) "Initial eligibility threshold" means the higher of 57168
the following: 57169

(a) Fifty per cent of the federal poverty guidelines; 57170

(b) The gross income maximum for initial eligibility for Ohio 57171
works first as that maximum was set by division (D)(1)(a) of this 57172
section on the day before the effective date of this amendment. 57173

(5) "Strike" means continuous concerted action in failing to 57174
report to duty; willful absence from one's position; or stoppage 57175
of work in whole from the full, faithful, and proper performance 57176
of the duties of employment, for the purpose of inducing, 57177
influencing, or coercing a change in wages, hours, terms, and 57178
other conditions of employment. "Strike" does not include a 57179
stoppage of work by employees in good faith because of dangerous 57180
or unhealthful working conditions at the place of employment that 57181
are abnormal to the place of employment. 57182

(B) Under the Ohio works first program, an assistance group 57183
shall receive, except as otherwise provided by this chapter, 57184
time-limited cash assistance. In the case of an assistance group 57185
that includes a minor head of household or adult, assistance shall 57186
be provided in accordance with the self-sufficiency contract 57187
entered into under section 5107.14 of the Revised Code. 57188

(C) To be eligible to participate in Ohio works first, an 57189

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|---|-------|
| assistance group must meet all of the following requirements: | 57190 |
| (1) The assistance group, except as provided in division (E) of this section, must include at least one of the following: | 57191 |
| (a) A minor child who, except as provided in section 5107.24 of the Revised Code, resides with a parent, or specified relative caring for the child, or, to the extent permitted by Title IV-A and federal regulations adopted until Title IV-A, resides with a guardian or custodian caring for the child; | 57193 |
| (b) A parent residing with and caring for the parent's minor child who receives supplemental security income under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended, or federal, state, or local adoption assistance; | 57194 |
| (c) A specified relative residing with and caring for a minor child who is related to the specified relative in a manner that makes the specified relative a specified relative and receives supplemental security income or federal, state, or local foster care or adoption assistance; | 57195 |
| (d) A woman at least six months pregnant. | 57196 |
| (2) The assistance group must meet the income requirements established by division (D) of this section. | 57197 |
| (3) No member of the assistance group may be involved in a strike. | 57198 |
| (4) The assistance group must satisfy the requirements for Ohio works first established by this chapter and sections 5101.58, 5101.59, and 5101.83 of the Revised Code. | 57199 |
| (5) The assistance group must meet requirements for Ohio works first established by rules adopted under section 5107.05 of the Revised Code. | 57200 |
| (D)(1) Except as provided in division (D) (3) (4) of this section, to determine whether an assistance group is initially | 57201 |

eligible to participate in Ohio works first, a county department of job and family services shall do the following:

(a) Determine whether the assistance group's gross income exceeds the ~~following amount~~:

| Size of Assistance Group | Gross Income | |
|-------------------------------------|-------------------------|--|
| 1 | \$423 | |
| 2 | \$537 | |
| 3 | \$630 | |
| 4 | \$750 | |
| 5 | \$858 | |
| 6 | \$942 | |
| 7 | \$1,038 | |
| 8 | \$1,139 | |
| 9 | \$1,241 | |
| 10 | \$1,343 | |
| 11 | \$1,440 | |
| 12 | \$1,542 | |
| 13 | \$1,643 | |
| 14 | \$1,742 | |
| 15 | \$1,844 | |

~~For each person in the assistance group that brings the assistance group to more than fifteen persons, add one hundred two dollars to the amount of gross income for an assistance group of fifteen specified in division (D)(1)(a) of this section.~~

~~In initial eligibility threshold. In making this determination, the county department shall disregard amounts that federal statutes or regulations and sections 5101.17 and 5117.10 of the Revised Code require be disregarded. The assistance group is ineligible to participate in Ohio works first if the assistance group's gross income, less the amounts disregarded, exceeds the amount specified in division (D)(1)(a) of this section initial eligibility threshold.~~

(b) If the assistance group's gross income, less the amounts 57252
disregarded pursuant to division (D)(1)(a) of this section, does 57253
not exceed the ~~amount specified in that division~~ initial 57254
eligibility threshold, determine whether the assistance group's 57255
countable income is less than the payment standard. The assistance 57256
group is ineligible to participate in Ohio works first if the 57257
assistance group's countable income equals or exceeds the payment 57258
standard. 57259

(2) For the purpose of determining whether an assistance 57260
group meets the income requirement established by division 57261
(D)(1)(a) of this section, the annual revision that the United 57262
States department of health and human services makes to the 57263
federal poverty guidelines shall go into effect on the first day 57264
of July of the year for which the revision is made. 57265

(3) To determine whether an assistance group participating in 57266
Ohio works first continues to be eligible to participate, a county 57267
department of job and family services shall determine whether the 57268
assistance group's countable income continues to be less than the 57269
payment standard. In making this determination, the county 57270
department shall disregard the first two hundred fifty dollars and 57271
fifty per cent of the remainder of the assistance group's gross 57272
earned income. No amounts shall be disregarded from the assistance 57273
group's gross unearned income. The assistance group ceases to be 57274
eligible to participate in Ohio works first if its countable 57275
income, less the amounts disregarded, equals or exceeds the 57276
payment standard. 57277

~~(3)~~(4) If an assistance group reapplies to participate in 57278
Ohio works first not more than four months after ceasing to 57279
participate, a county department of job and family services shall 57280
use the income requirement established by division (D)~~(2)~~(3) of 57281
this section to determine eligibility for resumed participation 57282
rather than the income requirement established by division (D)(1) 57283

of this section. 57284

(E)(1) An assistance group may continue to participate in 57285
Ohio works first even though a public children services agency 57286
removes the assistance group's minor children from the assistance 57287
group's home due to abuse, neglect, or dependency if the agency 57288
does both of the following: 57289

(a) Notifies the county department of job and family services 57290
at the time the agency removes the children that it believes the 57291
children will be able to return to the assistance group within six 57292
months; 57293

(b) Informs the county department at the end of each of the 57294
first five months after the agency removes the children that the 57295
parent, guardian, custodian, or specified relative of the children 57296
is cooperating with the case plans prepared for the children under 57297
section 2151.412 of the Revised Code and that the agency is making 57298
reasonable efforts to return the children to the assistance group. 57299

(2) An assistance group may continue to participate in Ohio 57300
works first pursuant to division (E)(1) of this section for not 57301
more than six payment months. This division does not affect the 57302
eligibility of an assistance group that includes a woman at least 57303
six months pregnant. 57304

Sec. 5107.26. (A) As used in this section: 57305

(1) "Transitional child care" means publicly funded child 57306
care provided under division (A)(3) of section 5104.34 of the 57307
Revised Code. 57308

(2) "Transitional medicaid" means the medical assistance 57309
provided under section ~~5111.023~~ 5111.0115 of the Revised Code. 57310

(B) Except as provided in division (C) of this section, each 57311
member of an assistance group participating in Ohio works first is 57312
ineligible to participate in the program for six payment months if 57313

a county department of job and family services determines that a member of the assistance group terminated the member's employment and each person who, on the day prior to the day a recipient begins to receive transitional child care or transitional medicaid, was a member of the recipient's assistance group is ineligible to participate in Ohio works first for six payment months if a county department determines that the recipient terminated the recipient's employment.

(C) No assistance group member shall lose or be denied eligibility to participate in Ohio works first pursuant to division (B) of this section if the termination of employment was because an assistance group member or recipient of transitional child care or transitional medicaid secured comparable or better employment or the county department of job and family services certifies that the member or recipient terminated the employment with just cause.

Just cause includes the following:

(1) Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, or national origin;

(2) Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;

(3) Employment that has become unsuitable due to any of the following:

(a) The wage is less than the federal minimum wage;

(b) The work is at a site subject to a strike or lockout, unless the strike has been enjoined under section 208 of the "Labor-Management Relations Act," 61 Stat. 155 (1947), 29 U.S.C.A. 178, as amended, an injunction has been issued under section 10 of the "Railway Labor Act," 44 Stat. 586 (1926), 45 U.S.C.A. 160, as amended, or an injunction has been issued under section 4117.16 of

the Revised Code; 57345

(c) The documented degree of risk to the member or 57346
recipient's health and safety is unreasonable; 57347

(d) The member or recipient is physically or mentally unfit 57348
to perform the employment, as documented by medical evidence or by 57349
reliable information from other sources. 57350

(4) Documented illness of the member or recipient or of 57351
another assistance group member of the member or recipient 57352
requiring the presence of the member or recipient; 57353

(5) A documented household emergency; 57354

(6) Lack of adequate child care for children of the member or 57355
recipient who are under six years of age. 57356

Sec. 5107.30. (A) As used in this section: 57357

(1) "Equivalent of a high school diploma" and "good cause" 57358
have the meanings established in rules adopted under section 57359
5107.05 of the Revised Code. 57360

(2) "LEAP program" means the learning, earning, and parenting 57361
program. 57362

~~(2) "Teen"~~ (3) "Participating teen" means an individual to 57363
whom all of the following apply: 57364

(a) The individual is a participant of Ohio works first ~~who~~; 57365

(b) The individual is under age eighteen or is age eighteen 57366
and in school and is a natural or adoptive parent or is pregnant; 57367

(c) The individual is subject to the LEAP program's 57368
requirements. 57369

~~(3)~~(4) "School" means an educational program that is designed 57370
to lead to the attainment of a high school diploma or the 57371
equivalent of a high school diploma. 57372

(B) The director of job and family services may ~~adopt rules~~ 57373
~~under section 5107.05 of the Revised Code, to the extent that such~~ 57374
~~rules are consistent with federal law, to do all of the following:~~ 57375

~~(1) Define "good cause" and "the equivalent of a high school~~ 57376
~~diploma" for the purposes of this section;~~ 57377

~~(2) Conduct~~ conduct a program titled the "LEAP program" ~~and~~ 57378
~~establish requirements governing the program in accordance with~~ 57379
rules adopted under section 5107.05 of the Revised Code. The 57380
purpose of the LEAP program is to encourage teens to complete 57381
school. 57382

~~(3) Require every~~ Every participating teen ~~who is subject to~~ 57383
~~LEAP program requirements to shall~~ attend school in accordance 57384
with the requirements governing the LEAP program unless the 57385
participating teen shows good cause for not attending school. The 57386
department shall provide, in addition to the cash assistance 57387
payment provided under Ohio works first, an incentive payment, in 57388
an amount determined by the department, to every participating 57389
teen ~~who is participating in the LEAP program and~~ attends school 57390
in accordance with the requirements governing the LEAP program. In 57391
addition to the incentive payment, the department may provide 57392
other incentives to participating teens who attend school in 57393
accordance with the LEAP program's requirements. The department 57394
shall reduce the cash assistance payment, in an amount determined 57395
by the department, under Ohio works first to every participating 57396
teen ~~participating in the LEAP program~~ who fails or refuses, 57397
without good cause, to meet the LEAP program's requirements 57398
~~governing the program.~~ 57399

~~(4) Require every~~ Every participating teen ~~who is subject to~~ 57400
~~LEAP program requirements to shall~~ enter into a written agreement 57401
with the county department of job and family services that 57402
~~provides~~ specifies all of the following: 57403

~~(a)(1)~~ The participating teen, to be eligible to receive the 57404
incentive payment and other incentives, if any, under ~~division~~ 57405
~~(B)(3)~~ of this section, must meet the requirements of the LEAP 57406
program. 57407

~~(b)(2)~~ The ~~county department will provide the~~ incentive 57408
payment ~~to the teen~~ and other incentives, if any, will be provided 57409
if the participating teen meets the requirements of the LEAP 57410
program. 57411

~~(c)(3)~~ The ~~county department will reduce the~~ participating 57412
teen's cash assistance payment under Ohio works first will be 57413
reduced if the participating teen fails or refuses without good 57414
cause to attend school in accordance with the requirements 57415
governing the LEAP program. 57416

(C) A minor head of household who is participating in the 57417
LEAP program shall be considered to be participating in a work 57418
activity for the purpose of sections 5107.40 to 5107.69 of the 57419
Revised Code. However, the minor head of household is not subject 57420
to the requirements or sanctions of those sections. 57421

(D) Subject to the availability of funds, county departments 57422
of job and family services shall provide for ~~LEAP participants~~ 57423
participating teens to receive support services the county 57424
department determines to be necessary for LEAP participation. 57425
Support services may include publicly funded child care under 57426
Chapter 5104. of the Revised Code, transportation, and other 57427
services. 57428

Sec. 5107.301. For the purpose of encouraging individuals who 57429
have successfully completed the requirements of the LEAP program 57430
to enroll in post-secondary education, the director of job and 57431
family services may provide an award to such individuals who 57432
enroll in post-secondary education. If provided, the award shall 57433
be provided in accordance with rules adopted under section 5107.05 57434

of the Revised Code. 57435

Sec. 5107.58. In accordance with a federal waiver granted by 57436
the United States secretary of health and human services pursuant 57437
to a request made under former section 5101.09 of the Revised 57438
Code, county departments of job and family services may establish 57439
and administer as a work activity for minor heads of households 57440
and adults participating in Ohio works first an education program 57441
under which the participant is enrolled full-time in 57442
post-secondary education leading to vocation at a state 57443
institution of higher education, as defined in section 3345.031 of 57444
the Revised Code; a private nonprofit college or university that 57445
possesses a certificate of authorization issued by the Ohio board 57446
of regents pursuant to Chapter 1713. of the Revised Code, or is 57447
exempted by division (E) of section 1713.02 of the Revised Code 57448
from the requirement of a certificate; a school that holds a 57449
certificate of registration and program authorization issued by 57450
the state board of career colleges and schools under Chapter 3332. 57451
of the Revised Code; a private institution exempt from regulation 57452
under Chapter 3332. of the Revised Code as prescribed in section 57453
3333.046 of the Revised Code; or a school that has entered into a 57454
contract with the county department of job and family services. 57455
The participant shall make reasonable efforts, as determined by 57456
the county department, to obtain a loan, scholarship, grant, or 57457
other assistance to pay for the tuition, including a federal Pell 57458
grant under 20 U.S.C.A. 1070a ~~and~~, an Ohio instructional grant 57459
under section 3333.12 of the Revised Code, and an Ohio college 57460
opportunity grant under section 3333.122 of the Revised Code. If 57461
the participant has made reasonable efforts but is unable to 57462
obtain sufficient assistance to pay the tuition the program may 57463
pay the tuition. On or after October 1, 1998, the county 57464
department may enter into a loan agreement with the participant to 57465

pay the tuition. The total period for which tuition is paid and 57466
loans made shall not exceed two years. If the participant, 57467
pursuant to division (B)(3) of section 5107.43 of the Revised 57468
Code, volunteers to participate in the education program for more 57469
hours each week than the participant is assigned to the program, 57470
the program may pay or the county department may loan the cost of 57471
the tuition for the additional voluntary hours as well as the cost 57472
of the tuition for the assigned number of hours. The participant 57473
may receive, for not more than three years, support services, 57474
including publicly funded child care under Chapter 5104. of the 57475
Revised Code and transportation, that the participant needs to 57476
participate in the program. To receive support services in the 57477
third year, the participant must be, as determined by the 57478
educational institution in which the participant is enrolled, in 57479
good standing with the institution. 57480

A county department that provides loans under this section 57481
shall establish procedures governing loan application for and 57482
approval and administration of loans granted pursuant to this 57483
section. 57484

Sec. 5110.01. As used in this chapter: 57485

(A) "Administrative fee" means the amount specified in rules 57486
adopted under division (G) of section 5110.35 of the Revised Code. 57487

(B) "Children's health insurance program" means the 57488
children's health insurance program part I and part II established 57489
under sections 5101.50 to 5101.5110 of the Revised Code. 57490

~~(C) "Disability medical assistance program" means the program 57491
established under section 5115.10 of the Revised Code. 57492~~

~~(D)~~ "Medicaid" means the medical assistance program 57493
established under Chapter 5111. of the Revised Code. 57494

~~(E)~~(D) "National drug code number" means the number 57495

registered for a drug pursuant to the listing system established 57496
by the United States food and drug administration under the "Drug 57497
Listing Act of 1972," 86 Stat. 559, 21 U.S.C. 360, as amended. 57498

~~(F)~~(E) "Ohio's best Rx program administrator" means the 57499
entity, if any, the department of job and family services 57500
contracts with pursuant to section 5110.10 of the Revised Code to 57501
perform administrative functions of the Ohio's best Rx program and 57502
to offer the mail order system through which Ohio's best Rx 57503
program participants may obtain drugs by mail. 57504

~~(G)~~(F) "Ohio's best Rx program applicant" or "applicant" 57505
means an individual who signs an application for the Ohio's best 57506
Rx program and submits it to the department of job and family 57507
services, or the Ohio's best Rx program administrator, for a 57508
determination of eligibility for the program. 57509

~~(H)~~(G) "Ohio's best Rx program participant" or "participant" 57510
means an individual determined eligible for the Ohio's best Rx 57511
program and included under a valid Ohio's best Rx program 57512
enrollment card. 57513

~~(I)~~(H) "Ohio's best Rx program price" means the price a 57514
participating terminal distributor is to charge an Ohio's best Rx 57515
program participant for a drug included in the Ohio's best Rx 57516
program as determined under section 5110.14 of the Revised Code. 57517
"Ohio's best Rx program price" does not include either of the 57518
following: 57519

(1) The amount of the professional fee, if any, the 57520
participating terminal distributor adds to the Ohio's best Rx 57521
program price pursuant to an agreement under section 5110.12 of 57522
the Revised Code; 57523

(2) The amount of the administrative fee, if any, the 57524
department of job and family services reports to the participating 57525
terminal distributor under section 5110.29 of the Revised Code. 57526

~~(J)~~(I) "Participating manufacturer" means a drug manufacturer 57527
participating in the Ohio's best Rx program pursuant to a rebate 57528
agreement. 57529

~~(K)~~(J) "Participating terminal distributor" means a terminal 57530
distributor of dangerous drugs participating in the Ohio's best Rx 57531
program pursuant to an agreement entered into with the department 57532
of job and family services under section 5110.12 of the Revised 57533
Code. 57534

~~(L)~~(K) "Per unit price," with regard to a state health 57535
benefit plan or state retirement system health benefit plan, means 57536
the total amount paid to a terminal distributor of dangerous drugs 57537
under a state health benefit plan or state retirement system 57538
health benefit plan for one unit of a drug covered by the plan, 57539
after the plan discounts or otherwise reduces the amount to be 57540
paid to the terminal distributor. "Per unit price" includes both 57541
of the following: 57542

(1) The amount that the state health benefit plan or state 57543
retirement system health benefit plan, or other government entity 57544
or person authorized to make the payment on behalf of the plan, 57545
pays to the terminal distributor of dangerous drugs; 57546

(2) The amount that the beneficiary of the state health 57547
benefit plan or state retirement system health benefit plan pays 57548
to the terminal distributor of dangerous drugs in the form of a 57549
copayment, coinsurance, or other cost-sharing charge. 57550

~~(M)~~(L) "Per unit rebate," with regard to a state health 57551
benefit plan or state retirement system health benefit plan, means 57552
all rebates, discounts, formulary fees, administrative fees, and 57553
other allowances a drug manufacturer pays to the plan, or other 57554
government entity or person authorized to receive all or part of 57555
such payments, for a drug during a calendar year, divided by the 57556
total number of units of that drug dispensed under the plan during 57557

the same calendar year. 57558

~~(N)~~(M) "Rebate administration percentage" means the 57559
percentage specified in rules adopted under division (K) of 57560
section 5110.35 of the Revised Code. 57561

~~(O)~~(N) "Rebate agreement" means an agreement under section 57562
5110.21 of the Revised Code between the department of job and 57563
family services and a drug manufacturer. 57564

~~(P)~~(O) "State health benefit plan" means a program of health 57565
care benefits offered through the Ohio med preferred provider 57566
organization, or a successor entity selected by the state, to 57567
which either of the following apply: 57568

(1) It is provided by a collective bargaining agreement 57569
authorized by division (A)(4) of section 4117.03 of the Revised 57570
Code. 57571

(2) It is offered by the department of administrative 57572
services to state employees in accordance with section 124.81 or 57573
124.82 of the Revised Code. 57574

~~(Q)~~(P) "State retirement system" means all of the following: 57575
the public employees retirement system, state teachers retirement 57576
system, school employees retirement system, Ohio police and fire 57577
pension fund, and state highway patrol retirement system. 57578

~~(R)~~(O) "State retirement system health benefit plan" means a 57579
plan of health care benefits offered by a state retirement system 57580
under section 145.58, 742.45, 3307.39, 3309.69, or 5505.28 of the 57581
Revised Code. 57582

~~(S)~~(R) "Terminal distributor of dangerous drugs" has the same 57583
meaning as in section 4729.01 of the Revised Code. 57584

~~(T)~~(S) "Third-party payer" has the same meaning as in section 57585
3901.38 of the Revised Code. 57586

~~(U)~~(T) "Trade secret" has the same meaning as in section 57587

1333.61 of the Revised Code. 57588

~~(V)~~(U) "Usual and customary charge" means the amount a 57589
participating terminal distributor or the Ohio's best Rx program 57590
administrator charges for a drug included in the program to an 57591
individual who does not receive a discounted price for the drug 57592
pursuant to any drug discount program, including the Ohio's best 57593
Rx program, a prescription drug discount card program established 57594
under section 173.061 of the Revised Code, or a pharmacy 57595
assistance program established by any person or government entity, 57596
and for whom no third-party payer or program funded in whole or 57597
part with state or federal funds is responsible for all or part of 57598
the cost of the drug the distributor dispenses to the individual. 57599

Sec. 5110.05. (A) To be eligible for the Ohio's best Rx 57600
program, an individual must meet all of the following requirements 57601
at the time of application or reapplication for the program: 57602

(1) Be a resident of this state; 57603

(2) Have family income, as determined under rules adopted 57604
pursuant to section 5110.35 of the Revised Code, that does not 57605
exceed two hundred fifty per cent of the federal poverty 57606
guidelines, as revised annually by the United States department of 57607
health and human services in accordance with section 673(2) of the 57608
"Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 57609
U.S.C. 9902, as amended, or be sixty years of age or older; 57610

(3) Not have outpatient prescription drug coverage paid for 57611
in whole or in part by any of the following: 57612

(a) A third-party payer; 57613

(b) The medicaid program; 57614

(c) The children's health insurance program; 57615

(d) ~~The disability medical assistance program;~~ 57616

~~(e)~~ Another health plan or pharmacy assistance program that 57617
uses state or federal funds to pay part or all of the cost of the 57618
individual's outpatient prescription drugs, other than a 57619
prescription drug discount card program established under section 57620
173.061 of the Revised Code. 57621

(4) Not have had outpatient prescription drug coverage 57622
specified in division (A)(3) of this section during any of the 57623
four months preceding the month in which the application or 57624
reapplication for the Ohio's best Rx program is made, unless any 57625
of the following applies: 57626

(a) The individual is sixty years of age or older. 57627

(b) The third-party payer that paid all or part of the 57628
coverage filed for bankruptcy under federal bankruptcy laws. 57629

(c) The individual is no longer eligible for coverage 57630
provided through a retirement plan subject to protection under the 57631
"Employee Retirement Income Security Act of 1974," 88 Stat. 832, 57632
29 U.S.C. 1001, as amended. 57633

(d) The individual is no longer eligible for the medicaid 57634
program, or children's health insurance program, ~~or disability~~ 57635
~~medical assistance program.~~ 57636

(B) Application and annual reapplication for the Ohio's best 57637
Rx program shall be made in accordance with rules adopted under 57638
section 5110.35 of the Revised Code on a form prescribed in those 57639
rules. An individual may apply or reapply on behalf of the 57640
individual and the individual's spouse and children. The guardian 57641
or custodian of an individual may apply or reapply on behalf of 57642
the individual. 57643

Sec. 5110.352. As used in this section, "medicaid dispensing 57644
fee" means the dispensing fee established under section ~~5111.08~~ 57645
5111.071 of the Revised Code for the medicaid program. 57646

In adopting a rule under division (F) of section 5110.35 of the Revised Code increasing the maximum amount of the professional fee participating terminal distributors may charge Ohio's best Rx program participants under section 5110.12 of the Revised Code and the Ohio's best Rx program administrator may charge under a contract entered into under section 5110.10 of the Revised Code, the department of job and family services shall review the amount of the professional fee once a year or, at the department's discretion, at more frequent intervals and shall not increase the professional fee to an amount exceeding the medicaid dispensing fee.

A participating terminal distributor and the Ohio's best Rx program administrator may charge a maximum three dollar professional fee regardless of whether the medicaid dispensing fee for that drug is less than that amount. The department, however, may not adopt a rule increasing the maximum professional fee for that drug until the medicaid dispensing fee for that drug exceeds that amount.

Sec. 5110.39. Not later than ~~April 1, 2005~~ the first day of March of each year, the department of job and family services shall do all of the following:

(A) Create a list of the twenty-five drugs most often dispensed to Ohio's best Rx program participants under the program, using data from the most recent six-month period for which the data is available;

(B) Determine the average amount that participating terminal distributors charge, on a date selected by the department, participants for each drug included on the list created under division (A) of this section;

(C) Determine, for the date selected for division (B) of this section, the average usual and customary charge of participating

terminal distributors for each drug included on the list created 57678
under division (A) of this section; 57679

(D) By comparing the average charges determined under 57680
divisions (B) and (C) of this section, determine the average 57681
percentage savings in the amount participating terminal 57682
distributors charge Ohio's best Rx program participants for each 57683
drug included on the list created under division (A) of this 57684
section. 57685

Sec. 5111.011. (A) As used in this section: 57686

(1) "Intermediate care facility for the mentally retarded" 57687
has the same meaning as in section 5111.20 of the Revised Code. 57688

(2) "Nursing facility" ~~means a facility defined as a nursing~~ 57689
~~facility under Sec. 1919 of the "Social Security Act," 49 Stat.~~ 57690
~~620 (1935), 42 U.S.C. 1396r, as amended~~ has the same meaning as in 57691
section 5111.20 of the Revised Code. 57692

~~(2)~~(3) "Institutionalized individual" means an individual who 57693
is a patient in a nursing facility or who receives home and 57694
community-based services under a federal waiver granted the 57695
department of job and family services under 42 U.S.C. 57696
1396a(10)(A)(ii)(VI). 57697

(B) Subject to this section, the director of job and family 57698
services shall, pursuant to section 111.15 of the Revised Code, 57699
adopt rules establishing eligibility requirements for the ~~medical~~ 57700
~~assistance~~ medicaid program and defining, consistent with federal 57701
law, the term "resources" as used in this section. 57702

(C) In determining eligibility for ~~medical assistance~~ the 57703
medicaid program, the following shall apply with respect to real 57704
property used by an aged, blind or disabled applicant or recipient 57705
as a homestead or principal place of residence: 57706

(1) The value of ~~real~~ the property of aged, blind, or 57707

~~disabled persons used as a homestead by such persons shall be the~~ 57708
~~maximum allowed under Title XVI of the "Social Security Act.", " 86~~ 57709
~~Stat. 1329 (1972), 42 U.S.C. 1381;~~ 57710

(2) Except as provided in division (C)(3) of this section, 57711
the department of job and family services may consider the 57712
property to not be the homestead or principal place of residence 57713
of the applicant or recipient if the applicant or recipient 57714
resides in a nursing facility, intermediate care facility for the 57715
mentally retarded, or other medical institution for thirteen 57716
months or longer. 57717

(3) Division (C)(2) of this section does not apply if any of 57718
the following individuals reside in the applicant's or recipient's 57719
real property used as a homestead or principal place of residence: 57720

(a) The applicant's or recipient's spouse; 57721

(b) A son or daughter of the applicant or recipient, if the 57722
son or daughter is under twenty-one years of age or blind or 57723
disabled in accordance with rules adopted by the director of job 57724
and family services; 57725

(c) A son or daughter of the applicant or recipient, if the 57726
son or daughter is financially dependent on the applicant or 57727
recipient for housing in accordance with rules adopted by the 57728
director of job and family services; 57729

(d) A sibling of the applicant or recipient, if the sibling 57730
has a verified equity and ownership interest in the real property 57731
and has resided in the real property for at least one year 57732
immediately before the date the applicant or recipient was 57733
admitted to the nursing facility, intermediate care facility for 57734
the mentally retarded, or other medical institution. 57735

(D) Except as provided in division (G) of this section, no 57736
person is eligible for ~~medical assistance~~ the medicaid program if 57737
on or prior to December 31, 1989, the person has transferred real 57738

or personal property for the purpose of securing ~~medical~~ 57739
~~assistance under section 5111.01 of the Revised Code~~ medicaid 57740
eligibility and the transfer occurred during the two years 57741
preceding the person's application. In order to secure compliance 57742
with this division, the director of job and family services shall 57743
require all applicants for ~~assistance~~ medicaid to submit true and 57744
correct copies of any federal income or gift tax form or schedule 57745
filed, singly or jointly, by the applicant during the preceding 57746
five taxable years. Such copies, and the information disclosed 57747
thereon, shall be used solely for the purpose of determining the 57748
probability of whether the applicant has transferred assets in 57749
violation of this division. The director shall provide for the 57750
confidentiality and return of any copies of forms or schedules 57751
submitted under this division. Where such copies reveal the 57752
probability that an applicant has transferred assets in violation 57753
of this division, a presumption arises that the applicant has 57754
transferred assets in violation of this division, and the director 57755
shall deny the application until the applicant submits a true and 57756
accurate expenditure statement to the director that shows the 57757
applicant did not violate this division. The director of job and 57758
family services shall adopt rules to implement this provision. 57759

(E)(1) Except as provided in ~~division~~ divisions (E)(2) and 57760
(G) of this section, an institutionalized individual who is 57761
otherwise eligible for ~~medical assistance~~ medicaid shall be 57762
ineligible for nursing facility services or services provided 57763
under a home and community-based waiver for a period specified in 57764
rules adopted under division ~~(E)(2)(3)~~ of this section if the 57765
institutionalized individual or individual's spouse, on or after 57766
January 1, 1990, transfers resources for less than fair market 57767
value at any time during or after ~~a period of time, as specified~~ 57768
~~in rules adopted under division (E)(2) of this section,~~ the 57769
five-year period immediately prior to either of the following: 57770

(a) The date the individual becomes an institutionalized individual if the individual is eligible for ~~medical assistance~~ medicaid on that date; 57771
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(b) The date the individual applies for ~~medical assistance~~ medicaid while an institutionalized individual. 57774
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(2) The director shall apply to the United States secretary of health and human services for a waiver of federal law governing the medicaid program as necessary for the implementation of the five-year look-back period provided for by division (E)(1) of this section. If a waiver is not approved, the look-back period shall be the period of time specified in 42 U.S.C. 1396p(c). 57776
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(3) The director shall adopt rules specifying, for the purpose of division (E)(1) of this section, the ~~period of time preceding institutionalization or application for medical assistance during which transfers of assets for less than fair market value are prohibited and the length of the resulting period of ineligibility due to transfers of resources for less than fair market value on or after the look-back date.~~ The period of ineligibility shall begin with the month in which the resources were transferred. The rules shall be consistent with Title XIX of the "Social Security Act-," 79 Stat. 286 (1965), 42 U.S.C. 1396. 57782
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~~(3)~~(4) To secure compliance with this division, the department may require applicants for and recipients of ~~medical assistance~~ medicaid, as a condition of eligibility, to provide documentation of their income and resources up to five years prior 57800
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to the ~~time of application~~ date the individual becomes an 57803
institutionalized individual if the individual is eligible for 57804
medicaid on that date or the date the individual applies for 57805
medicaid while an institutionalized individual. Documentation may 57806
include, but is not limited to, tax returns, records from 57807
financial institutions, and real property records. 57808

(F) The director shall, by rule adopted in accordance with 57809
section 111.15 of the Revised Code, establish standards consistent 57810
with federal law for allocating income and resources as income and 57811
resources of the spouse, children, parents, or stepparents of a 57812
recipient of or applicant for ~~medical assistance~~ medicaid. 57813
Notwithstanding any provision of state law, including statutes, 57814
administrative rules, common law, and court rules, regarding real 57815
or personal property or domestic relations, the standards 57816
established under this division shall be used to determine 57817
eligibility for ~~medical assistance~~ medicaid. 57818

(G) The director may, by rule adopted in accordance with 57819
section 111.15 of the Revised Code, exempt individuals who apply 57820
for or receive ~~any medical assistance~~ medicaid that may be 57821
provided pursuant to division (C) of section 5111.01 of the 57822
Revised Code from some or all of the requirements of this section. 57823

Sec. 5111.019. (A) The director of job and family services 57824
shall submit to the United States secretary of health and human 57825
services an amendment to the state medicaid plan to make an 57826
individual who meets all of the following requirements eligible 57827
for medicaid for the amount of time provided by division (B) of 57828
this section: 57829

(1) The individual is the parent of a child under nineteen 57830
years of age and resides with the child; 57831

(2) The individual's family income does not exceed ~~one~~ 57832
hundred ninety per cent of the federal poverty guidelines; 57833

(3) The individual is not otherwise eligible for medicaid; 57834

(4) The individual satisfies all relevant requirements 57835
established by rules adopted under division (D) of section 5111.01 57836
of the Revised Code. 57837

(B) An individual is eligible to receive medicaid under this 57838
section for a period that does not exceed two years beginning on 57839
the date on which eligibility is established. 57840

~~(C) If approved by the United States secretary of health and 57841
human services and the director of job and family services, the 57842
director shall implement the medicaid plan amendment submitted 57843
under this section not sooner than July 1, 2000. If a federal 57844
waiver is necessary for the United States secretary to approve the 57845
amendment, the director of job and family services shall submit a 57846
waiver request to the United States secretary not later than 57847
ninety days after the effective date of this section. 57848~~

Sec. 5111.0112. The (A) Not later than July 1, 2006, the 57849
director of job and family services shall ~~examine instituting~~ 57850
institute a copayment program under medicaid. ~~As part of the~~ 57851
~~examination, the director shall determine which groups of medicaid~~ 57852
~~recipients may be subjected to a copayment requirement under~~ The 57853
copayment program shall establish a copayment requirement for only 57854
dental services, vision services, nonemergency emergency 57855
department services, and prescription drugs, other than generic 57856
drugs, to the extent permitted by federal statutes and 57857
regulations. ~~If, on completion of the examination, the director~~ 57858
~~determines that it is feasible to institute such a copayment~~ 57859
~~program, the director may seek approval from the United States~~ 57860
~~secretary of health and human services to institute the copayment~~ 57861
~~program. If necessary, the director may seek approval by applying~~ 57862
~~for a waiver of federal statutes and regulations. If such approval~~ 57863
~~is obtained, the~~ The director shall adopt rules in accordance with 57864

~~Chapter 119.~~ under section 5111.02 of the Revised Code governing 57865
the copayment program. 57866

(B) The copayment program shall, to the extent permitted by 57867
federal law, provide for all of the following with regard to any 57868
providers participating in the medicaid program: 57869

(1) No provider shall refuse to provide a service to a 57870
medicaid recipient who is unable to pay a required copayment for 57871
the service. 57872

(2) Division (B)(1) of this section shall not be considered 57873
to do either of the following with regard to a medicaid recipient 57874
who is unable to pay a required copayment: 57875

(a) Relieve the medicaid recipient from the obligation to pay 57876
a copayment; 57877

(b) Prohibit the provider from attempting to collect an 57878
unpaid copayment. 57879

(3) No provider shall waive a medicaid recipient's obligation 57880
to pay the provider a copayment. 57881

(4) No provider or drug manufacturer, including the 57882
manufacturer's representative, employee, independent contractor, 57883
or agent, shall pay any copayment on behalf of a medicaid 57884
recipient. 57885

(5) If it is the routine business practice of the provider to 57886
refuse service to any individual who owes an outstanding debt to 57887
the provider, the provider may consider an unpaid copayment 57888
imposed by the copayment program as an outstanding debt and may 57889
refuse service to a medicaid recipient who owes the provider an 57890
outstanding debt. If the provider intends to refuse service to a 57891
medicaid recipient who owes the provider an outstanding debt, the 57892
provider shall notify the individual of the provider's intent to 57893
refuse services. 57894

Sec. 5111.0114. (A) As used in this section, "dangerous drug" 57895
and "manufacturer of dangerous drugs" have the same meaning as in 57896
section 4729.01 of the Revised Code. 57897

(B) The director of job and family services may enter into or 57898
administer an agreement or cooperative arrangement with other 57899
states to create or join a multiple-state prescription drug 57900
purchasing program for the purpose of negotiating with 57901
manufacturers of dangerous drugs to receive discounts or rebates 57902
for dangerous drugs dispensed under the medicaid program. 57903

~~Sec. 5111.023~~ 5111.0115. (A) The department of job and family 57904
services may provide medical assistance under ~~Title XIX of the~~ 57905
~~"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as~~ 57906
~~amended, in addition to such assistance provided under section~~ 57907
~~5111.01 of the Revised Code~~ the medicaid program, as long as 57908
federal funds are provided for such assistance, to each former 57909
participant of the Ohio works first program established under 57910
Chapter 5107. of the Revised Code who meets all of the following 57911
requirements: 57912

(1) Is ineligible to participate in Ohio works first solely 57913
as a result of increased income due to employment; 57914

(2) Is not covered by, and does not have access to, medical 57915
insurance coverage through the employer with benefits comparable 57916
to those provided under this section, as determined in accordance 57917
with rules adopted by the director of job and family services 57918
under division (B) of this section; 57919

(3) Meets any other requirement established by rule adopted 57920
under division (B) of this section. 57921

(B) The director of job and family services shall adopt such 57922
rules under Chapter 119. of the Revised Code as are necessary to 57923
implement and administer the medical assistance program under this 57924

section. 57925

(C) A person seeking to participate in a program of medical 57926
assistance under this section shall apply to the county department 57927
of job and family services in the county in which the applicant 57928
resides. The application shall be made on a form prescribed by the 57929
department of job and family services and furnished by the county 57930
department. 57931

(D) If the county department of job and family services 57932
determines that a person is eligible to receive medical assistance 57933
under this section, the department shall provide assistance, to 57934
the same extent and in the same manner as medical assistance is 57935
provided to a person eligible for medical assistance pursuant to 57936
division (A)(1)(a) of section 5111.01 of the Revised Code, for no 57937
longer than twelve months, beginning the month after the date the 57938
participant's eligibility for Ohio works first is terminated. 57939

Sec. 5111.02. The director of job and family services shall 57940
adopt, and may amend or rescind, rules under Chapter 119. of the 57941
Revised Code establishing the amount, duration, and scope of 57942
medicaid services. The rules shall be consistent with federal and 57943
state law. The rules may be different for different medicaid 57944
services. The rules shall establish all of the following: 57945

(A) The conditions under which the medicaid program shall 57946
cover and reimburse medicaid services; 57947

(B) The method of reimbursement applicable to each medicaid 57948
service; 57949

(C) The amount of reimbursement or, in lieu of amounts, 57950
methods by which amounts are to be determined for each medicaid 57951
service; 57952

(D) Procedures for enforcing the rules adopted under this 57953
section that provide due process protections, including procedures 57954

for corrective action plans for, and imposing financial and 57955
administrative sanctions on, persons and government entities that 57956
violate the rules. 57957

Sec. ~~5111.02~~ 5111.021. ~~(A)~~ Under the ~~medical assistance~~ 57958
medicaid program: 57959

~~(1)~~(A) Except as otherwise permitted by federal statute or 57960
regulation and at the department's discretion, reimbursement by 57961
the department of job and family services to a medical provider 57962
for any medical service rendered under the program shall not 57963
exceed the authorized reimbursement level for the same service 57964
under the medicare program established under Title XVIII of the 57965
"Social Security Act," 49 79 Stat. ~~620~~ 286 (~~1935~~ 1965), 42 57966
U.S.C.A. ~~301~~ 1395, as amended. 57967

~~(2)~~(B) Reimbursement for freestanding medical laboratory 57968
charges shall not exceed the customary and usual fee for 57969
laboratory profiles. 57970

~~(3)~~(C) The department may deduct from payments for services 57971
rendered by a medicaid provider under the ~~medical assistance~~ 57972
medicaid program any amounts the provider owes the state as the 57973
result of incorrect ~~medical assistance~~ medicaid payments the 57974
department has made to the provider. 57975

~~(4)~~(D) The department may conduct final fiscal audits in 57976
accordance with the applicable requirements set forth in federal 57977
laws and regulations and determine any amounts the provider may 57978
owe the state. When conducting final fiscal audits, the department 57979
shall consider generally accepted auditing standards, which 57980
include the use of statistical sampling. 57981

~~(5)~~(E) The number of days of inpatient hospital care for 57982
which reimbursement is made on behalf of a medicaid recipient ~~of~~ 57983
~~medical assistance~~ to a hospital that is not paid under a 57984

diagnostic-related-group prospective payment system shall not 57985
exceed thirty days during a period beginning on the day of the 57986
recipient's admission to the hospital and ending sixty days after 57987
the termination of that hospital stay, except that the department 57988
may make exceptions to this limitation. The limitation does not 57989
apply to children participating in the program for medically 57990
handicapped children established under section 3701.023 of the 57991
Revised Code. 57992

~~(B) The director of job and family services may adopt, amend, 57993
or rescind rules under Chapter 119. of the Revised Code 57994
establishing the amount, duration, and scope of medical services 57995
to be included in the medical assistance program. Such rules shall 57996
establish the conditions under which services are covered and 57997
reimbursed, the method of reimbursement applicable to each covered 57998
service, and the amount of reimbursement or, in lieu of such 57999
amounts, methods by which such amounts are to be determined for 58000
each covered service. Any rules that pertain to nursing facilities 58001
or intermediate care facilities for the mentally retarded shall be 58002
consistent with sections 5111.20 to 5111.33 of the Revised Code. 58003~~

~~(C)(F)~~ The division of any reimbursement between a 58004
collaborating physician or podiatrist and a clinical nurse 58005
specialist, certified nurse-midwife, or certified nurse 58006
practitioner for services performed by the nurse shall be 58007
determined and agreed on by the nurse and collaborating physician 58008
or podiatrist. In no case shall reimbursement exceed the payment 58009
that the physician or podiatrist would have received had the 58010
physician or podiatrist provided the entire service. 58011

Sec. ~~5111.021~~ 5111.022. Under the ~~medical assistance~~ medicaid 58012
program, any amount determined to be owed the state by a final 58013
fiscal audit conducted pursuant to division ~~(A)(4)(D)~~ of section 58014
~~5111.02~~ 5111.021 of the Revised Code, upon the issuance of an 58015

adjudication order pursuant to Chapter 119. of the Revised Code 58016
that contains a finding that there is a preponderance of the 58017
evidence that the provider will liquidate assets or file 58018
bankruptcy in order to prevent payment of the amount determined to 58019
be owed the state, becomes a lien upon the real and personal 58020
property of the provider. Upon failure of the provider to pay the 58021
amount to the state, the director of job and family services shall 58022
file notice of the lien, for which there shall be no charge, in 58023
the office of the county recorder of the county in which it is 58024
ascertained that the provider owns real or personal property. The 58025
director shall notify the provider by mail of the lien, but 58026
absence of proof that the notice was sent does not affect the 58027
validity of the lien. The lien is not valid as against the claim 58028
of any mortgagee, pledgee, purchaser, judgment creditor, or other 58029
lienholder of record at the time the notice is filed. 58030

If the provider acquires real or personal property after 58031
notice of the lien is filed, the lien shall not be valid as 58032
against the claim of any mortgagee, pledgee, subsequent bona fide 58033
purchaser for value, judgment creditor, or other lienholder of 58034
record to such after-acquired property unless the notice of lien 58035
is refiled after the property is acquired by the provider and 58036
before the competing lien attaches to the after-acquired property 58037
or before the conveyance to the subsequent bona fide purchaser for 58038
value. 58039

When the amount has been paid, the provider may record with 58040
the recorder notice of the payment. For recording such notice of 58041
payment, the recorder shall charge and receive from the provider a 58042
base fee of one dollar for services and a housing trust fund fee 58043
of one dollar pursuant to section 317.36 of the Revised Code. 58044

In the event of a distribution of a provider's assets 58045
pursuant to an order of any court under the law of this state 58046
including any receivership, assignment for benefit of creditors, 58047

adjudicated insolvency, or similar proceedings, amounts then or 58048
thereafter due the state under this chapter have the same priority 58049
as provided by law for the payment of taxes due the state and 58050
shall be paid out of the receivership trust fund or other such 58051
trust fund in the same manner as provided for claims for unpaid 58052
taxes due the state. 58053

If the attorney general finds after investigation that any 58054
amount due the state under this chapter is uncollectable, in whole 58055
or in part, the attorney general shall recommend to the director 58056
the cancellation of all or part of the claim. The director may 58057
thereupon effect the cancellation. 58058

Sec. ~~5111.022~~ 5111.023. (A) As used in this section: 58059

(1) "Community mental health facility" means a community 58060
mental health facility that has a quality assurance program 58061
accredited by the joint commission on accreditation of healthcare 58062
organizations or is certified by the department of mental health 58063
or department of job and family services. 58064

(2) "Mental health professional" means a person qualified to 58065
work with mentally ill persons under the standards established by 58066
the director of mental health pursuant to section 5119.611 of the 58067
Revised Code. 58068

(B) The state medicaid plan shall include provision of the 58069
following mental health services when provided by community mental 58070
health facilities: 58071

(1) Outpatient mental health services, including, but not 58072
limited to, preventive, diagnostic, therapeutic, rehabilitative, 58073
and palliative interventions rendered to individuals in an 58074
individual or group setting by a mental health professional in 58075
accordance with a plan of treatment appropriately established, 58076
monitored, and reviewed; 58077

(2) Partial-hospitalization mental health services of three 58078
to fourteen hours per service day, rendered by persons directly 58079
supervised by a mental health professional; 58080

(3) Unscheduled, emergency mental health services of a kind 58081
ordinarily provided to persons in crisis when rendered by persons 58082
supervised by a mental health professional; 58083

(4) Subject to receipt of federal approval, assertive 58084
community treatment and intensive home-based mental health 58085
services. 58086

(C) The comprehensive annual plan shall certify the 58087
availability of sufficient unencumbered community mental health 58088
state subsidy and local funds to match federal medicaid 58089
reimbursement funds earned by community mental health facilities. 58090

(D) The department of job and family services shall enter 58091
into a separate contract with the department of mental health 58092
under section 5111.91 of the Revised Code with regard to the 58093
component of the medicaid program provided for by this section. 58094

(E) Not later than July 21, ~~2004~~ 2006, the department of job 58095
and family services shall request federal approval to provide 58096
assertive community treatment and intensive home-based mental 58097
health services under medicaid pursuant to this section. 58098

(F) On receipt of federal approval sought under division (E) 58099
of this section, the director of job and family services shall 58100
adopt rules in accordance with Chapter 119. of the Revised Code 58101
for assertive community treatment and intensive home-based mental 58102
health services provided under medicaid pursuant to this section. 58103
The director shall consult with the department of mental health in 58104
adopting the rules. 58105

Sec. 5111.025. (A) In rules adopted under section 5111.02 of 58106
the Revised Code, the director of job and family services shall 58107

modify the manner or establish a new manner in which the following 58108
are paid under medicaid: 58109

(1) Community mental health facilities for providing mental 58110
health services included in the state medicaid plan pursuant to 58111
section ~~5111.022~~ 5111.023 of the Revised Code; 58112

(2) Providers of alcohol and drug addiction services for 58113
providing alcohol and drug addiction services included in the 58114
medicaid program pursuant to rules adopted under section 5111.02 58115
of the Revised Code. 58116

(B) The director's authority to modify the manner, or to 58117
establish a new manner, for medicaid to pay for the services 58118
specified in division (A) of this section is not limited by any 58119
rules adopted under section 5111.02 or 5119.61 of the Revised Code 58120
that are in effect on ~~the effective date of this section~~ June 26, 58121
2003, and govern the way medicaid pays for those services. This is 58122
the case regardless of what state agency adopted the rules. 58123

Sec. 5111.027. If the medicaid program provides prescription 58124
drug services to medicaid recipients, the program shall not 58125
provide reimbursement for prescription drugs for treatment of 58126
erectile dysfunction. 58127

Sec. 5111.042. The departments of mental retardation and 58128
developmental disabilities and job and family services may 58129
approve, reduce, deny, or terminate a service included in the 58130
individualized service plan developed for a medicaid recipient 58131
with mental retardation or other developmental disability who is 58132
eligible for medicaid case management services. ~~The departments 58133
shall consider the recommendations a county board of mental 58134
retardation and developmental disabilities makes under division 58135
(B)(1) of section 5126.055 of the Revised Code.~~ If either 58136
department approves, reduces, denies, or terminates a service, 58137

that department shall timely notify the medicaid recipient that 58138
the recipient may request a hearing under section 5101.35 of the 58139
Revised Code. 58140

Sec. 5111.06. (A)(1) As used in this section and in sections 58141
5111.061 and 5111.062 of the Revised Code: 58142

(a) "Provider" means any person, institution, or entity that 58143
furnishes medicaid services under a provider agreement with the 58144
department of job and family services pursuant to Title XIX of the 58145
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 58146
amended. 58147

(b) "Party" has the same meaning as in division (G) of 58148
section 119.01 of the Revised Code. 58149

(c) "Adjudication" has the same meaning as in division (D) of 58150
section 119.01 of the Revised Code. 58151

(2) This section does not apply to any action taken by the 58152
department of job and family services under sections 5111.35 to 58153
5111.62 of the Revised Code. 58154

(B) Except as provided in division (D) of this section and 58155
section 5111.914 of the Revised Code, the department shall do 58156
either of the following by issuing an order pursuant to an 58157
adjudication conducted in accordance with Chapter 119. of the 58158
Revised Code: 58159

(1) Enter into or refuse to enter into a provider agreement 58160
with a provider, or suspend, terminate, renew, or refuse to renew 58161
an existing provider agreement with a provider; 58162

(2) Take any action based upon a final fiscal audit of a 58163
provider. 58164

(C) Any party who is adversely affected by the issuance of an 58165
adjudication order under division (B) of this section may appeal 58166
to the court of common pleas of Franklin county in accordance with 58167

section 119.12 of the Revised Code. 58168

(D) The department is not required to comply with division 58169
(B)(1) of this section whenever any of the following occur: 58170

(1) The terms of a provider agreement require the provider to 58171
have a license, permit, or certificate issued by an official, 58172
board, commission, department, division, bureau, or other agency 58173
of state government other than the department of job and family 58174
services, and the license, permit, or certificate has been denied 58175
or revoked. 58176

(2) The provider agreement is denied, terminated, or not 58177
renewed pursuant to division (C) or (E) of section 5111.03 of the 58178
Revised Code; 58179

(3) The provider agreement is denied, terminated, or not 58180
renewed due to the provider's termination, suspension, or 58181
exclusion from the medicare program established under Title XVIII 58182
of the "Social Security Act," and the termination, suspension, or 58183
exclusion is binding on the provider's participation in the 58184
medicaid program; 58185

(4) The provider agreement is denied, terminated, or not 58186
renewed due to the provider's pleading guilty to or being 58187
convicted of a criminal activity materially related to either the 58188
medicare or medicaid program; 58189

(5) The provider agreement is denied, terminated, or 58190
suspended as a result of action by the United States department of 58191
health and human services and that action is binding on the 58192
provider's participation in the medicaid program; 58193

(6) The provider agreement is terminated or not renewed 58194
because the provider has not billed or otherwise submitted a 58195
medicaid claim to the department for two years or longer, and the 58196
department has determined that the provider has moved from the 58197
address on record with the department without leaving an active 58198

forwarding address with the department. 58199

In the case of a provider described in division (D)(6) of 58200
this section, the department may terminate or not renew the 58201
provider agreement by sending a notice explaining the department's 58202
proposed action to the address on record with the department. The 58203
notice may be sent by regular mail. 58204

(E) The department may withhold payments for services 58205
rendered by a medicaid provider under the medical assistance 58206
program during the pendency of proceedings initiated under 58207
division (B)(1) of this section. If the proceedings are initiated 58208
under division (B)(2) of this section, the department may withhold 58209
payments only to the extent that they equal amounts determined in 58210
a final fiscal audit as being due the state. This division does 58211
not apply if the department fails to comply with section 119.07 of 58212
the Revised Code, requests a continuance of the hearing, or does 58213
not issue a decision within thirty days after the hearing is 58214
completed. This division does not apply to nursing facilities and 58215
intermediate care facilities for the mentally retarded as defined 58216
in section 5111.20 of the Revised Code. 58217

Sec. 5111.061. (A) The department of job and family services 58218
may recover a medicaid payment or portion of a payment made to a 58219
provider to which the provider is not entitled. The recovery may 58220
occur at any time during the five-year period immediately 58221
following the end of the state fiscal year in which the 58222
overpayment was made. 58223

(B) Among the overpayments that may be recovered under this 58224
section are the following: 58225

(1) Payment for a service, or a day of service, not rendered; 58226

(2) Payment for a day of service at a full per diem rate that 58227
should have been paid at a percentage of the full per diem rate; 58228

(3) Payment for a service, or day of service, that was paid by, or partially paid by, a third-party, as defined in section 5101.571 of the Revised Code, and the third-party's payment or partial payment was not offset against the amount paid by the medicaid program to reduce or eliminate the amount that was paid by the medicaid program; 58229
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(4) Payment when a medicaid recipient's responsibility for payment was understated and resulted in an overpayment to the provider. 58235
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(C) During the period specified in division (A) of this section, the department may recover an overpayment under this section prior to or after any of the following: 58238
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(1) Adjudication of a final fiscal audit that section 5111.06 of the Revised Code requires to be conducted in accordance with Chapter 119. of the Revised Code; 58241
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(2) Adjudication of a finding under any other provision of this chapter or the rules adopted under it; 58244
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(3) Expiration of the time to issue a final fiscal audit that section 5111.06 of the Revised Code requires to be conducted in accordance with Chapter 119. of the Revised Code; 58246
58247
58248

(4) Expiration of the time to issue a finding under any other provision of this chapter or the rules adopted under it. 58249
58250

(D)(1) Subject to division (D)(2) of this section, the recovery of an overpayment under this section does not preclude the department from subsequently doing the following: 58251
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58253

(a) Issuing a final fiscal audit in accordance with Chapter 119. of the Revised Code, as required under section 5111.06 of the Revised Code; 58254
58255
58256

(b) Issuing a finding under any other provision of this chapter or the rules adopted under it. 58257
58258

(2) A final fiscal audit or finding issued subsequent to the recovery of an overpayment under this section shall be reduced by the amount of the prior recovery, as appropriate. 58259
58260
58261

(E) Nothing in this section limits the department's authority to recover overpayments pursuant to any other provision of the Revised Code. 58262
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Sec. 5111.062. In any action taken by the department of job and family services under section 5111.06 or 5111.061 of the Revised Code or any other provision of this chapter that requires the department to give notice of an opportunity for a hearing in accordance with Chapter 119. of the Revised Code, if the department gives notice of the opportunity for a hearing but the provider or other entity subject to the notice does not request a hearing or timely request a hearing in accordance with section 119.07 of the Revised Code, the department is not required to hold a hearing. The director of job and family service may proceed by issuing a final adjudication order in accordance with Chapter 119. of the Revised Code. 58265
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Sec. 5111.082. The director of job and family services, in rules adopted under section 5111.02 of the Revised Code, may establish and implement a supplemental drug rebate program under which drug manufacturers may be required to provide the department of job and family services a supplemental rebate as a condition of having the drug manufacturers' drug products covered by the medicaid program without prior approval. The department may receive a supplemental rebate negotiated under the program for a drug dispensed to a medicaid recipient pursuant to a prescription or a drug purchased by a medicaid provider for administration to a medicaid recipient in the provider's primary place of business. If necessary, the director may apply to the United States secretary of health and human services for a waiver of federal statutes and 58277
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regulations to establish the supplemental drug rebate program. 58290

If the director establishes a supplemental drug rebate 58291
program, the director shall consult with drug manufacturers 58292
regarding the establishment and implementation of the program. 58293

~~If the director establishes a supplemental drug rebate 58294
program, the director shall exempt from the program all of a drug 58295
manufacturer's drug products that have been approved by the United 58296
States food and drug administration for the treatment of either of 58297
the following: 58298~~

~~(A) Mental illness, as defined in section 5122.01 of the 58299
Revised Code, including schizophrenia, major depressive disorder, 58300
and bipolar disorder; 58301~~

~~(B) HIV or AIDS, both as defined in section 3701.24 of the 58302
Revised Code. 58303~~

Sec. 5111.083. (A) As used in this section: 58304

(1) "State maximum allowable cost" means the per unit amount 58305
the department of job and family services reimburses a terminal 58306
distributor of dangerous drugs for a prescription drug included in 58307
the state maximum allowable cost program established under 58308
division (B) of this section. "State maximum allowable cost" 58309
excludes dispensing fees and copayments, coinsurance, or other 58310
cost-sharing charges, if any. 58311

(2) "Terminal distributor of dangerous drugs" has the same 58312
meaning as in section 4729.01 of the Revised Code. 58313

(B) The director of job and family services shall establish a 58314
state maximum allowable cost program for purposes of managing 58315
reimbursement to terminal distributors of dangerous drugs for 58316
prescription drugs identified by the director pursuant to this 58317
division. The director shall do all of the following with respect 58318

| | |
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| <u>to the program:</u> | 58319 |
| <u>(1) Identify and create a list of prescription drugs to be included in the program.</u> | 58320 58321 |
| <u>(2) Update the list of prescription drugs described in division (B)(1) of this section on a weekly basis.</u> | 58322 58323 |
| <u>(3) Review the state maximum allowable cost for each drug included on the list described in division (B)(1) of this section on a weekly basis.</u> | 58324 58325 58326 |
| <u>(C) The director may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.</u> | 58327 58328 |
| <u>Sec. 5111.084. (A) As used in this section, "licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.</u> | 58329 58330 58331 |
| <u>(B) The director of job and family services may establish an e-prescribing system for the medicaid program under which a medicaid provider who is a licensed health professional authorized to prescribe drugs shall use an electronic system to prescribe a drug for a medicaid recipient when required to do so by division (C) of this section. The e-prescribing system shall eliminate the need for such medicaid providers to make prescriptions for medicaid recipients by handwriting or telephone. The e-prescribing system also shall provide such medicaid providers with an up-to-date, clinically relevant drug information database and a system of electronically monitoring medicaid recipients' medical history, drug regimen compliance, and fraud and abuse.</u> | 58332 58333 58334 58335 58336 58337 58338 58339 58340 58341 58342 58343 |
| <u>(C) If the director establishes an e-prescribing system under division (B) of this section, the director shall do all of the following:</u> | 58344 58345 58346 |
| <u>(1) Require that a medicaid provider who is a licensed health professional authorized to prescribe drugs use the e-prescribing</u> | 58347 58348 |

system during a fiscal year if the medicaid provider was one of 58349
the ten medicaid providers who, during the calendar year that 58350
precedes that fiscal year, issued the most prescriptions for 58351
medicaid recipients receiving hospital services; 58352

(2) Before the beginning of each fiscal year, determine the 58353
ten medicaid providers that issued the most prescriptions for 58354
medicaid recipients receiving hospital services during the 58355
calendar year that precedes the upcoming fiscal year and notify 58356
those medicaid providers that they must use the e-prescribing 58357
system for the upcoming fiscal year; 58358

(3) Seek the most federal financial participation available 58359
for the development and implementation of the e-prescribing 58360
system. 58361

Sec. ~~5111.81~~ 5111.085. There is hereby established the 58362
pharmacy and therapeutics committee of the department of job and 58363
family services. The committee shall consist of ~~eight~~ nine members 58364
and shall be appointed by the director of job and family services. 58365
The membership of the committee shall include: ~~two~~ three 58366
pharmacists licensed under Chapter 4729. of the Revised Code; two 58367
doctors of medicine and two doctors of osteopathy licensed under 58368
Chapter 4731. of the Revised Code; a registered nurse licensed 58369
under Chapter 4723. of the Revised Code; and a pharmacologist who 58370
has a doctoral degree. The committee shall elect one of its 58371
members as chairperson. 58372

Sec. 5111.10. The director of job and family services may 58373
conduct reviews of the medicaid program. The reviews may include 58374
physical inspections of records and sites where medicaid-funded 58375
services are provided and interviews of providers and recipients 58376
of the services. If the director determines pursuant to a review 58377
that a person or government entity has violated a rule governing 58378

the medicaid program, the director may establish a corrective 58379
action plan for the violator and impose fiscal, administrative, or 58380
both types of sanctions on the violator in accordance with rules 58381
governing the medicaid program. Such action to be taken against a 58382
responsible entity, as defined in section 5101.24 of the Revised 58383
Code, shall be taken in accordance with that section. 58384

Sec. 5111.11. (A) As used in this section, ~~"estate" means all~~ 58385
and section 5111.111 of the Revised Code: 58386

(1) "Estate" includes both of the following: 58387

(a) All real and personal property and other assets to be 58388
administered under Title XXI of the Revised Code and property that 58389
would be administered under that title if not for section 2113.03 58390
or 2113.031 of the Revised Code; 58391

(b) Any other real and personal property and other assets in 58392
which an individual had any legal title or interest at the time of 58393
death (to the extent of the interest), including assets conveyed 58394
to a survivor, heir, or assign of the individual through joint 58395
tenancy, tenancy in common, survivorship, life estate, living 58396
trust, or other arrangement. 58397

(2) "Institution" means a nursing facility, intermediate care 58398
facility for the mentally retarded, or a medical institution. 58399

(3) "Intermediate care facility for the mentally retarded" 58400
and "nursing facility" have the same meanings as in section 58401
5111.20 of the Revised Code. 58402

(4) "Permanently institutionalized individual" means an 58403
individual to whom all of the following apply: 58404

(a) Is an inpatient in an institution; 58405

(b) Is required, as a condition of the medicaid program 58406
paying for the individual's services in the institution, to spend 58407

for costs of medical or nursing care all of the individual's 58408
income except for an amount for personal needs specified by the 58409
department of job and family services; 58410

(c) Cannot reasonably be expected to be discharged from the 58411
institution and return home as determined by the department of job 58412
and family services. 58413

(5) "Time of death" shall not be construed to mean a time 58414
after which a legal title or interest in real or personal property 58415
or other asset may pass by survivorship or other operation of law 58416
due to the death of the decedent or terminate by reason of the 58417
decedent's death. 58418

~~(B) For the purpose of recovering the cost of services~~ 58419
~~correctly paid under the medical assistance program to a recipient~~ 58420
~~age fifty five or older, the~~ To the extent permitted by federal 58421
law, the department of job and family services shall institute an 58422
estate recovery program ~~against the property and estates of~~ 58423
~~medical assistance recipients to recover medical assistance~~ 58424
~~correctly paid on their behalf to the extent that federal law and~~ 58425
~~regulations permit the implementation of a program of that nature.~~ 58426
~~The department shall seek to recover medical assistance correctly~~ 58427
~~paid only after the recipient and the recipient's surviving~~ 58428
~~spouse, if any, have died and only at a time when the recipient~~ 58429
~~has no surviving child who is under age twenty one or blind or~~ 58430
~~permanently and totally disabled.~~ 58431

~~The department may enter into a contract with any person~~ 58432
~~under which the person administers the estate recovery program on~~ 58433
~~behalf of the department or performs any of the functions required~~ 58434
~~to carry out the program. The contract may provide for the person~~ 58435
~~to be compensated from the property recovered from the estates of~~ 58436
~~medical assistance recipients or may provide for another manner of~~ 58437
~~compensation agreed to by the person and the department.~~ 58438
~~Regardless of whether it is administered by the department or a~~ 58439

~~person under contract with the department, the program shall be 58440
administered in accordance with applicable requirements of federal 58441
law and regulations and state law and rules. 58442~~

(C) under which the department shall, except as provided in 58443
divisions (C) and (D) of this section, do both of the following: 58444

(1) For the costs of medicaid services the medicaid program 58445
correctly paid or will pay on behalf of a permanently 58446
institutionalized individual of any age, seek adjustment or 58447
recovery from the individual's estate or on the sale of property 58448
of the individual or spouse that is subject to a lien imposed 58449
under section 5111.111 of the Revised Code; 58450

(2) For the costs of medicaid services the medicaid program 58451
correctly paid or will pay on behalf of an individual fifty-five 58452
years of age or older who is not a permanently institutionalized 58453
individual, seek adjustment or recovery from the individual's 58454
estate. 58455

(C)(1) No adjustment or recovery may be made under division 58456
(B)(1) of this section from a permanently institutionalized 58457
individual's estate or on the sale of property of a permanently 58458
institutionalized individual that is subject to a lien imposed 58459
under section 5111.111 of the Revised Code or under division 58460
(B)(2) of this section from an individual's estate while either of 58461
the following are alive: 58462

(a) The spouse of the permanently institutionalized 58463
individual or individual; 58464

(b) The son or daughter of a permanently institutionalized 58465
individual or individual if the son or daughter is under age 58466
twenty-one or, under 42 U.S.C. 1382c, is considered blind or 58467
disabled. 58468

(2) No adjustment or recovery may be made under division 58469
(B)(1) of this section from a permanently institutionalized 58470

individual's home that is subject to a lien imposed under section 5111.111 of the Revised Code while either of the following lawfully reside in the home: 58471
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(a) The permanently institutionalized individual's sibling who resided in the home for at least one year immediately before the date of the permanently institutionalized individual's admission to the institution and on a continuous basis since that time; 58474
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(b) The permanently institutionalized individual's son or daughter who provided care to the permanently institutionalized individual that delayed the permanently institutionalized individual's institutionalization and resided in the home for at least two years immediately before the date of the permanently institutionalized individual's admission to the institution and on a continuous basis since that time. 58479
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(D) The department may shall waive seeking an adjustment or recovery of medical assistance correctly paid otherwise required by this section if the director of job and family services determines that adjustment or recovery would work an undue hardship. The department may limit the duration of the waiver to the period during which the undue hardship exists. 58486
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The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules establishing regarding the estate recovery program, including rules that establish procedures and criteria for waiver of adjustment or recovery due to an undue hardship, which. These rules shall meet the standards specified by the United States secretary of health and human services under 42 U.S.C. 1396p(b)(3), as amended. 58492
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~~(D) Any action that may be taken by the department under section 5111.111 of the Revised Code may be taken by a person administering the program, or performing actions specified in that~~ 58499
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~~section, pursuant to a contract with the department.~~ 58502

(E) For the purpose of determining whether an individual 58503
meets the definition of "permanently institutionalized individual" 58504
established for this section, a rebuttable presumption exists that 58505
the individual cannot reasonably be expected to be discharged from 58506
an institution and return home if either of the following is the 58507
case: 58508

(1) The individual declares that he or she does not intend to 58509
return home. 58510

(2) The individual has been an inpatient in an institution 58511
for at least six months. 58512

~~Sec. 5111.111. As used in this section, "home and~~ 58513
~~community based services" means services provided pursuant to a~~ 58514
~~waiver under section 1915 of the "Social Security Act," 49 Stat.~~ 58515
~~620 (1935), 42 U.S.C.A. 1396n, as amended.~~ 58516

~~The~~ (A) Except as provided in division (B) of this section 58517
and section 5111.12 of the Revised Code, no lien may be imposed 58518
against the property of an individual before the individual's 58519
death on account of medicaid services correctly paid or to be paid 58520
on the individual's behalf. 58521

(B) Except as provided in division (C) of this section, the 58522
department of job and family services may ~~place~~ impose a lien 58523
against the real property of a ~~medical assistance~~ medicaid 58524
recipient ~~or~~ who is a permanently institutionalized individual and 58525
~~against the real property of the~~ recipient's spouse, ~~other than a~~ 58526
~~recipient or spouse of a recipient of home and community based~~ 58527
~~services, that the department may recover as part of the program~~ 58528
~~instituted under section 5111.11 of the Revised Code~~ including any 58529
~~real property that is jointly held by the recipient and spouse.~~ 58530
When medical assistance is paid on behalf of any person in 58531

~~circumstances under which federal law and regulations and this~~ 58532
~~section permit the imposition of a lien, the~~ The lien may be 58533
imposed on account of medicaid paid or to be paid on the 58534
recipient's behalf. 58535

(C) No lien may be imposed under division (B) of this section 58536
against the home of a medicaid recipient if any of the following 58537
lawfully resides in the home: 58538

(1) The recipient's spouse; 58539

(2) The recipient's son or daughter who is under twenty-one 58540
years of age or, under 42 U.S.C. 1382c, considered to be blind or 58541
disabled; 58542

(3) The recipient's sibling who has an equity interest in the 58543
home and resided in the home for at least one year immediately 58544
before the date of the recipient's admission to the institution. 58545

(D) The director of job and family services or a person 58546
designated by the director ~~may~~ shall sign a certificate to ~~the~~ 58547
~~effect~~ effectuate a lien required to be imposed under this 58548
section. The county department of job and family services shall 58549
file for recording and indexing the certificate, or a certified 58550
copy, in the real estate mortgage records in the office of the 58551
county recorder in every county in which real property of the 58552
recipient or spouse is situated. From the time of filing the 58553
certificate in the office of the county recorder, the lien 58554
attaches to all real property of the recipient or spouse described 58555
~~therein in the certificate~~ for all amounts of aid which are paid 58556
~~or which thereafter are paid,~~ for which adjustment or recovery may 58557
be made under section 5111.11 of the Revised Code and, except as 58558
provided in division (E) of this section, shall remain a lien 58559
until satisfied. 58560

Upon filing the certificate in the office of the recorder, 58561
all persons are charged with notice of the lien and the rights of 58562

the department of job and family services thereunder. 58563

The county recorder shall keep a record of every certificate 58564
filed showing its date, the time of filing, the name and residence 58565
of the recipient or spouse, and any release, waivers, or 58566
satisfaction of the lien. 58567

The priority of the lien shall be established in accordance 58568
with state and federal law. 58569

The department may waive the priority of its lien to provide 58570
for the costs of the last illness as determined by the department, 58571
administration, attorney fees, administrator fees, a sum for the 58572
payment of the costs of burial, which shall be computed by 58573
deducting from five hundred dollars whatever amount is available 58574
for the same purpose from all other sources, and a similar sum for 58575
the spouse of the decedent. 58576

(E) A lien imposed with respect to a medicaid recipient under 58577
this section shall dissolve on the recipient's discharge from the 58578
institution and return home. 58579

Sec. 5111.112. The department of job and family services 58580
shall certify amounts due under the estate recovery program 58581
instituted under section 5111.11 of the Revised Code to the 58582
attorney general pursuant to section 131.02 of the Revised Code. 58583
The attorney general may enter into a contract with any person or 58584
government entity to collect the amounts due on behalf of the 58585
attorney general. 58586

The attorney general, in entering into a contract under this 58587
section, shall comply with all of the requirements that must be 58588
met for the state to receive federal financial participation for 58589
the costs incurred in entering into the contract and carrying out 58590
actions under the contract. The contract may provide for the 58591
person or government entity with which the attorney general 58592

contracts to be compensated from the property recovered under the 58593
estate recovery program or may provide for another manner of 58594
compensation agreed to by the parties to the contract. 58595

Regardless of whether the attorney general collects the 58596
amounts due under the estate recovery program or contracts with a 58597
person or government entity to collect the amounts due on behalf 58598
of the attorney general, the amounts due shall be collected in 58599
accordance with applicable requirements of federal statutes and 58600
regulations and state statutes and rules. 58601

Sec. ~~5111.112~~ 5111.113. (A) As used in this section: 58602

(1) "Adult care facility" has the same meaning as in section 58603
3722.01 of the Revised Code. 58604

(2) "Commissioner" means a person appointed by a probate 58605
court under division (B) of section 2113.03 of the Revised Code to 58606
act as a commissioner. 58607

(3) "Home" has the same meaning as in section 3721.10 of the 58608
Revised Code. 58609

(4) "Personal needs allowance account" means an account or 58610
petty cash fund that holds the money of a resident of an adult 58611
care facility or home and that the facility or home manages for 58612
the resident. 58613

(B) Except as provided in divisions (C) and (D) of this 58614
section, the owner or operator of an adult care facility or home 58615
shall transfer to the department of job and family services the 58616
money in the personal needs allowance account of a resident of the 58617
facility or home who was a recipient of the medical assistance 58618
program no earlier than sixty days but not later than ninety days 58619
after the resident dies. The adult care facility or home shall 58620
transfer the money even though the owner or operator of the 58621
facility or home has not been issued letters testamentary or 58622

letters of administration concerning the resident's estate. 58623

(C) If funeral or burial expenses for a resident of an adult 58624
care facility or home who has died have not been paid and the only 58625
resource the resident had that could be used to pay for the 58626
expenses is the money in the resident's personal needs allowance 58627
account, or all other resources of the resident are inadequate to 58628
pay the full cost of the expenses, the money in the resident's 58629
personal needs allowance account shall be used to pay for the 58630
expenses rather than being transferred to the department of job 58631
and family services pursuant to division (B) of this section. 58632

(D) If, not later than sixty days after a resident of an 58633
adult care facility or home dies, letters testamentary or letters 58634
of administration are issued, or an application for release from 58635
administration is filed under section 2113.03 of the Revised Code, 58636
concerning the resident's estate, the owner or operator of the 58637
facility or home shall transfer the money in the resident's 58638
personal needs allowance account to the administrator, executor, 58639
commissioner, or person who filed the application for release from 58640
administration. 58641

(E) The transfer or use of money in a resident's personal 58642
needs allowance account in accordance with division (B), (C), or 58643
(D) of this section discharges and releases the adult care 58644
facility or home, and the owner or operator of the facility or 58645
home, from any claim for the money from any source. 58646

(F) If, sixty-one or more days after a resident of an adult 58647
care facility or home dies, letters testamentary or letters of 58648
administration are issued, or an application for release from 58649
administration under section 2113.03 of the Revised Code is filed, 58650
concerning the resident's estate, the department of job and family 58651
services shall transfer the funds to the administrator, executor, 58652
commissioner, or person who filed the application, unless the 58653
department is entitled to recover the money under the estate 58654

recovery program instituted under section 5111.11 of the Revised Code. 58655
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Sec. ~~5111.113~~ 5111.114. As used in this section, "nursing facility" and "intermediate care facility for the ~~mental~~ mentally retarded" have the same meanings as in section 5111.20 of the Revised Code. 58657
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In determining the amount of income that a recipient of medical assistance must apply monthly toward payment of the cost of care in a nursing facility or intermediate care facility for the mentally retarded, the county department of job and family services shall deduct from the recipient's monthly income a monthly personal needs allowance in accordance with section 1902 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396a, as amended. 58661
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For a resident of a nursing facility, the monthly personal needs allowance shall be not less than forty dollars for an individual resident and not less than eighty dollars for a married couple if both spouses are residents of a nursing facility. 58669
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For a resident of an intermediate care facility for the mentally retarded, the monthly personal needs allowance shall be forty dollars unless the resident has earned income, in which case the monthly personal needs allowance shall be determined by the state department of job and family services but shall not exceed one hundred five dollars. 58673
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Sec. 5111.16. (A) As part of the medicaid program, the department of job and family services shall establish a care management system. The department shall submit, if necessary, applications to the United States department of health and human services for waivers of federal medicaid requirements that would otherwise be violated in the implementation of the system. 58679
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(B) The department shall implement the care management system 58685
in some or all counties and shall designate the medicaid 58686
recipients who are required or permitted to participate in the 58687
system. In the department's implementation of the system and 58688
designation of participants, all of the following apply: 58689

(1) In the case of individuals who receive medicaid on the 58690
basis of being included in the category identified by the 58691
department as covered families and children, the department shall 58692
implement the care management system in all counties. All 58693
individuals included in the category shall be designated for 58694
participation, except for individuals included in one or more of 58695
the medicaid recipient groups specified in 42 C.F.R. 438.50(d). 58696
The department shall designate the participants not later than 58697
January 1, 2006. Beginning not later than December 31, 2006, the 58698
department shall ensure that all participants are enrolled in 58699
health insuring corporations under contract with the department 58700
pursuant to section 5111.17 of the Revised Code. 58701

(2) In the case of individuals who receive medicaid on the 58702
basis of being aged, blind, or disabled, as specified in division 58703
(A)(2) of section 5111.01 of the Revised Code, the department 58704
shall implement the care management system in all counties. All 58705
individuals included in the category shall be designated for 58706
participation, except for the individuals specified in divisions 58707
(B)(2)(a) to (e) of this section. Beginning not later than 58708
December 31, 2006, the department shall ensure that all 58709
participants are enrolled in health insuring corporations under 58710
contract with the department pursuant to section 5111.17 of the 58711
Revised Code. 58712

In designating participants who receive medicaid on the basis 58713
of being aged, blind, or disabled, the department shall not 58714
include any of the following: 58715

(a) Individuals who are under twenty-one years of age; 58716

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| <u>(b) Individuals who are institutionalized;</u> | 58717 |
| <u>(c) Individuals who become eligible for medicaid by spending down their income or resources to a level that meets the medicaid program's financial eligibility requirements;</u> | 58718 58719 58720 |
| <u>(d) Individuals who are dually eligible under the medicaid program and the medicare program established under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended;</u> | 58721 58722 58723 58724 |
| <u>(e) Individuals to the extent that they are receiving medicaid services through a medicaid waiver component, as defined in section 5111.85 of the Revised Code.</u> | 58725 58726 58727 |
| <u>(3) Alcohol, drug addiction, and mental health services covered by medicaid shall not be included in any component of the care management system when the nonfederal share of the cost of those services is provided by a board of alcohol, drug adiction, and mental health services or a state agency other than the department of job and family services, but the recipients of those services may otherwise be designated for participation in the system.</u> | 58728 58729 58730 58731 58732 58733 58734 58735 |
| (B) Under the care management system <u>(C) Subject to division (B) of this section,</u> the department may do both of the following <u>under the care management system:</u> | 58736 58737 58738 |
| (1) Require or permit participants in the system to obtain health care services from providers designated by the department; | 58739 58740 |
| (2) require <u>Require</u> or permit participants in the system to obtain health care services through managed care organizations under contract with the department pursuant to section 5111.17 of the Revised Code. | 58741 58742 58743 58744 |
| (C) <u>(D)(1) The department shall prepare an annual report on the care management system. The report shall address the</u> | 58745 58746 |

department's ability to implement the system, including all of the 58747
following components: 58748

(a) The required designation of participants included in the 58749
category identified by the department as covered families and 58750
children; 58751

(b) The required designation of participants included in the 58752
aged, blind, or disabled category of medicaid recipients; 58753

(c) The conduct of the pilot program for chronically ill 58754
children established under section 5111.163 of the Revised Code; 58755

(d) The use of any programs for enhanced care management. 58756

(2) The department shall submit each annual report to the 58757
general assembly. The first report shall be submitted not later 58758
than October 1, 2007. 58759

(E) The director of job and family services may adopt rules 58760
in accordance with Chapter 119. of the Revised Code to implement 58761
this section. 58762

Sec. 5111.161. (A) There is hereby created the medicaid care 58763
management working group, consisting of the following members: 58764

(1) Three individuals representing medicaid health insuring 58765
corporations, as defined in section 5111.176 of the Revised Code, 58766
one appointed by the president of the senate, one appointed by the 58767
speaker of the house of representatives, and one appointed by the 58768
governor; 58769

(2) One individual representing programs that provide 58770
enhanced care management services, appointed by the governor; 58771

(3) Four individuals representing health care professional 58772
and trade associations, appointed as follows: 58773

(a) One representative of the American academy of pediatrics, 58774
appointed by the president of the senate; 58775

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| <u>(b) One representative of the American academy of family physicians, appointed by the speaker of the house of representatives;</u> | 58776 |
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| <u>(c) One representative of the Ohio state medical association, appointed by the president of the senate;</u> | 58779 |
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| <u>(d) One representative of the Ohio hospital association, appointed by the speaker of the house of representatives.</u> | 58781 |
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| <u>(4) One individual representing behavioral health professional and trade associations, appointed by the speaker of the house of representatives;</u> | 58783 |
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| <u>(5) Two individuals representing consumer advocates, one appointed by the president of the senate and one appointed by the speaker of the house of representatives;</u> | 58786 |
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| <u>(6) One individual representing county departments of job and family services, appointed by the president of the senate;</u> | 58789 |
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| <u>(7) Three individuals representing the business community, one appointed by the president of the senate, one appointed by the speaker of the house of representatives, and one appointed by the governor;</u> | 58791 |
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| <u>(8) The director of job and family services or the director's designee;</u> | 58795 |
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| <u>(9) The director of health or the director's designee;</u> | 58797 |
| <u>(10) The director of aging or the director's designee.</u> | 58798 |
| <u>(B) The members of the working group shall serve at the pleasure of their appointing authorities. Vacancies shall be filled in the manner provided for original appointments.</u> | 58799 |
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| <u>(C) The working group shall develop guidelines that the department of job and family services may consider when entering into contracts under section 5111.17 of the Revised Code with managed care organizations for purposes of the care management</u> | 58802 |
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system established under section 5111.16 of the Revised Code. The 58806
working group shall consult regularly with the departments of 58807
insurance, alcohol and drug addiction services, mental health, and 58808
mental retardation and developmental disabilities and the 58809
rehabilitation services commission. 58810

In developing the guidelines, the working group shall do all 58811
of the following: 58812

(1) Examine the best practice standards used in managed care 58813
programs and other health care and related systems to maximize 58814
patient and provider satisfaction, maintain quality of care, and 58815
obtain cost-effectiveness; 58816

(2) Consider the most effective means of facilitating the 58817
expansion of the care management system and increasing consistency 58818
within the system; 58819

(3) Make recommendations for coordinating the regulatory 58820
relationships involved in the medicaid care management system; 58821

(4) Make recommendations for improving the resolution of 58822
contracting issues among the providers involved in the care 58823
management system; 58824

(5) Make recommendations that the department may consider 58825
when developing and implementing the financial incentive program 58826
under division (B) of section 5111.17 of the Revised Code to 58827
improve and reward positive health outcomes through managed care 58828
contracts. In making these recommendations, the working group 58829
shall include all of the following: 58830

(a) Standards and procedures by which care management 58831
contractors may receive financial incentives for positive health 58832
outcomes measured on an individual basis; 58833

(b) Specific measures of positive health outcomes, 58834
particularly among individuals with high-risk health conditions; 58835

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| <u>(c) Criteria for determining what constitutes a completed health outcome;</u> | 58836 |
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| <u>(d) Methods of funding the program without requiring an increase in appropriations.</u> | 58838 |
| | 58839 |
| <u>(D) The working group shall prepare an annual report on its activities and shall submit the report to the president of the senate, speaker of the house of representatives, and governor. The report shall include any findings and recommendations the working group considers relevant to its duties. The working group shall complete an initial report not later than December 31, 2005. Each year thereafter, the working group shall complete its annual report by the last day of December.</u> | 58840 |
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| <u>Sec. 5111.162. (A) As used in this section, "medicaid managed care organization" means a managed care organization that has entered into a contract with the department of job and family services pursuant to section 5111.17 of the Revised Code.</u> | 58848 |
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| <u>(B) Except as provided in division (C) of this section, when a participant in the care management system established under section 5111.16 of the Revised Code is enrolled in a medicaid managed care organization and the organization refers the participant to a hospital that participates in the medicaid program but is not under contract with the organization, the hospital shall provide the service for which the referral was made and shall accept from the organization, as payment in full, the amount derived from the reimbursement rate used by the department to reimburse other hospitals of the same type for providing the same service to a medicaid recipient who is not enrolled in a medicaid managed care organization.</u> | 58852 |
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| <u>(C) A hospital is not subject to division (B) of this section if all of the following are the case:</u> | 58864 |
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(1) The hospital is located in a county in which participants in the care management system are required before January 1, 2006, to be enrolled in a medicaid managed care organization that is a health insuring corporation; 58866
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(2) The hospital has entered into a contract before January 1, 2006, with at least one health insuring corporation serving the participants specified in division (C)(1) of this section; 58870
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(3) The hospital remains under contract with at least one health insuring corporation serving participants in the care management system who are required to be enrolled in a health insuring corporation. 58873
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(D) The director of job and family services shall adopt rules specifying the circumstances under which a medicaid managed care organization is permitted to refer a participant in the care management system to a hospital that is not under contract with the organization. The director may adopt any other rules necessary to implement this section. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. 58877
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Sec. 5111.163. (A) As used in this section, "chronically ill child" means an individual who is not more than twenty-one years of age and meets the conditions specified in division (A)(2) of section 5111.01 of the Revised Code to be eligible for medicaid on the basis of being blind or disabled. 58885
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(B) Notwithstanding any conflicting provision of section 5111.16 of the Revised Code, the department of job and family services shall develop a pilot program for the care management of chronically ill children in accordance with this section. The pilot program shall be implemented not later than October 1, 2006, or, if by that date the department has not received any necessary federal approval to implement the program, as soon as practicable 58890
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after receiving the approval. The department shall operate the 58897
program until October 1, 2008, except that the department shall 58898
cease operation of the program before that date if either of the 58899
following is the case: 58900

(1) The department determines that requiring chronically ill 58901
children to participate in the care management system is not a 58902
cost-effective means of providing medicaid services. 58903

(2) The combined state and federal cost of the children's 58904
care coordination described in division (D) of this section 58905
reaches three million dollars. 58906

(C) The department shall ensure that the pilot program is 58907
operated in at least three counties selected by the department. In 58908
its consideration of the counties to be selected, the department 58909
may give priority to Hamilton county and Muskingum county. The 58910
department may extend its operation of the program into the areas 58911
surrounding the counties in which the program is operated. 58912

(D) The purpose of the pilot program shall be to determine 58913
whether occurrences of acute illnesses and hospitalizations among 58914
chronically ill children can be prevented or reduced by 58915
establishing a medical home for the children where care is 58916
administered proactively and in a manner that is accessible, 58917
continuous, family-centered, coordinated, and compassionate. In 58918
establishing a medical home for a chronically ill child, all of 58919
the following apply: 58920

(1) A physician shall serve as the care coordinator for the 58921
child. The care coordinator may be engaged in practice as a 58922
pediatrician certified in pediatrics by a medical specialty board 58923
of the American medical association or American osteopathic 58924
association, a pediatric subspecialist, or a provider for the 58925
program for medically handicapped children in the department of 58926
health. If the physician is in a group practice, any member of the 58927

group practice may serve as the child's care coordinator. The 58928
duties of the care coordinator may be performed by a person acting 58929
under the supervision of the care coordinator. 58930

(2) The child may receive care from any health care 58931
practitioner appropriate to the child's needs, but the care 58932
coordinator shall direct and oversee the child's overall care. 58933

(3) The care coordinator shall establish a relationship of 58934
mutual responsibility with the child's parents or other persons 58935
who are responsible for the child. Under this relationship, the 58936
care coordinator shall commit to developing a long-term disease 58937
prevention strategy and providing disease management and education 58938
services, while the child's parents or other persons who are 58939
responsible for the child shall commit to participating fully in 58940
implementing the child's care management plan. 58941

(4) The medicaid program shall provide reimbursement for the 58942
reasonable and necessary costs of the services associated with 58943
care coordination, including, but not limited to, case management, 58944
care plan oversight, preventive care, health and behavioral care 58945
assessment and intervention, and any service modifier that 58946
reflects the provision of prolonged services or additional care. 58947

(E) The department shall conduct an evaluation of the pilot 58948
program's effectiveness. As part of the evaluation, the department 58949
shall maintain statistics on physician expenditures, hospital 58950
expenditures, preventable hospitalizations, and other matters the 58951
department considers necessary to conduct the evaluation. 58952

(F) The department shall adopt rules in accordance with 58953
Chapter 119. of the Revised Code as necessary to implement this 58954
section. The rules shall specify standards and procedures to be 58955
used in designating the chronically ill children who are required 58956
to participate in the pilot program. 58957

Sec. 5111.17. (A) The department of job and family services 58958
may enter into contracts with managed care organizations, 58959
including health insuring corporations, under which the 58960
organizations are authorized to provide, or arrange for the 58961
provision of, health care services to medical assistance 58962
recipients who are required or permitted to obtain health care 58963
services through managed care organizations as part of the care 58964
management system established under section 5111.16 of the Revised 58965
Code. 58966

(B) The department shall develop and implement a financial 58967
incentive program to improve and reward positive health outcomes 58968
through the managed care organization contracts entered into under 58969
this section. In developing and implementing the program, the 58970
department may take into consideration the recommendations 58971
regarding the program made by the medicaid care management working 58972
group created under section 5111.161 of the Revised Code. 58973

(C) The director of job and family services may adopt rules 58974
in accordance with Chapter 119. of the Revised Code to implement 58975
this section. 58976

Sec. 5111.176. (A) As used in this section: 58977

(1) "Medicaid health insuring corporation" means a health 58978
insuring corporation that holds a certificate of authority under 58979
Chapter 1751. of the Revised Code and has entered into a contract 58980
with the department of job and family services pursuant to section 58981
5111.17 of the Revised Code. 58982

(2) "Managed care premium" means any premium payment, 58983
capitation payment, or other payment a medicaid health insuring 58984
corporation receives for providing, or arranging for the provision 58985
of, health care services to its members or enrollees residing in 58986
this state. 58987

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| <u>(B) Except as provided in division (C) of this section, all</u> | 58988 |
| <u>of the following apply:</u> | 58989 |
| <u>(1) Each medicaid health insuring corporation shall pay to</u> | 58990 |
| <u>the department of job and family services a franchise permit fee</u> | 58991 |
| <u>for each calendar quarter occurring between January 1, 2006, and</u> | 58992 |
| <u>June 30, 2007.</u> | 58993 |
| <u>(2) The fee to be paid is an amount that is equal to a</u> | 58994 |
| <u>percentage of the managed care premiums the medicaid health</u> | 58995 |
| <u>insuring corporation received in the quarter to which the fee</u> | 58996 |
| <u>applies, excluding the amount of any managed care premiums the</u> | 58997 |
| <u>corporation returned or refunded to enrollees, members, or premium</u> | 58998 |
| <u>payers during that quarter.</u> | 58999 |
| <u>(3) The percentage to be used in calculating the fee shall be</u> | 59000 |
| <u>four and one-half per cent, unless the department adopts rules</u> | 59001 |
| <u>under division (L) of this section decreasing the percentage below</u> | 59002 |
| <u>four and one-half per cent or increasing the percentage to not</u> | 59003 |
| <u>more than six per cent.</u> | 59004 |
| <u>(C) The department shall reduce the franchise permit fee</u> | 59005 |
| <u>imposed under this section or terminate its collection of the fee</u> | 59006 |
| <u>if the department determines either of the following:</u> | 59007 |
| <u>(1) That the reduction or termination is required to comply</u> | 59008 |
| <u>with federal statutes or regulations;</u> | 59009 |
| <u>(2) That the fee does not qualify as a state share of</u> | 59010 |
| <u>medicaid expenditures eligible for federal financial</u> | 59011 |
| <u>participation.</u> | 59012 |
| <u>(D) The franchise permit fee shall be paid on or before the</u> | 59013 |
| <u>thirtieth day following the end of the calendar quarter to which</u> | 59014 |
| <u>the fee applies. At the time the fee is submitted, the medicaid</u> | 59015 |
| <u>health insuring corporation shall file with the department a</u> | 59016 |
| <u>report on a form prescribed by the department. The corporation</u> | 59017 |
| <u>shall provide on the form all information required by the</u> | 59018 |

department and shall include with the form any necessary 59019
supporting documentation. 59020

(E) The department may audit the records of any medicaid 59021
health insuring corporation to determine whether the corporation 59022
is in compliance with this section. The department may audit the 59023
records that pertain to a particular calendar quarter at any time 59024
during the five years following the date the franchise permit fee 59025
payment for that quarter was due. 59026

(F)(1) A medicaid health insuring corporation that does not 59027
pay the franchise permit fee in full by the date the payment is 59028
due is subject to any or all of the following: 59029

(a) A monetary penalty in the amount of five hundred dollars 59030
for each day any part of the fee remains unpaid, except that the 59031
penalty shall not exceed an amount equal to five per cent of the 59032
total fee that was due for the calendar quarter for which the 59033
penalty is being imposed; 59034

(b) Withholdings from future managed care premiums pursuant 59035
to division (G) of this section; 59036

(c) Termination of the corporation's medicaid provider 59037
agreement pursuant to division (H) of this section. 59038

(2) Penalties imposed under division (F)(1)(a) of this 59039
section are in addition to and not in lieu of the franchise permit 59040
fee. 59041

(G) If a medicaid health insuring corporation fails to pay 59042
the full amount of its franchise permit fee when due, or the full 59043
amount of a penalty imposed under division (F)(1)(a) of this 59044
section, the department may withhold an amount equal to the 59045
remaining amount due from any future managed care premiums to be 59046
paid to the corporation under the medicaid program. The department 59047
may withhold amounts under this division without providing notice 59048
to the corporation. The amounts may be withheld until the amount 59049

due has been paid. 59050

(H) The department may commence actions to terminate a 59051
medicaid health insuring corporation's medicaid provider 59052
agreement, and may terminate the agreement subject to division (I) 59053
of this section, if the corporation does any of the following: 59054

(1) Fails to pay its franchise permit fee or fails to pay the 59055
fee promptly; 59056

(2) Fails to pay a penalty imposed under division (F)(1)(a) 59057
of this section or fails to pay the penalty promptly; 59058

(3) Fails to cooperate with an audit conducted under division 59059
(E) of this section. 59060

(I) At the request of a medicaid health insuring corporation, 59061
the department shall grant the corporation a hearing in accordance 59062
with Chapter 119. of the Revised Code, if either of the following 59063
is the case: 59064

(1) The department has determined that the corporation owes 59065
an additional franchise permit fee or penalty as the result of an 59066
audit conducted under division (E) of this section. 59067

(2) The department is proposing to terminate the 59068
corporation's medicaid provider agreement and the provisions of 59069
section 5111.06 of the Revised Code requiring an adjudication in 59070
accordance with Chapter 119. of the Revised Code are applicable. 59071

(J)(1) At the request of a medicaid corporation, the 59072
department shall grant the corporation a reconsideration of any 59073
issue that arises out of the provisions of this section and is not 59074
subject to division (I) of this section. The department's decision 59075
at the conclusion of the reconsideration is not subject to appeal 59076
under Chapter 119. of the Revised Code or any other provision of 59077
the Revised Code. 59078

(2) In conducting a reconsideration, the department shall do 59079

at least the following: 59080

(a) Specify the time frames within which a corporation must act in order to exercise its opportunity for a reconsideration; 59081
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(b) Permit the corporation to present written arguments or other materials that support the corporation's position. 59083
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(K) There is hereby created in the state treasury the managed care assessment fund. Money collected from the franchise permit fees and penalties imposed under this section shall be credited to the fund. The department shall use the money in the fund to pay for medicaid services, the department's administrative costs, and contracts with medicaid health insuring corporations. 59085
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(L) The director of job and family services may adopt rules to implement and administer this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. 59091
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Sec. 5111.177. When contracting under section 5111.17 of the Revised Code with a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code, the department of job and family services shall require the health insuring corporation to provide a grievance process for medicaid recipients in accordance with 42 C.F.R. 438, subpart F. 59094
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Sec. 5111.19. The director of job and family services shall adopt rules governing the calculation and payment of graduate medical education costs associated with services rendered to medicaid recipients of the medical assistance program after June 30, 1994. ~~The~~ Subject to section 5111.191 of the Revised Code, the rules shall provide for reimbursement of graduate medical education costs associated with services rendered to ~~medical assistance~~ medicaid recipients, including recipients enrolled in ~~health insuring corporations~~ a managed care organization under contract with the department under section 5111.17 of the Revised

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Code, that the department determines are allowable and reasonable. 59110

If the department requires a ~~health insuring corporation~~ 59111
managed care organization to pay a provider for graduate medical 59112
education costs associated with the delivery of services to 59113
~~medical assistance~~ medicaid recipients enrolled in the ~~corporation~~ 59114
organization, the department shall include in its payment to the 59115
~~corporation~~ organization an amount sufficient for the ~~corporation~~ 59116
organization to pay such costs. If the department does not include 59117
in its payments to the ~~health insuring corporation~~ managed care 59118
organization amounts for graduate medical education costs of 59119
providers, all of the following apply: 59120

(A) ~~The~~ Except as provided in section 5111.191 of the Revised 59121
Code, the department shall pay the provider for graduate medical 59122
education costs associated with the delivery of services to 59123
~~medical assistance~~ medicaid recipients enrolled in the ~~corporation~~ 59124
organization; 59125

(B) No provider shall seek reimbursement from the ~~corporation~~ 59126
organization for such costs; 59127

(C) The ~~corporation~~ organization is not required to pay 59128
providers for such costs. 59129

Sec. 5111.191. (A) Except as provided in division (B) of this 59130
section, the department of job and family services may deny 59131
payment to a hospital for direct graduate medical education costs 59132
associated with the delivery of services to any medicaid recipient 59133
if the hospital refuses without good cause to contract with a 59134
managed care organization that serves participants in the care 59135
management system established under section 5111.16 of the Revised 59136
Code who are required to be enrolled in a managed care 59137
organization and the managed care organization serves the area in 59138
which the hospital is located. 59139

(B) A hospital is not subject to division (A) of this section 59140
if all of the following are the case: 59141

(1) The hospital is located in a county in which participants 59142
in the care management system are required before January 1, 2006, 59143
to be enrolled in a medicaid managed care organization that is a 59144
health insuring corporation. 59145

(2) The hospital has entered into a contract before January 59146
1, 2006, with at least one health insuring corporation serving the 59147
participants specified in division (B)(1) of this section. 59148

(3) The hospital remains under contract with at least one 59149
health insuring corporation serving participants in the care 59150
management system who are required to be enrolled in a health 59151
insuring corporation. 59152

(C) The director of job and family services shall specify in 59153
the rules adopted under section 5111.19 of the Revised Code what 59154
constitutes good cause for a hospital to refuse to contract with a 59155
managed care organization. 59156

Sec. 5111.20. As used in sections 5111.20 to 5111.34 of the 59157
Revised Code: 59158

(A) "Allowable costs" are those costs determined by the 59159
department of job and family services to be reasonable and do not 59160
include fines paid under sections 5111.35 to 5111.61 and section 59161
5111.99 of the Revised Code. 59162

(B) "Ancillary and support costs" means all reasonable costs 59163
incurred by a nursing facility other than direct care costs or 59164
capital costs. "Ancillary and support costs" includes, but is not 59165
limited to, costs of activities, social services, pharmacy 59166
consultants, medical and habilitation records, program supplies, 59167
incontinence supplies, food, enterals, dietary supplies and 59168
personnel, laundry, housekeeping, security, administration, 59169

medical equipment, utilities, liability insurance, bookkeeping, 59170
purchasing department, human resources, communications, travel, 59171
dues, license fees, subscriptions, home office costs not otherwise 59172
allocated, legal services, accounting services, minor equipment, 59173
maintenance and repairs, help-wanted advertising, informational 59174
advertising, start-up costs, organizational expenses, other 59175
interest, property insurance, employee training and staff 59176
development, employee benefits, payroll taxes, and workers' 59177
compensation premiums or costs for self-insurance claims and 59178
related costs as specified in rules adopted by the director of job 59179
and family services under section 5111.02 of the Revised Code, for 59180
personnel listed in this division. "Ancillary and support costs" 59181
also means the cost of equipment, including vehicles, acquired by 59182
operating lease executed before December 1, 1992, if the costs are 59183
reported as administrative and general costs on the facility's 59184
cost report for the cost reporting period ending December 31, 59185
1992. 59186

(C) "Capital costs" means costs of ownership and, in the case 59187
of an intermediate care facility for the mentally retarded, costs 59188
of nonextensive renovation. 59189

(1) "Cost of ownership" means the actual expense incurred for 59190
all of the following: 59191

(a) Depreciation and interest on any capital assets that cost 59192
five hundred dollars or more per item, including the following: 59193

(i) Buildings; 59194

(ii) Building improvements that are not approved as 59195
nonextensive renovations under section ~~5111.25~~ or 5111.251 of the 59196
Revised Code; 59197

(iii) ~~Equipment~~ Except as provided in division (B) of this 59198
section, equipment; 59199

(iv) ~~Extensive~~ In the case of an intermediate care facility 59200

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| <u>for the mentally retarded, extensive</u> renovations; | 59201 |
| (v) Transportation equipment. | 59202 |
| (b) Amortization and interest on land improvements and leasehold improvements; | 59203 59204 |
| (c) Amortization of financing costs; | 59205 |
| (d) Except as provided in division (I) <u>(K)</u> of this section, lease and rent of land, building, and equipment. | 59206 59207 |
| The costs of capital assets of less than five hundred dollars per item may be considered <u>capital</u> costs of ownership in accordance with a provider's practice. | 59208 59209 59210 |
| (2) "Costs of nonextensive renovation" means the actual expense incurred <u>by an intermediate care facility for the mentally retarded</u> for depreciation or amortization and interest on renovations that are not extensive renovations. | 59211 59212 59213 59214 |
| (C) <u>(D)</u> "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles. | 59215 59216 59217 |
| (D) <u>(E)</u> "Case-mix score" means the measure determined under section 5111.231 <u>5111.232</u> of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded. | 59218 59219 59220 59221 59222 |
| (E) <u>(F)</u> "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds | 59223 59224 59225 59226 59227 59228 59229 59230 |

were originally licensed as residential facility beds under that section. 59231
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(1) If nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were not required by law to be licensed when they were originally used to provide nursing home or residential facility services, "date of licensure" means the date the beds first were used to provide nursing home or residential facility services, regardless of the date the present provider obtained licensure. 59233
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(2) If a facility adds nursing home beds or residential facility beds or extensively renovates all or part of the facility after its original date of licensure, it will have a different date of licensure for the additional beds or extensively renovated portion of the facility, unless the beds are added in a space that was constructed at the same time as the previously licensed beds but was not licensed under Chapter 3721. or section 5123.19 of the Revised Code at that time. 59241
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~~(F)~~(G) "Desk-reviewed" means that costs as reported on a cost report submitted under section 5111.26 of the Revised Code have been subjected to a desk review under division (A) of section 5111.27 of the Revised Code and preliminarily determined to be allowable costs. 59249
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~~(G)~~(H) "Direct care costs" means all of the following: 59254

(1)(a) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the facility; 59255
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(b) Costs for direct care staff, administrative nursing staff, medical directors, ~~social services staff, activities staff, psychologists and psychology assistants, social workers and counselors,~~ habilitation staff, qualified mental retardation professionals, program directors, respiratory therapists, 59257
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| habilitation supervisors, and except as provided in division | 59262 |
| (G)(2) of this section, other persons holding degrees qualifying | 59263 |
| them to provide therapy; | 59264 |
| (c) Costs of purchased nursing services; | 59265 |
| (d) Costs of quality assurance; | 59266 |
| (e) Costs of training and staff development, employee | 59267 |
| benefits, payroll taxes, and workers' compensation premiums or | 59268 |
| costs for self-insurance claims and related costs as specified in | 59269 |
| rules adopted by the director of job and family services in | 59270 |
| accordance with Chapter 119. of the Revised Code, for personnel | 59271 |
| listed in divisions (G) (H)(1)(a), (b), and (d) of this section; | 59272 |
| (f) Costs of consulting and management fees related to direct | 59273 |
| care; | 59274 |
| (g) Allocated direct care home office costs. | 59275 |
| (2) <u>In addition to the costs specified in division (H)(1) of</u> | 59276 |
| <u>this section, for nursing facilities only, direct care costs</u> | 59277 |
| <u>include medical supplies, emergency oxygen, habilitation supplies,</u> | 59278 |
| <u>and universal precautions supplies.</u> | 59279 |
| (3) In addition to the costs specified in division (G) (H)(1) | 59280 |
| of this section, for intermediate care facilities for the mentally | 59281 |
| retarded only, direct care costs include both of the following: | 59282 |
| (a) Costs for physical therapists and physical therapy | 59283 |
| assistants, occupational therapists and occupational therapy | 59284 |
| assistants, speech therapists, and audiologists, <u>social services</u> | 59285 |
| <u>staff, activities staff, psychologists and psychology assistants,</u> | 59286 |
| <u>and social workers and counselors;</u> | 59287 |
| (b) Costs of training and staff development, employee | 59288 |
| benefits, payroll taxes, and workers' compensation premiums or | 59289 |
| costs for self-insurance claims and related costs as specified in | 59290 |
| rules adopted by the director of job and family services in | 59291 |

~~accordance with Chapter 119.~~ under section 5111.02 of the Revised Code, for personnel listed in division ~~(G)(2)(H)(3)(a)~~ of this section. 59292
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~~(3)(4)~~ (4) Costs of other direct-care resources that are specified as direct care costs in rules adopted ~~by the director of job and family services in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code. 59295
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~~(H)(I)~~ (I) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code. 59299
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~~(I)(J)~~ (J) "Franchise permit fee" means the fee imposed by sections 3721.50 to 3721.58 of the Revised Code. 59301
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(K) "Indirect care costs" means all reasonable costs incurred by an intermediate care facility for the mentally retarded other than direct care costs, other protected costs, or capital costs. 59303
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"Indirect care costs" includes but is not limited to costs of 59306
habilitation supplies, pharmacy consultants, medical and 59307
habilitation records, program supplies, incontinence supplies, 59308
food, enterals, dietary supplies and personnel, laundry, 59309
housekeeping, security, administration, liability insurance, 59310
bookkeeping, purchasing department, human resources, 59311
communications, travel, dues, license fees, subscriptions, home 59312
office costs not otherwise allocated, legal services, accounting 59313
services, minor equipment, maintenance and repairs, help-wanted 59314
advertising, informational advertising, start-up costs, 59315
organizational expenses, other interest, property insurance, 59316
employee training and staff development, employee benefits, 59317
payroll taxes, and workers' compensation premiums or costs for 59318
self-insurance claims and related costs as specified in rules 59319
adopted ~~by the director of job and family services in accordance~~ 59320
~~with Chapter 119.~~ under section 5111.02 of the Revised Code, for 59321
personnel listed in this division. Notwithstanding division 59322
~~(B)(C)~~ (C)(1) of this section, "indirect care costs" also means the 59323

cost of equipment, including vehicles, acquired by operating lease 59324
executed before December 1, 1992, if the costs are reported as 59325
administrative and general costs on the facility's cost report for 59326
the cost reporting period ending December 31, 1992. 59327

~~(J)~~(L) "Inpatient days" means all days during which a 59328
resident, regardless of payment source, occupies a bed in a 59329
nursing facility or intermediate care facility for the mentally 59330
retarded that is included in the facility's certified capacity 59331
under Title XIX ~~of the "Social Security Act," 49 Stat. 610 (1935),~~ 59332
~~42 U.S.C.A. 301, as amended.~~ Therapeutic or hospital leave days 59333
for which payment is made under section 5111.33 of the Revised 59334
Code are considered inpatient days proportionate to the percentage 59335
of the facility's per resident per day rate paid for those days. 59336

~~(K)~~(M) "Intermediate care facility for the mentally retarded" 59337
means an intermediate care facility for the mentally retarded 59338
certified as in compliance with applicable standards for the 59339
~~medical assistance~~ medicaid program by the director of health in 59340
accordance with Title XIX ~~of the "Social Security Act."~~ 59341

~~(L)~~(N) "Maintenance and repair expenses" means, except as 59342
provided in division ~~(X)~~(BB)(2) of this section, expenditures that 59343
are necessary and proper to maintain an asset in a normally 59344
efficient working condition and that do not extend the useful life 59345
of the asset two years or more. "Maintenance and repair expenses" 59346
includes but is not limited to the cost of ordinary repairs such 59347
as painting and wallpapering. 59348

~~(M)~~(O) "Medicaid days" means all days during which a resident 59349
who is a Medicaid recipient eligible for nursing facility services 59350
occupies a bed in a nursing facility that is included in the 59351
nursing facility's certified capacity under Title XIX. Therapeutic 59352
or hospital leave days for which payment is made under section 59353
5111.33 of the Revised Code are considered Medicaid days 59354
proportionate to the percentage of the nursing facility's per 59355

resident per day rate paid for those days. 59356

(P) "Nursing facility" means a facility, or a distinct part 59357
of a facility, that is certified as a nursing facility by the 59358
director of health in accordance with Title XIX ~~of the "Social~~ 59359
~~Security Act,"~~ and is not an intermediate care facility for the 59360
mentally retarded. "Nursing facility" includes a facility, or a 59361
distinct part of a facility, that is certified as a nursing 59362
facility by the director of health in accordance with Title XIX ~~of~~ 59363
~~the "Social Security Act,"~~ and is certified as a skilled nursing 59364
facility by the director in accordance with Title XVIII ~~of the~~ 59365
~~"Social Security Act."~~ 59366

~~(N)~~(O) "Operator" means the person or government entity 59367
responsible for the daily operating and management decisions for a 59368
nursing facility or intermediate care facility for the mentally 59369
retarded. 59370

(R) "Other protected costs" means costs incurred by an 59371
intermediate care facility for the mentally retarded for medical 59372
supplies; real estate, franchise, and property taxes; natural gas, 59373
fuel oil, water, electricity, sewage, and refuse and hazardous 59374
medical waste collection; allocated other protected home office 59375
costs; and any additional costs defined as other protected costs 59376
in rules adopted ~~by the director of job and family services in~~ 59377
~~accordance with Chapter 119.~~ under section 5111.02 of the Revised 59378
Code. 59379

~~(O)~~(S)(1) "Owner" means any person or government entity that 59380
has at least five per cent ownership or interest, either directly, 59381
indirectly, or in any combination, in any of the following 59382
regarding a nursing facility or intermediate care facility for the 59383
mentally retarded: 59384

(a) The land on which the facility is located; 59385

(b) The structure in which the facility is located; 59386

(c) Any mortgage, contract for deed, or other obligation 59387
secured in whole or in part by the land or structure on or in 59388
which the facility is located; 59389

(d) Any lease or sublease of the land or structure on or in 59390
which the facility is located. 59391

(2) "Owner" does not mean a holder of a debenture or bond 59392
related to the nursing facility or intermediate care facility for 59393
the mentally retarded and purchased at public issue or a regulated 59394
lender that has made a loan related to the facility unless the 59395
holder or lender operates the facility directly or through a 59396
subsidiary. 59397

~~(P)~~(T) "Patient" includes "resident." 59398

~~(Q)~~(U) Except as provided in divisions ~~(Q)~~(U)(1) and (2) of 59399
this section, "per diem" means a nursing facility's or 59400
intermediate care facility for the mentally retarded's actual, 59401
allowable costs in a given cost center in a cost reporting period, 59402
divided by the facility's inpatient days for that cost reporting 59403
period. 59404

(1) When calculating indirect care costs for the purpose of 59405
establishing rates under section ~~5111.24~~ or 5111.241 of the 59406
Revised Code, "per diem" means ~~a facility's~~ an intermediate care 59407
facility for the mentally retarded's actual, allowable indirect 59408
care costs in a cost reporting period divided by the greater of 59409
the facility's inpatient days for that period or the number of 59410
inpatient days the facility would have had during that period if 59411
its occupancy rate had been eighty-five per cent. 59412

(2) When calculating capital costs for the purpose of 59413
establishing rates under section ~~5111.25~~ or 5111.251 of the 59414
Revised Code, "per diem" means a facility's actual, allowable 59415
capital costs in a cost reporting period divided by the greater of 59416
the facility's inpatient days for that period or the number of 59417

inpatient days the facility would have had during that period if 59418
its occupancy rate had been ninety-five per cent. 59419

~~(R)~~(V) "Provider" means ~~a person or government entity that~~ 59420
~~operates a nursing facility or intermediate care facility for the~~ 59421
~~mentally retarded under an operator with~~ a provider agreement. 59422

~~(S)~~(W) "Provider agreement" means a contract between the 59423
department of job and family services and the operator of a 59424
nursing facility or intermediate care facility for the mentally 59425
retarded for the provision of nursing facility services or 59426
intermediate care facility services for the mentally retarded 59427
under the ~~medical assistance~~ medicaid program. 59428

~~(T)~~(X) "Purchased nursing services" means services that are 59429
provided in a nursing facility by registered nurses, licensed 59430
practical nurses, or nurse aides who are not employees of the 59431
facility. 59432

~~(U)~~(Y) "Reasonable" means that a cost is an actual cost that 59433
is appropriate and helpful to develop and maintain the operation 59434
of patient care facilities and activities, including normal 59435
standby costs, and that does not exceed what a prudent buyer pays 59436
for a given item or services. Reasonable costs may vary from 59437
provider to provider and from time to time for the same provider. 59438

~~(V)~~(Z) "Related party" means an individual or organization 59439
that, to a significant extent, has common ownership with, is 59440
associated or affiliated with, has control of, or is controlled 59441
by, the provider. 59442

(1) An individual who is a relative of an owner is a related 59443
party. 59444

(2) Common ownership exists when an individual or individuals 59445
possess significant ownership or equity in both the provider and 59446
the other organization. Significant ownership or equity exists 59447
when an individual or individuals possess five per cent ownership 59448

or equity in both the provider and a supplier. Significant 59449
ownership or equity is presumed to exist when an individual or 59450
individuals possess ten per cent ownership or equity in both the 59451
provider and another organization from which the provider 59452
purchases or leases real property. 59453

(3) Control exists when an individual or organization has the 59454
power, directly or indirectly, to significantly influence or 59455
direct the actions or policies of an organization. 59456

(4) An individual or organization that supplies goods or 59457
services to a provider shall not be considered a related party if 59458
all of the following conditions are met: 59459

(a) The supplier is a separate bona fide organization. 59460

(b) A substantial part of the supplier's business activity of 59461
the type carried on with the provider is transacted with others 59462
than the provider and there is an open, competitive market for the 59463
types of goods or services the supplier furnishes. 59464

(c) The types of goods or services are commonly obtained by 59465
other nursing facilities or intermediate care facilities for the 59466
mentally retarded from outside organizations and are not a basic 59467
element of patient care ordinarily furnished directly to patients 59468
by the facilities. 59469

(d) The charge to the provider is in line with the charge for 59470
the goods or services in the open market and no more than the 59471
charge made under comparable circumstances to others by the 59472
supplier. 59473

~~(W)~~(AA) "Relative of owner" means an individual who is 59474
related to an owner of a nursing facility or intermediate care 59475
facility for the mentally retarded by one of the following 59476
relationships: 59477

(1) Spouse; 59478

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|--|--|
| (2) Natural parent, child, or sibling; | 59479 |
| (3) Adopted parent, child, or sibling; | 59480 |
| (4) Step-parent <u>Stepparent</u> , step-child <u>stepchild</u> , step-brother <u>stepbrother</u> , or step-sister <u>stepsister</u> ; | 59481 59482 |
| (5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; | 59483 59484 |
| (6) Grandparent or grandchild; | 59485 |
| (7) Foster caregiver, foster child, foster brother, or foster sister. | 59486 59487 |
| (X) (BB) "Renovation" and "extensive renovation" mean: | 59488 |
| (1) Any betterment, improvement, or restoration of a nursing facility or an intermediate care facility for the mentally retarded started before July 1, 1993, that meets the definition of a renovation or extensive renovation established in rules adopted by the director of job and family services in effect on December 22, 1992. | 59489 59490 59491 59492 59493 59494 |
| (2) In the case of betterments, improvements, and restorations of nursing facilities and intermediate care facilities for the mentally retarded started on or after July 1, 1993: | 59495 59496 59497 59498 |
| (a) "Renovation" means the betterment, improvement, or restoration of a nursing facility or an intermediate care facility for the mentally retarded beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. A renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A renovation may include costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project. | 59499 59500 59501 59502 59503 59504 59505 59506 59507 59508 |

"Renovation" does not mean construction of additional space for beds that will be added to a facility's licensed or certified capacity. 59509
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(b) "Extensive renovation" means a renovation that costs more than sixty-five per cent and no more than eighty-five per cent of the cost of constructing a new bed and that extends the useful life of the assets for at least ten years. 59512
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For the purposes of division ~~(X)~~(BB)(2) of this section, the cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for the estimated rate of inflation from January 1, 1993, to the end of the calendar year during which the renovation is completed, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics. 59516
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The department of job and family services may treat a renovation that costs more than eighty-five per cent of the cost of constructing new beds as an extensive renovation if the department determines that the renovation is more prudent than construction of new beds. 59524
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(CC) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. 59529
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(DD) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 59531
59532

Sec. 5111.204. (A) As used in this section ~~and in section 5111.205 of the Revised Code~~, "representative" means a person acting on behalf of an applicant for or recipient of ~~medical assistance~~ medicaid. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of an applicant or recipient. 59533
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(B) The department of job and family services may require ~~an~~ 59539
each applicant for or recipient of ~~medical assistance~~ medicaid who 59540
applies or intends to apply for admission to a nursing facility or 59541
resides in a nursing facility to undergo an assessment to 59542
determine whether the applicant or recipient needs the level of 59543
care provided by a nursing facility. ~~To~~ The assessment may be 59544
performed concurrently with a long-term care consultation provided 59545
under section 173.42 of the Revised Code. 59546

To the maximum extent possible, the assessment shall be based 59547
on information from the resident assessment instrument specified 59548
in rules adopted by the director of job and family services under 59549
division ~~(A)~~(E) of section ~~5111.231~~ 5111.232 of the Revised Code. 59550
The assessment shall also be based on criteria and procedures 59551
established in rules adopted under division ~~(H)~~(F) of this section 59552
and information provided by the person being assessed or the 59553
person's representative. ~~The~~ 59554

The department of job and family services, or if the 59555
assessment is performed by ~~another~~ an agency ~~designated~~ under 59556
contract with the department pursuant to division (G) of this 59557
section 5101.754 of the Revised Code, the agency, shall, not later 59558
than the time the assessment level of care determination based on 59559
the assessment is required to be ~~performed~~ provided under division 59560
(C) of this section, give written notice of its conclusions and 59561
the basis for them to the person assessed and, if the department 59562
of job and family services or ~~designated entity~~ agency under 59563
contract with the department has been informed that the person has 59564
a representative, to the representative. 59565

(C) The department of job and family services or ~~designated~~ 59566
agency under contract with the department, whichever performs the 59567
assessment, shall ~~perform a complete assessment, or, if~~ 59568
~~circumstances provided by rules adopted under division (H) of this~~ 59569
~~section exist, a partial assessment, provide a level of care~~ 59570

determination based on the assessment as follows: 59571

(1) In the case of a person applying or intending to apply 59572
for admission to a nursing facility while hospitalized, not later 59573
than one of the following: 59574

(a) One working day after the person or the person's 59575
representative submits ~~an~~ the application ~~for admission to the~~ 59576
~~nursing facility~~ or notifies the department of the person's 59577
intention to apply and submits all information required for 59578
providing the level of care determination, as specified in rules 59579
adopted under division (F)(2) of this section; 59580

(b) A later date requested by the person or the person's 59581
representative. 59582

(2) In the case of ~~an emergency as determined in accordance~~ 59583
~~with rules adopted under division (H) of this section, not later~~ 59584
~~than one calendar day after the person or the person's~~ 59585
~~representative submits the application or notifies the department~~ 59586
~~of the person's intention to apply.~~ 59587

~~(3) In all other cases~~ a person applying or intending to 59588
apply for admission to a nursing facility who is not hospitalized, 59589
not later than one of the following: 59590

(a) Five calendar days after the person or the person's 59591
representative submits the application or notifies the department 59592
of the person's intention to apply and submits all information 59593
required for providing the level of care determination, as 59594
specified in rules adopted under division (F)(2) of this section; 59595

(b) A later date requested by the person or the person's 59596
representative. 59597

(3) In the case of a person who resides in a nursing 59598
facility, not later than one of the following: 59599

(a) Five calendar days after the person or the person's 59600

representative submits an application for medical assistance and 59601
submits all information required for providing the level of care 59602
determination, as specified in rules adopted under division (F)(2) 59603
of this section; 59604

(b) A later date requested by the person or the person's 59605
representative. 59606

(4) In the case of an emergency, as specified in rules 59607
adopted under division (F)(4) of this section, within the number 59608
of days specified in the rules. 59609

~~(D) If the department of job and family services or~~ 59610
~~designated agency conducts a partial assessment under division (C)~~ 59611
~~of this section, it shall complete the rest of the assessment not~~ 59612
~~later than one hundred eighty days after the date the person is~~ 59613
~~admitted to the nursing facility unless the department or~~ 59614
~~designated agency determines the person should be exempt from the~~ 59615
~~assessment.~~ 59616

~~(E) A person is not required to be assessed under this~~ 59617
~~section if the circumstances specified by rule adopted under~~ 59618
~~division (H) of this section exist or the department of job and~~ 59619
~~family services or designated agency determines after a partial~~ 59620
~~assessment that the person should be exempt from the assessment.~~ 59621

~~(F)~~ A person assessed under this section or the person's 59622
representative may appeal request a state hearing to dispute the 59623
conclusions reached by the department of job and family services 59624
or ~~designated~~ agency under contract with the department on the 59625
basis of the assessment. The appeal request for a state hearing 59626
shall be made in accordance with section 5101.35 of the Revised 59627
Code. The department of job and family services or ~~designated~~ 59628
agency, ~~whichever performs the assessment,~~ under contract with the 59629
department shall provide to the person or the person's 59630
representative and the nursing facility written notice of the 59631

person's right to ~~appeal~~ request a state hearing. The notice shall 59632
include an explanation of the procedure for ~~filing an appeal~~ 59633
requesting a state hearing. If a state hearing is requested, the 59634
state shall be represented in the hearing by the department of job 59635
and family services or the agency under contract with the 59636
department, whichever performed the assessment. 59637

~~(G)~~(E) A nursing facility that admits or retains a person 59638
determined pursuant to an assessment required under ~~division (B)~~ 59639
~~or (C)~~ of this section not to need the level of care provided by 59640
the nursing facility shall not be reimbursed under the ~~medical~~ 59641
assistance medicaid program for the person's care. 59642

~~(H)~~(F) The director of job and family services shall adopt 59643
rules in accordance with Chapter 119. of the Revised Code to 59644
implement and administer this section. The rules shall include all 59645
of the following: 59646

(1) Criteria and procedures to be used in determining whether 59647
admission to a nursing facility or continued stay in a nursing 59648
facility is appropriate for the person being assessed. ~~The~~ 59649
~~criteria shall include consideration of whether the person is in~~ 59650
~~need of any of the following:~~ 59651

~~(a) Nursing or rehabilitation services;~~ 59652

~~(b) Assistance with two or more of the activities of daily~~ 59653
~~living;~~ 59654

~~(c) Continuous supervision to prevent harm to the person as a~~ 59655
~~result of cognitive impairment.;~~ 59656

(2) Information the person being assessed or the person's 59657
representative must provide to the department or ~~designated~~ 59658
agency under contract with the department for purposes of the assessment 59659
and providing a level of care determination based on the 59660
assessment; 59661

~~(3) Circumstances under which the department of job and family services or designated agency may perform a partial assessment under division (C) of this section;~~ 59662
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~~(4) Circumstances under which a person is not required to be assessed;~~ 59665
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(4) Circumstances that constitute an emergency for purposes of division (C)(4) of this section and the number of days within which a level of care determination must be provided in the case of an emergency. 59667
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(G) Pursuant to section 5111.91 of the Revised Code, the department of job and family services may enter into contracts in the form of interagency agreements with one or more other state agencies to perform the assessments required under this section. The interagency agreements shall specify the responsibilities of each agency in the performance of the assessments. 59671
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Sec. 5111.21. ~~(A) Subject to sections 5111.01, 5111.011, 5111.012, 5111.02, and 5111.211 of the Revised Code, the department of job and family services shall pay, as provided in sections 5111.20 to 5111.32 of the Revised Code, the reasonable costs of services provided to an eligible medicaid recipient by an eligible nursing facility or intermediate care facility for the mentally retarded.~~ 59677
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In order to be eligible for ~~medical assistance~~ medicaid payments, the operator of a nursing facility or intermediate care facility for the mentally retarded shall do all of the following: 59684
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(1) Enter into a provider agreement with the department as provided in section 5111.22, 5111.671, or 5111.672 of the Revised Code; 59687
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(2) Apply for and maintain a valid license to operate if so required by law; 59690
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(3) Comply with all applicable state and federal laws and rules. 59692
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(B) A (1) Except as provided in division (B)(2) of this section, the operator of a nursing facility that elects to obtain and maintain eligibility for payments under the medicaid program shall qualify all of the facility's medicaid-certified beds in the medicare program established by Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395. The director of job and family services may adopt rules in accordance with Chapter 119. under section 5111.02 of the Revised Code to establish the time frame in which a nursing facility must comply with this requirement. 59694
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(2) The Ohio veteran's home agency is not required to qualify all of the medicaid-certified beds in a nursing facility the agency maintains and operates under section 5907.01 of the Revised Code in the medicare program. 59704
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Sec. 5111.22. A provider agreement between the department of job and family services and the provider of a nursing facility or intermediate care facility for the mentally retarded shall contain the following provisions: 59708
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(A) The department agrees to make payments to the nursing facility or intermediate care facility for the mentally retarded for patients eligible for services under the medical assistance program provider, as provided in sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised Code, for medicaid-covered services the facility provides to a resident of the facility who is a medicaid recipient. No payment shall be made for the day a medicaid recipient is discharged from the facility. 59712
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(B) The provider agrees to: 59720

(1) Maintain eligibility as provided in section 5111.21 of 59721

the Revised Code; 59722

(2) Keep records relating to a cost reporting period for the 59723
greater of seven years after the cost report is filed or, if the 59724
department issues an audit report in accordance with division (B) 59725
of section 5111.27 of the Revised Code, six years after all appeal 59726
rights relating to the audit report are exhausted; 59727

(3) File reports as required by the department; 59728

(4) Open all records relating to the costs of its services 59729
for inspection and audit by the department; 59730

(5) Open its premises for inspection by the department, the 59731
department of health, and any other state or local authority 59732
having authority to inspect; 59733

(6) Supply to the department such information as it requires 59734
concerning the facility's services to ~~patients~~ residents who are 59735
or are eligible to be medicaid recipients; 59736

(7) Comply with section 5111.31 of the Revised Code. 59737

The provider agreement may contain other provisions that are 59738
consistent with law and considered necessary by the department. 59739

A provider agreement shall be effective for no longer than 59740
twelve months, except that if federal statute or regulations 59741
authorize a longer term, it may be effective for a longer term so 59742
authorized. A provider agreement may be renewed only if the 59743
facility is certified by the department of health for 59744
participation in the medicaid program. 59745

The department of job and family services, in accordance with 59746
rules adopted ~~by the director pursuant to Chapter 119.~~ under 59747
section 5111.02 of the Revised Code, may elect not to enter into, 59748
not to renew, or to terminate a provider agreement when the 59749
department determines that such an agreement would not be in the 59750
best interests of ~~the~~ medicaid recipients or of the state. 59751

Sec. 5111.221. The department of job and family services 59752
shall make its best efforts each year to calculate rates under 59753
sections ~~5111.23~~ 5111.20 to ~~5111.29~~ 5111.33 of the Revised Code in 59754
time to use them to make the payments due to ~~nursing facilities~~ 59755
~~and intermediate care facilities for the mentally retarded~~ 59756
providers by the fifteenth day of August. If the department is 59757
unable to calculate the rates so that they can be paid by that 59758
date, the department shall pay each ~~facility~~ provider the rate 59759
calculated for ~~it~~ the provider's nursing facilities and 59760
intermediate care facilities for the mentally retarded under those 59761
sections at the end of the previous fiscal year. If the department 59762
also is unable to calculate the rates to make the payments due by 59763
the fifteenth day of September and the fifteenth day of October, 59764
the department shall pay the previous fiscal year's rate to make 59765
those payments. The department may increase by five per cent the 59766
previous fiscal year's rate paid ~~to~~ for any facility pursuant to 59767
this section at the request of the ~~facility~~ provider. The 59768
department shall use rates calculated for the current fiscal year 59769
to make the payments due by the fifteenth day of November. 59770

If the rate paid to a provider for a facility pursuant to 59771
this section is lower than the rate calculated for ~~it~~ the facility 59772
for the current fiscal year, the department shall pay the ~~facility~~ 59773
provider the difference between the two rates for the number of 59774
days for which the ~~facility~~ provider was paid for the facility 59775
pursuant to this section. If the rate paid ~~to~~ for a facility 59776
pursuant to this section is higher than the rate calculated for it 59777
for the current fiscal year, the ~~facility~~ provider shall refund to 59778
the department the difference between the two rates for the number 59779
of days for which the ~~facility~~ provider was paid for the facility 59780
pursuant to this section. 59781

Sec. 5111.222. (A) Except as otherwise provided by sections 59782

5111.20 to 5111.33 of the Revised Code and by division (B) of this 59783
section, the payments that the department of job and family 59784
services shall agree to make to the provider of a nursing facility 59785
pursuant to a provider agreement shall equal the sum of all of the 59786
following: 59787

(1) The rate for direct care costs determined for the nursing 59788
facility under section 5111.231 of the Revised Code; 59789

(2) The rate for ancillary and support costs determined for 59790
the nursing facility's ancillary and support cost peer group under 59791
section 5111.24 of the Revised Code; 59792

(3) The rate for tax costs determined for the nursing 59793
facility under section 5111.242 of the Revised Code; 59794

(4) The rate for franchise permit fees determined for the 59795
nursing facility under section 5111.243 of the Revised Code; 59796

(5) The quality incentive payment paid to the nursing 59797
facility's quality tier group under section 5111.244 of the 59798
Revised Code; 59799

(6) The median rate for capital costs for the nursing 59800
facilities in the nursing facility's capital costs peer group as 59801
determined under section 5111.25 of the Revised Code. 59802

(B) The department shall adjust the payment otherwise 59803
determined under division (A) of this section as directed by the 59804
general assembly through the enactment of law governing medicaid 59805
payments to providers of nursing facilities, including any law 59806
that does either of the following: 59807

(1) Establishes factors by which the payments are to be 59808
adjusted; 59809

(2) Establishes a methodology for phasing in the rates 59810
determined for fiscal year 2006 under uncodified law the general 59811
assembly enacts to rates determined for subsequent fiscal years 59812

under sections 5111.20 to 5111.33 of the Revised Code. 59813

Sec. 5111.223. The operator of a nursing facility or 59814
intermediate care facility for the mentally retarded may enter 59815
into provider agreements for more than one nursing facility or 59816
intermediate care facility for the mentally retarded. 59817

Sec. 5111.23. (A) The department of job and family services 59818
shall pay a provider for each of the provider's eligible ~~nursing~~ 59819
~~facility and~~ intermediate care ~~facility~~ facilities for the 59820
mentally retarded a per resident per day rate for direct care 59821
costs established prospectively for each facility. The department 59822
shall establish each facility's rate for direct care costs 59823
quarterly. 59824

(B) Each facility's rate for direct care costs shall be based 59825
on the facility's cost per case-mix unit, subject to the maximum 59826
costs per case-mix unit established under division (B)(2) of this 59827
section, from the calendar year preceding the fiscal year in which 59828
the rate is paid. To determine the rate, the department shall do 59829
all of the following: 59830

(1) Determine each facility's cost per case-mix unit for the 59831
calendar year preceding the fiscal year in which the rate will be 59832
paid by dividing the facility's desk-reviewed, actual, allowable, 59833
per diem direct care costs for that year by its average case-mix 59834
score determined under section ~~5111.231~~ 5111.232 of the Revised 59835
Code for the same calendar year. 59836

(2)(a) ~~Set the maximum cost per case-mix unit for each peer~~ 59837
~~group of nursing facilities specified in rules adopted under~~ 59838
~~division (E) of this section at a percentage above the cost per~~ 59839
~~case-mix unit of the facility in the group that has the group's~~ 59840
~~median medicaid inpatient day for the calendar year preceding the~~ 59841
~~fiscal year in which the rate will be paid, as calculated under~~ 59842

~~division (B)(1) of this section, that is no less than the~~ 59843
~~percentage calculated under division (D)(1) of this section.~~ 59844

~~(b)~~ Set the maximum cost per case-mix unit for each peer 59845
group of intermediate care facilities for the mentally retarded 59846
with more than eight beds specified in rules adopted under 59847
division (E) of this section at a percentage above the cost per 59848
case-mix unit of the facility in the group that has the group's 59849
median medicaid inpatient day for the calendar year preceding the 59850
fiscal year in which the rate will be paid, as calculated under 59851
division (B)(1) of this section, that is no less than the 59852
percentage calculated under division (D)(2) of this section. 59853

~~(e)~~(b) Set the maximum cost per case-mix unit for each peer 59854
group of intermediate care facilities for the mentally retarded 59855
with eight or fewer beds specified in rules adopted under division 59856
(E) of this section at a percentage above the cost per case-mix 59857
unit of the facility in the group that has the group's median 59858
medicaid inpatient day for the calendar year preceding the fiscal 59859
year in which the rate will be paid, as calculated under division 59860
(B)(1) of this section, that is no less than the percentage 59861
calculated under division (D)(3) of this section. 59862

~~(d)~~(c) In calculating the maximum cost per case-mix unit 59863
under divisions (B)(2)(a) to ~~(e)~~(b) of this section for each peer 59864
group, the department shall exclude from its calculations the cost 59865
per case-mix unit of any facility in the group that participated 59866
in the ~~medical assistance~~ medicaid program under the same operator 59867
for less than twelve months during the calendar year preceding the 59868
fiscal year in which the rate will be paid. 59869

(3) Estimate the rate of inflation for the eighteen-month 59870
period beginning on the first day of July of the calendar year 59871
preceding the fiscal year in which the rate will be paid and 59872
ending on the thirty-first day of December of the fiscal year in 59873
which the rate will be paid, using the employment cost index for 59874

total compensation, health services component, published by the 59875
United States bureau of labor statistics. If the estimated 59876
inflation rate for the eighteen-month period is different from the 59877
actual inflation rate for that period, as measured using the same 59878
index, the difference shall be added to or subtracted from the 59879
inflation rate estimated under division (B)(3) of this section for 59880
the following fiscal year. 59881

(4) The department shall not recalculate a maximum cost per 59882
case-mix unit under division (B)(2) of this section or a 59883
percentage under division (D) of this section based on additional 59884
information that it receives after the maximum costs per case-mix 59885
unit or percentages are set. The department shall recalculate a 59886
maximum cost per case-mix units or percentage only if it made an 59887
error in computing the maximum cost per case-mix unit or 59888
percentage based on information available at the time of the 59889
original calculation. 59890

(C) Each facility's rate for direct care costs shall be 59891
determined as follows for each calendar quarter within a fiscal 59892
year: 59893

(1) Multiply the lesser of the following by the facility's 59894
average case-mix score determined under section ~~5111.231~~ 5111.232 59895
of the Revised Code for the calendar quarter that preceded the 59896
immediately preceding calendar quarter: 59897

(a) The facility's cost per case-mix unit for the calendar 59898
year preceding the fiscal year in which the rate will be paid, as 59899
determined under division (B)(1) of this section; 59900

(b) The maximum cost per case-mix unit established for the 59901
fiscal year in which the rate will be paid for the facility's peer 59902
group under division (B)(2) of this section; 59903

(2) Adjust the product determined under division (C)(1) of 59904
this section by the inflation rate estimated under division (B)(3) 59905

of this section. 59906

~~(D)(1) The department shall calculate the percentage above 59907
the median cost per case-mix unit determined under division (B)(1) 59908
of this section for the facility that has the median medicaid 59909
inpatient day for calendar year 1992 for all nursing facilities 59910
that would result in payment of all desk reviewed, actual, 59911
allowable direct care costs for eighty five per cent of the 59912
medicaid inpatient days for nursing facilities for calendar year 59913
1992. 59914~~

~~(2) The department shall calculate the percentage above the 59915
median cost per case-mix unit determined under division (B)(1) of 59916
this section for the facility that has the median medicaid 59917
inpatient day for calendar year 1992 for all intermediate care 59918
facilities for the mentally retarded with more than eight beds 59919
that would result in payment of all desk-reviewed, actual, 59920
allowable direct care costs for eighty and one-half per cent of 59921
the medicaid inpatient days for such facilities for calendar year 59922
1992. 59923~~

~~(3)(2) The department shall calculate the percentage above 59924
the median cost per case-mix unit determined under division (B)(1) 59925
of this section for the facility that has the median medicaid 59926
inpatient day for calendar year 1992 for all intermediate care 59927
facilities for the mentally retarded with eight or fewer beds that 59928
would result in payment of all desk-reviewed, actual, allowable 59929
direct care costs for eighty and one-half per cent of the medicaid 59930
inpatient days for such facilities for calendar year 1992. 59931~~

(E) The director of job and family services shall adopt rules 59932
~~in accordance with Chapter 119. under section 5111.02 of the 59933
Revised Code that specify peer groups of nursing facilities, 59934
intermediate care facilities for the mentally retarded with more 59935
than eight beds, and intermediate care facilities for the mentally 59936
retarded with eight or fewer beds, based on findings of 59937~~

significant per diem direct care cost differences due to geography 59938
and facility bed-size. The rules also may specify peer groups 59939
based on findings of significant per diem direct care cost 59940
differences due to other factors which may include, ~~in the case of~~ 59941
~~intermediate care facilities for the mentally retarded,~~ case-mix. 59942

(F) The department, in accordance with division ~~(C)~~(D) of 59943
section ~~5111.231~~ 5111.232 of the Revised Code and rules adopted 59944
under division ~~(D)~~(E) of that section, may assign case-mix scores 59945
or costs per case-mix unit if a facility provider fails to submit 59946
assessment ~~information~~ data necessary to calculate ~~its~~ an 59947
intermediate care facility for the mentally retarded's case-mix 59948
score in accordance with that section. 59949

Sec. 5111.231. (A) As used in this section, "applicable 59950
calendar year" means the following: 59951

(1) For the purpose of the department of job and family 59952
services' initial determination under division (D) of this section 59953
of each peer group's cost per case-mix unit, calendar year 2003; 59954

(2) For the purpose of the department's subsequent 59955
determinations under division (D) of this section of each peer 59956
group's cost per case-mix unit, the calendar year the department 59957
selects. 59958

(B) The department of job and family services shall pay a 59959
provider for each of the provider's eligible nursing facilities a 59960
per resident per day rate for direct care costs determined 59961
semi-annually by multiplying the cost per case-mix unit determined 59962
under division (D) of this section for the facility's peer group 59963
by the facility's semiannual case-mix score determined under 59964
section 5111.232 of the Revised Code. 59965

(C) For the purpose of determining nursing facilities' rate 59966
for direct care costs, the department shall establish three peer 59967

groups. 59968

Each nursing facility located in any of the following 59969
counties shall be placed in peer group one: Brown, Butler, 59970
Clermont, Clinton, Hamilton, and Warren. 59971

Each nursing facility located in any of the following 59972
counties shall be placed in peer group two: Ashtabula, Champaign, 59973
Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, 59974
Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, 59975
Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, 59976
Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, 59977
and Wood. 59978

Each nursing facility located in any of the following 59979
counties shall be placed in peer group three: Adams, Allen, 59980
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 59981
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 59982
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 59983
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 59984
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 59985
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 59986
Washington, Wayne, Williams, and Wyandot. 59987

(D)(1) At least once every ten years, the department shall 59988
determine a cost per case-mix unit for each peer group established 59989
under division (C) of this section. A cost per case-mix unit 59990
determined under this division for a peer group shall be used for 59991
subsequent years until the department redetermines it. To 59992
determine a peer group's cost per case-mix unit, the department 59993
shall do all of the following: 59994

(a) Determine the cost per case-mix unit for each nursing 59995
facility in the peer group for the applicable calendar year by 59996
dividing each facility's desk-reviewed, actual, allowable, per 59997
diem direct care costs for the applicable calendar year by the 59998

facility's annual average case-mix score determined under section 5111.232 of the Revised Code for the applicable calendar year. 59999
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(b) Subject to division (D)(2) of this section, identify which nursing facility in the peer group is at the twenty-fifth percentile of the cost per case-mix units determined under division (D)(1)(a) of this section. 60001
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(c) Calculate the amount that is seven per cent above the cost per case-mix unit determined under division (D)(1)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section. 60005
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(d) Multiply the amount calculated under division (D)(1)(c) of this section by the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year using the employment cost index for total compensation, health services component, published by the United States bureau of labor statistics. 60009
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(2) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following: 60017
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(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year; 60019
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(b) Nursing facilities whose direct care costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem direct care cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year. 60022
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(3) The department shall not redetermine a peer group's cost per case-mix unit under this division based on additional information that it receives after the peer group's per case-mix 60027
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unit is determined. The department shall redetermine a peer 60030
group's cost per case-mix unit only if it made an error in 60031
determining the peer group's cost per case-mix unit based on 60032
information available to the department at the time of the 60033
original determination. 60034

Sec. ~~5111.231~~ 5111.232. (A)(1) The department of job and 60035
family services shall determine semiannual and annual average 60036
case-mix scores for nursing facilities by using data for each 60037
resident, regardless of payment source, all of the following: 60038

(a) Data from a resident assessment instrument specified in 60039
rules adopted in accordance with Chapter 119. under section 60040
5111.02 of the Revised Code pursuant to section 1919(e)(5) of the 60041
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 60042
1396r(e)(5), as amended, and for the following residents: 60043

(i) When determining semi-annual case-mix scores, each 60044
resident who is a medicaid recipient; 60045

(ii) When determining annual average case-mix scores, each 60046
resident regardless of payment source. 60047

(b) Except as provided in rules authorized by division 60048
(A)(2)(a) and (b) of this section, the case-mix values established 60049
by the United States department of health and human services- 60050
Except; 60051

(c) Except as modified in rules adopted under authorized by 60052
division (A)(1)(2)(c) of this section, the department also shall 60053
use the grouper methodology used on June 30, 1999, by the United 60054
States department of health and human services for prospective 60055
payment of skilled nursing facilities under the medicare program 60056
established by Title XVIII of the "Social Security Act," 49 Stat. 60057
620 (1935), 42 U.S.C.A. 301, as amended. The 60058

(2) The director of job and family services may adopt rules 60059

~~in accordance with Chapter 119. under section 5111.02~~ of the 60060
Revised Code that do any of the following: 60061

(a) Adjust the case-mix values specified in division 60062
(A)(1)(b) of this section to reflect changes in relative wage 60063
differentials that are specific to this state; 60064

(b) Express all of ~~the~~ those case-mix values in numeric terms 60065
that are different from the terms specified by the United States 60066
department of health and human services but that do not alter the 60067
relationship of the case-mix values to one another; 60068

(c) Modify the grouper methodology specified in division 60069
(A)(1)(c) of this section as follows: 60070

(i) Establish a different hierarchy for assigning residents 60071
to case-mix categories under the methodology; 60072

(ii) Prohibit the use of the index maximizer element of the 60073
methodology; 60074

(iii) Incorporate changes to the methodology the United 60075
States department of health and human services makes after June 60076
30, 1999; 60077

(iv) Make other changes the ~~nursing facility reimbursement~~ 60078
~~study council established by section 5111.34 of the Revised Code~~ 60079
~~approves~~ department determines are necessary. 60080

~~(2)(B)~~ The department shall determine case-mix scores for 60081
intermediate care facilities for the mentally retarded using data 60082
for each resident, regardless of payment source, from a resident 60083
assessment instrument and grouper methodology prescribed in rules 60084
adopted ~~in accordance with Chapter 119. under section 5111.02~~ of 60085
the Revised Code and expressed in case-mix values established by 60086
the department in those rules. 60087

~~(B) Not later than fifteen days after the end of each (C)~~ 60088
Each calendar quarter, each ~~nursing facility and intermediate care~~ 60089

~~facility for the mentally retarded provider shall submit to the~~ 60090
~~department the compile~~ complete assessment data, from the ~~resident~~ 60091
~~assessment~~ instrument specified in rules ~~adopted under~~ authorized 60092
by division (A) or (B) of this section, for each resident of each 60093
of the provider's facilities, regardless of payment source, who 60094
was in the facility or on hospital or therapeutic leave from the 60095
facility on the last day of the quarter. Providers of a nursing 60096
facility shall submit the data to the department of health and, if 60097
required by rules, the department of job and family services. 60098
Providers of an intermediate care facility for the mentally 60099
retarded shall submit the data to the department of job and family 60100
services. The data shall be submitted not later than fifteen days 60101
after the end of the calendar quarter for which the data is 60102
compiled. 60103

Except as provided in division ~~(C)~~(D) of this section, the 60104
department, every six months and after the end of each calendar 60105
~~year and pursuant to procedures specified in rules adopted in~~ 60106
~~accordance with Chapter 119. of the Revised Code, shall calculate~~ 60107
~~an~~ a semiannual and annual average case-mix score for each nursing 60108
~~facility and intermediate care facility for the mentally retarded~~ 60109
using the facility's quarterly case-mix scores for that six-month 60110
period or calendar year. Also except as provided in division (D) 60111
of this section, the department, after the end of each calendar 60112
year, shall calculate an annual average case-mix score for each 60113
intermediate care facility for the mentally retarded using the 60114
facility's quarterly case-mix scores for that calendar year. The 60115
department shall make the calculations pursuant to procedures 60116
specified in rules adopted under section 5111.02 of the Revised 60117
Code. 60118

~~(C)~~(D)(1) If a ~~faecility~~ provider does not timely submit 60119
information for a calendar quarter necessary to calculate ~~its~~ a 60120
facility's case-mix score, or submits incomplete or inaccurate 60121

information for a calendar quarter, the department may assign the 60122
facility a quarterly average case-mix score that is five per cent 60123
less than the facility's quarterly average case-mix score for the 60124
preceding calendar quarter. If the facility was subject to an 60125
exception review under division (C) of section 5111.27 of the 60126
Revised Code for the preceding calendar quarter, the department 60127
may assign a quarterly average case-mix score that is five per 60128
cent less than the score determined by the exception review. If 60129
the facility was assigned a quarterly average case-mix score for 60130
the preceding quarter, the department may assign a quarterly 60131
average case-mix score that is five per cent less than that score 60132
assigned for the preceding quarter. 60133

The department may use a quarterly average case-mix score 60134
assigned under division ~~(C)~~(D)(1) of this section, instead of a 60135
quarterly average case-mix score calculated based on the 60136
~~facility's~~ provider's submitted information, to calculate the 60137
facility's rate for direct care costs being established under 60138
section 5111.23 or 5111.231 of the Revised Code for one or more 60139
months, as specified in rules ~~adopted under~~ authorized by division 60140
~~(D)~~(E) of this section, of the quarter for which the rate 60141
established under section 5111.23 or 5111.231 of the Revised Code 60142
will be paid. 60143

Before taking action under division ~~(C)~~(D)(1) of this 60144
section, the department shall permit the ~~facility~~ provider a 60145
reasonable period of time, specified in rules ~~adopted under~~ 60146
authorized by division ~~(D)~~(E) of this section, to correct the 60147
information. In the case of an intermediate care facility for the 60148
mentally retarded, the department shall not assign a quarterly 60149
average case-mix score due to late submission of corrections to 60150
assessment information unless the ~~facility~~ provider fails to 60151
submit corrected information prior to the eighty-first day after 60152
the end of the calendar quarter to which the information pertains. 60153

In the case of a nursing facility, the department shall not assign a quarterly average case-mix score due to late submission of corrections to assessment information unless the ~~facility~~ provider fails to submit corrected information prior to the earlier of the eighty-first day after the end of the calendar quarter to which the information pertains or the deadline for submission of such corrections established by regulations adopted by the United States department of health and human services under Titles XVIII and XIX ~~of the Social Security Act.~~

(2) If a ~~facility~~ provider is paid a rate for a facility calculated using a quarterly average case-mix score assigned under division ~~(C)~~(D)(1) of this section for more than six months in a calendar year, the department may assign the facility a cost per case-mix unit that is five per cent less than the facility's actual or assigned cost per case-mix unit for the preceding calendar year. The department may use the assigned cost per case-mix unit, instead of calculating the facility's actual cost per case-mix unit in accordance with section 5111.23 or 5111.231 of the Revised Code, to establish the facility's rate for direct care costs for the following fiscal year.

(3) The department shall take action under division ~~(C)~~(D)(1) or (2) of this section only in accordance with rules ~~adopted under~~ authorized by division ~~(D)~~(E) of this section. The department shall not take an action that affects rates for prior payment periods except in accordance with sections 5111.27 and 5111.28 of the Revised Code.

~~(D)~~(E) The director ~~may~~ shall adopt rules ~~in accordance with~~ Chapter 119. under section 5111.02 of the Revised Code that do ~~any~~ all of the following:

(1) Specify whether providers of a nursing facility must submit the assessment data to the department of job and family services;

(2) Specify the medium or media through which the completed assessment ~~information~~ data shall be submitted; 60186
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~~(2)(3)~~ Establish procedures under which the ~~department will review~~ assessment ~~information~~ data shall be reviewed for accuracy and ~~notify the facility providers shall be notified~~ of any ~~information~~ data that requires correction; 60188
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~~(3)(4)~~ Establish procedures for ~~facilities providers~~ to correct assessment information. The procedures may prohibit an intermediate care facility for the mentally retarded from submitting corrected assessment information, for the purpose of calculating its annual average case mix score, more than two calendar quarters after the end of the quarter to which the information pertains or, if the information pertains to the quarter ending the thirty first day of December, after the thirty first day of the following March data and specify a reasonable period of time by which providers shall submit the corrections. The procedures may limit the content of corrections by providers of nursing facilities in the manner required by regulations adopted by the United States department of health and human services under Titles XVIII and XIX ~~of the Social Security Act and prohibit a nursing facility from submitting corrected assessment information, for the purpose of calculating its annual average case mix score, more than the earlier of the following:~~ 60192
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~~(a) Two calendar quarters after the end of the quarter to which the information pertains or, if the information pertains to the quarter ending the thirty first day of December, after the thirty first day of the following March;~~ 60209
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~~(b) The deadline for submission of such corrections established by regulations adopted by the United States department of health and human services under Titles XVIII and XIX of the Social Security Act.~~ 60213
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~~(4)~~(5) Specify when and how the department will assign 60217
case-mix scores or costs per case-mix unit under division ~~(C)~~(D) 60218
of this section if information necessary to calculate the 60219
facility's ~~average annual or quarterly~~ case-mix score is not 60220
provided or corrected in accordance with the procedures 60221
established by the rules. Notwithstanding any other provision of 60222
sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised Code, the rules 60223
also may provide for ~~exclusion~~ the following: 60224

(a) Exclusion of case-mix scores assigned under division 60225
~~(C)~~(D) of this section from calculation of ~~the facility's an~~ 60226
intermediate care facility for the mentally retarded's annual 60227
average case-mix score and the maximum cost per case-mix unit for 60228
the facility's peer group; 60229

(b) Exclusion of case-mix scores assigned under division (D) 60230
of this section from calculation of a nursing facility's 60231
semiannual or annual average case-mix score and the cost per 60232
case-mix unit for the facility's peer group. 60233

Sec. 5111.235. The department of job and family services 60234
shall pay a provider for each of the provider's eligible nursing 60235
~~facility and~~ intermediate care facility facilities for the 60236
mentally retarded a per resident per day rate for other protected 60237
costs established prospectively each fiscal year for each 60238
facility. The rate for each facility shall be the facility's 60239
desk-reviewed, actual, allowable, per diem other protected costs 60240
from the calendar year preceding the fiscal year in which the rate 60241
will be paid, all adjusted, ~~except for franchise permit fees paid~~ 60242
~~under section 3721.53 of the Revised Code,~~ for the estimated 60243
inflation rate for the eighteen-month period beginning on the 60244
first day of July of the calendar year preceding the fiscal year 60245
in which the rate will be paid and ending on the thirty-first day 60246
of December of that fiscal year. The department shall estimate 60247

inflation using the consumer price index for all urban consumers 60248
for nonprescription drugs and medical supplies, as published by 60249
the United States bureau of labor statistics. If the estimated 60250
inflation rate for the eighteen-month period is different from the 60251
actual inflation rate for that period, the difference shall be 60252
added to or subtracted from the inflation rate estimated for the 60253
following year. 60254

Sec. 5111.24. (A) As used in this section, "applicable 60255
calendar year" means the following: 60256

(1) For the purpose of the department of job and family 60257
services' initial determination under division (D) of this section 60258
of each peer group's rate for ancillary and support costs, 60259
calendar year 2003; 60260

(2) For the purpose of the department's subsequent 60261
determinations under division (D) of this section of each peer 60262
group's rate for ancillary and support costs, the calendar year 60263
the department selects. 60264

(B) The department of job and family services shall pay a 60265
provider for each of the provider's eligible nursing facilities a 60266
per resident per day rate for ancillary and support costs 60267
determined for the nursing facility's peer group under division 60268
(D) of this section. 60269

(C) For the purpose of determining nursing facilities' rate 60270
for ancillary and support costs, the department shall establish 60271
six peer groups. 60272

Each nursing facility located in any of the following 60273
counties shall be placed in peer group one or two: Brown, Butler, 60274
Clermont, Clinton, Hamilton, and Warren. Each nursing facility 60275
located in any of those counties that has fewer than one hundred 60276
beds shall be placed in peer group one. Each nursing facility 60277

located in any of those counties that has one hundred or more beds 60278
shall be placed in peer group two. 60279

Each nursing facility located in any of the following 60280
counties shall be placed in peer group three or four: Ashtabula, 60281
Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, 60282
Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, 60283
Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, 60284
Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, 60285
Union, and Wood. Each nursing facility located in any of those 60286
counties that has fewer than one hundred beds shall be placed in 60287
peer group three. Each nursing facility located in any of those 60288
counties that has one hundred or more beds shall be placed in peer 60289
group four. 60290

Each nursing facility located in any of the following 60291
counties shall be placed in peer group five or six: Adams, Allen, 60292
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 60293
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 60294
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 60295
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 60296
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 60297
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 60298
Washington, Wayne, Williams, and Wyandot. Each nursing facility 60299
located in any of those counties that has fewer than one hundred 60300
beds shall be placed in peer group five. Each nursing facility 60301
located in any of those counties that has one hundred or more beds 60302
shall be placed in peer group six. 60303

(D)(1) At least once every ten years, the department shall 60304
determine the rate for ancillary and support costs for each peer 60305
group established under division (C) of this section. The rate for 60306
ancillary and support costs determined under this division for a 60307
peer group shall be used for subsequent years until the department 60308
redetermines it. To determine a peer group's rate for ancillary 60309

and support costs, the department shall do all of the following: 60310

(a) Determine the rate for ancillary and support costs for 60311
each nursing facility in the peer group for the applicable 60312
calendar year by using the greater of the nursing facility's 60313
actual inpatient days for the applicable calendar year or the 60314
inpatient days the nursing facility would have had for the 60315
applicable calendar year if its occupancy rate had been ninety per 60316
cent. For the purpose of determining a nursing facility's 60317
occupancy rate under division (D)(1)(a) of this section, the 60318
department shall include any beds that the nursing facility 60319
removes from its medicaid-certified capacity unless the nursing 60320
facility also removes the beds from its licensed bed capacity. 60321

(b) Subject to division (D)(2) of this section, identify 60322
which nursing facility in the peer group is at the twenty-fifth 60323
percentile of the rate for ancillary and support costs for the 60324
applicable calendar year determined under division (D)(1)(a) of 60325
this section. 60326

(c) Calculate the amount that is three per cent above the 60327
rate for ancillary and support costs determined under division 60328
(D)(1)(a) of this section for the nursing facility identified 60329
under division (D)(1)(b) of this section. 60330

(d) Multiply the amount calculated under division (D)(1)(c) 60331
of this section by the rate of inflation for the eighteen-month 60332
period beginning on the first day of July of the applicable 60333
calendar year and ending the last day of December of the calendar 60334
year immediately following the applicable calendar year using the 60335
consumer price index for all items for all urban consumers for the 60336
north central region, published by the United States bureau of 60337
labor statistics. 60338

(2) In making the identification under division (D)(1)(b) of 60339
this section, the department shall exclude both of the following: 60340

(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year; 60341
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(b) Nursing facilities whose ancillary and support costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem ancillary and support cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year. 60344
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(3) The department shall not redetermine a peer group's rate for ancillary and support costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for ancillary and support costs only if it made an error in determining the rate based on information available to the department at the time of the original determination. 60349
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Sec. 5111.241. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care ~~facility~~ facilities for the mentally retarded a per resident per day rate for indirect care costs established prospectively each fiscal year for each facility. The rate for each intermediate care facility for the mentally retarded shall be the sum of the following, but shall not exceed the maximum rate established for the facility's peer group under division (B) of this section: 60356
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(1) The facility's desk-reviewed, actual, allowable, per diem indirect care costs from the calendar year preceding the fiscal year in which the rate will be paid, adjusted for the inflation rate estimated under division (C)(1) of this section; 60365
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(2) An efficiency incentive in the following amount: 60369

(a) For fiscal years ending in even-numbered calendar years: 60370

(i) In the case of intermediate care facilities for the 60371
mentally retarded with more than eight beds, seven and one-tenth 60372
per cent of the maximum rate established for the facility's peer 60373
group under division (B) of this section; 60374

(ii) In the case of intermediate care facilities for the 60375
mentally retarded with eight or fewer beds, seven per cent of the 60376
maximum rate established for the facility's peer group under 60377
division (B) of this section; 60378

(b) For fiscal years ending in odd-numbered calendar years, 60379
the amount calculated for the preceding fiscal year under division 60380
(A)(2)(a) of this section. 60381

(B)(1) The maximum rate for indirect care costs for each peer 60382
group of intermediate care facilities for the mentally retarded 60383
with more than eight beds specified in rules adopted under 60384
division (D) of this section shall be determined as follows: 60385

(a) For fiscal years ending in even-numbered calendar years, 60386
the maximum rate for each peer group shall be the rate that is no 60387
less than twelve and four-tenths per cent above the median 60388
desk-reviewed, actual, allowable, per diem indirect care cost for 60389
all intermediate care facilities for the mentally retarded with 60390
more than eight beds in the group, excluding facilities in the 60391
group whose indirect care costs for that period are more than 60392
three standard deviations from the mean desk-reviewed, actual, 60393
allowable, per diem indirect care cost for all intermediate care 60394
facilities for the mentally retarded with more than eight beds, 60395
for the calendar year preceding the fiscal year in which the rate 60396
will be paid, adjusted by the inflation rate estimated under 60397
division (C)(1) of this section. 60398

(b) For fiscal years ending in odd-numbered calendar years, 60399
the maximum rate for each peer group is the group's maximum rate 60400
for the previous fiscal year, adjusted for the inflation rate 60401

estimated under division (C)(2) of this section. 60402

(2) The maximum rate for indirect care costs for each peer 60403
group of intermediate care facilities for the mentally retarded 60404
with eight or fewer beds specified in rules adopted under division 60405
(D) of this section shall be determined as follows: 60406

(a) For fiscal years ending in even-numbered calendar years, 60407
the maximum rate for each peer group shall be the rate that is no 60408
less than ten and three-tenths per cent above the median 60409
desk-reviewed, actual, allowable, per diem indirect care cost for 60410
all intermediate care facilities for the mentally retarded with 60411
eight or fewer beds in the group, excluding facilities in the 60412
group whose indirect care costs are more than three standard 60413
deviations from the mean desk-reviewed, actual, allowable, per 60414
diem indirect care cost for all intermediate care facilities for 60415
the mentally retarded with eight or fewer beds, for the calendar 60416
year preceding the fiscal year in which the rate will be paid, 60417
adjusted by the inflation rate estimated under division (C)(1) of 60418
this section. 60419

(b) For fiscal years that end in odd-numbered calendar years, 60420
the maximum rate for each peer group is the group's maximum rate 60421
for the previous fiscal year, adjusted for the inflation rate 60422
estimated under division (C)(2) of this section. 60423

(3) The department shall not recalculate a maximum rate for 60424
indirect care costs under division (B)(1) or (2) of this section 60425
based on additional information that it receives after the maximum 60426
rate is set. The department shall recalculate the maximum rate for 60427
indirect care costs only if it made an error in computing the 60428
maximum rate based on the information available at the time of the 60429
original calculation. 60430

(C)(1) When adjusting rates for inflation under divisions 60431
(A)(1), (B)(1)(a), and (B)(2)(a) of this section, the department 60432

shall estimate the rate of inflation for the eighteen-month period 60433
beginning on the first day of July of the calendar year preceding 60434
the fiscal year in which the rate will be paid and ending on the 60435
thirty-first day of December of the fiscal year in which the rate 60436
will be paid, using the consumer price index for all items for all 60437
urban consumers for the north central region, published by the 60438
United States bureau of labor statistics. 60439

(2) When adjusting rates for inflation under divisions 60440
(B)(1)(b) and (B)(2)(b) of this section, the department shall 60441
estimate the rate of inflation for the twelve-month period 60442
beginning on the first day of January of the fiscal year preceding 60443
the fiscal year in which the rate will be paid and ending on the 60444
thirty-first day of December of the fiscal year in which the rate 60445
will be paid, using the consumer price index for all items for all 60446
urban consumers for the north central region, published by the 60447
United States bureau of labor statistics. 60448

(3) If an inflation rate estimated under division (C)(1) or 60449
(2) of this section is different from the actual inflation rate 60450
for the relevant time period, as measured using the same index, 60451
the difference shall be added to or subtracted from the inflation 60452
rate estimated pursuant to this division for the following fiscal 60453
year. 60454

(D) The director of job and family services shall adopt rules 60455
~~in accordance with Chapter 119.~~ under section 5111.02 of the 60456
Revised Code that specify peer groups of intermediate care 60457
facilities for the mentally retarded with more than eight beds, 60458
and peer groups of intermediate care facilities for the mentally 60459
retarded with eight or fewer beds, based on findings of 60460
significant per diem indirect care cost differences due to 60461
geography and facility bed-size. The rules also may specify peer 60462
groups based on findings of significant per diem indirect care 60463
cost differences due to other factors, including case-mix. 60464

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| <u>Sec. 5111.242. (A) As used in this section:</u> | 60465 |
| <u>(1) "Applicable calendar year" means the following:</u> | 60466 |
| <u>(a) For the purpose of the department of job and family services' initial determination under this section of nursing facilities' rate for tax costs, calendar year 2003;</u> | 60467 60468 60469 |
| <u>(b) For the purpose of the department's subsequent determinations under division (D) of this section of nursing facilities' rate for tax costs, the calendar year the department selects.</u> | 60470 60471 60472 60473 |
| <u>(2) "Tax costs" means the costs of taxes imposed under Chapter 5751. of the Revised Code, real estate taxes, personal property taxes, and corporate franchise taxes.</u> | 60474 60475 60476 |
| <u>(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for tax costs determined under division (C) of this section.</u> | 60477 60478 60479 60480 |
| <u>(C) At least once every ten years, the department shall determine the rate for tax costs for each nursing facility. The rate for tax costs determined under this division for a nursing facility shall be used for subsequent years until the department redetermines it. To determine a nursing facility's rate for tax costs, the department shall divide the nursing facility's desk-reviewed, actual, allowable tax costs paid for the applicable calendar year by the number of inpatient days the nursing facility would have had if its occupancy rate had been one hundred per cent during the applicable calendar year.</u> | 60481 60482 60483 60484 60485 60486 60487 60488 60489 60490 |
| <u>Sec. 5111.243. The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for the franchise permit fees paid for the nursing facility. The rate shall be equal to the</u> | 60491 60492 60493 60494 |

franchise permit fee for the fiscal year for which the rate is 60495
paid. 60496

Sec. 5111.244. (A) As used in this section, "deficiency" and 60497
"standard survey" have the same meanings as in section 5111.35 of 60498
the Revised Code. 60499

(B) Each year, the department of job and family services 60500
shall pay each nursing facility placed in the first, second, and 60501
third quality tier groups established under division (C) of this 60502
section a quality incentive payment. Nursing facilities placed in 60503
the first group shall receive the highest payment. Nursing 60504
facilities placed in the second group shall receive the second 60505
highest payment. Nursing facilities placed in the third group 60506
shall receive the third highest payment. Nursing facilities placed 60507
in the fourth group shall receive no payment. The mean payment, 60508
weighted by medicaid days, shall be two per cent of the average 60509
rate for all nursing facilities calculated under sections 5111.20 60510
to 5111.33 of the Revised Code, excluding this section. Nursing 60511
facilities placed in the fourth group shall be included for the 60512
purpose of determining the mean payment. 60513

(C) Each year, the department shall establish four quality 60514
tier groups. Each group shall consist of one quarter of all 60515
nursing facilities participating in the medicaid program. The 60516
first group shall consist of the quarter of nursing facilities 60517
individually awarded the most number of points under division (D) 60518
of this section. The second group shall consist of the quarter of 60519
nursing facilities individually awarded the second most number of 60520
points under division (D) of this section. The third group shall 60521
consist of the quarter of nursing facilities individually awarded 60522
the third most number of points under division (D) of this 60523
section. The fourth group shall consist of the quarter of nursing 60524
facilities individually awarded the least number of points under 60525

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| <u>division (D) of this section.</u> | 60526 |
| <u>(D) Each year, the department shall award each nursing facility participating in the medicaid program one point for each of the following accountability measures the facility meets:</u> | 60527 60528 60529 |
| <u>(1) The facility had no health deficiencies on the facility's most recent standard survey.</u> | 60530 60531 |
| <u>(2) The facility had no health deficiencies with a scope and severity level greater than E, as determined under nursing facility certification standards established under Title XIX, on the facility's most recent standard survey.</u> | 60532 60533 60534 60535 |
| <u>(3) The facility's resident satisfaction is above the statewide average.</u> | 60536 60537 |
| <u>(4) The facility's family satisfaction is above the statewide average.</u> | 60538 60539 |
| <u>(5) The number of hours the facility employs nurses is above the statewide average.</u> | 60540 60541 |
| <u>(6) The facility's employee retention rate is above the average for the facility's peer group established in division (C) of section 5111.231 of the Revised Code.</u> | 60542 60543 60544 |
| <u>(7) The facility's occupancy rate is above the statewide average.</u> | 60545 60546 |
| <u>(8) The facility's medicaid utilization rate is above the statewide average.</u> | 60547 60548 |
| <u>(9) The facility's case-mix score is above the statewide average.</u> | 60549 60550 |
| <u>(E) The director of job and family services shall adopt rules under section 5111.02 of the Revised Code as necessary to implement this section. The rules shall include rules establishing the system for awarding points under division (D) of this section.</u> | 60551 60552 60553 60554 |

Sec. 5111.25. (A) As used in this section, "applicable 60555
calendar year" means the following: 60556

(1) For the purpose of the department of job and family 60557
services' initial determination under division (D) of this section 60558
of each peer group's median rate for capital costs, calendar year 60559
2003; 60560

(2) For the purpose of the department's subsequent 60561
determinations under division (D) of this section of each peer 60562
group's median rate for capital costs, the calendar year the 60563
department selects. 60564

(B) The department of job and family services shall pay a 60565
provider for each of the provider's eligible nursing facility 60566
facilities a per resident per day rate for its reasonable capital 60567
costs established prospectively each fiscal year for each 60568
facility. Except as otherwise provided in sections 5111.20 to 60569
5111.32 of the Revised Code, the A nursing facility's rate for 60570
capital costs shall be based on the facility's median rate for 60571
capital costs for the calendar year preceding the fiscal year in 60572
which the rate will be paid nursing facilities in the nursing 60573
facility's peer group as determined under division (D) of this 60574
section. The rate shall equal the sum of divisions (A)(1) to (3) 60575
of this section: 60576

(1) The lesser of the following: 60577

(a) Eighty eight and sixty five one hundredths per cent of 60578
the facility's desk reviewed, actual, allowable, per diem cost of 60579
ownership and eighty five per cent of the facility's actual, 60580
allowable, per diem cost of nonextensive renovation determined 60581
under division (F) of this section: 60582

(b) Eighty eight and sixty five one hundredths per cent of 60583
the following limitation: 60584

~~(i) For the fiscal year beginning July 1, 1993, sixteen dollars per resident day;~~ 60585
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~~(ii) For the fiscal year beginning July 1, 1994, sixteen dollars per resident day, adjusted to reflect the rate of inflation for the twelve month period beginning July 1, 1992, and ending June 30, 1993, using the consumer price index for shelter costs for all urban consumers for the north central region, published by the United States bureau of labor statistics;~~ 60587
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~~(iii) For subsequent fiscal years, the limitation in effect during the previous fiscal year, adjusted to reflect the rate of inflation for the twelve month period beginning on the first day of July for the calendar year preceding the calendar year that precedes the fiscal year and ending on the following thirtieth day of June, using the consumer price index for shelter costs for all urban consumers for the north central region, published by the United States bureau of labor statistics.~~ 60593
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~~(2) Any efficiency incentive determined under division (D) of this section;~~ 60601
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~~(3) Any amounts for return on equity determined under division (H) of this section (C) For the purpose of determining nursing facilities' rate for capital costs, the department shall establish six peer groups.~~ 60603
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Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two. 60607
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Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, 60614
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Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, 60616
Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, 60617
Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, 60618
Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, 60619
Union, and Wood. Each nursing facility located in any of those 60620
counties that has fewer than one hundred beds shall be placed in 60621
peer group three. Each nursing facility located in any of those 60622
counties that has one hundred or more beds shall be placed in peer 60623
group four. 60624

Each nursing facility located in any of the following 60625
counties shall be placed in peer group five or six: Adams, Allen, 60626
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 60627
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 60628
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 60629
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 60630
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 60631
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 60632
Washington, Wayne, Williams, and Wyandot. Each nursing facility 60633
located in any of those counties that has fewer than one hundred 60634
beds shall be placed in peer group five. Each nursing facility 60635
located in any of those counties that has one hundred or more beds 60636
shall be placed in peer group six. 60637

(D)(1) At least once every ten years, the department shall 60638
determine the median rate for capital costs for each peer group 60639
established under division (C) of this section. The median rate 60640
for capital costs determined under this division for a peer group 60641
shall be used for subsequent years until the department 60642
redetermines it. To determine a peer group's median rate for 60643
capital costs, the department shall do both of the following: 60644

(a) Subject to division (D)(2) of this section, use the 60645
greater of each nursing facility's actual inpatient days for the 60646
applicable calendar year or the inpatient days the nursing 60647

facility would have had for the applicable calendar year if its 60648
occupancy rate had been one hundred per cent. 60649

(b) Exclude both of the following: 60650

(i) Nursing facilities that participated in the medicaid 60651
program under the same provider for less than twelve months in the 60652
applicable calendar year; 60653

(ii) Nursing facilities whose capital costs are more than one 60654
standard deviation from the mean desk-reviewed, actual, allowable, 60655
per diem capital cost for all nursing facilities in the nursing 60656
facility's peer group for the applicable calendar year. 60657

(2) For the purpose of determining a nursing facility's 60658
occupancy rate under division (D)(1)(a) of this section, the 60659
department shall include any beds that the nursing facility 60660
removes from its medicaid-certified capacity after June 30, 2005, 60661
unless the nursing facility also removes the beds from its 60662
licensed bed capacity. 60663

(E) Buildings shall be depreciated using the straight line 60664
method over forty years or over a different period approved by the 60665
department. Components and equipment shall be depreciated using 60666
the straight-line method over a period designated in rules adopted 60667
by the director of job and family services in accordance with 60668
Chapter 119. under section 5111.02 of the Revised Code, consistent 60669
with the guidelines of the American hospital association, or over 60670
a different period approved by the department. Any rules adopted 60671
under authorized by this division that specify useful lives of 60672
buildings, components, or equipment apply only to assets acquired 60673
on or after July 1, 1993. Depreciation for costs paid or 60674
reimbursed by any government agency shall not be included in cost 60675
of ownership or renovation capital costs unless that part of the 60676
payment under sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised 60677
Code is used to reimburse the government agency. 60678

~~(B)(F) The capital cost basis of nursing facility assets 60679
shall be determined in the following manner: 60680~~

~~(1) For purposes of calculating the rate to be paid for the 60681
fiscal year beginning July 1, 1993, for facilities with dates of 60682
licensure on or before June 30, 1993, the capital cost basis shall 60683
be equal to the following: 60684~~

~~(a) For facilities that have not had a change of ownership 60685
during the period beginning January 1, 1993, and ending June 30, 60686
1993, the desk reviewed, actual, allowable capital cost basis that 60687
is listed on the facility's cost report for the cost reporting 60688
period ending December 31, 1992, plus the actual, allowable 60689
capital cost basis of any assets constructed or acquired after 60690
December 31, 1992, but before July 1, 1993, if the aggregate 60691
capital costs of those assets would increase the facility's rate 60692
for capital costs by twenty or more cents per resident per day. 60693~~

~~(b) For facilities that have a date of licensure or had a 60694
change of ownership during the period beginning January 1, 1993, 60695
and ending June 30, 1993, the actual, allowable capital cost basis 60696
of the person or government entity that owns the facility on June 60697
30, 1993. 60698~~

~~Capital cost basis shall be calculated as provided in 60699
division (B)(1) of this section subject to approval by the United 60700
States health care financing administration of any necessary 60701
amendment to the state plan for providing medical assistance. 60702~~

~~The department shall include the actual, allowable capital 60703
cost basis of assets constructed or acquired during the period 60704
beginning January 1, 1993, and ending June 30, 1993, in the 60705
calculation for the facility's rate effective July 1, 1993, if the 60706
aggregate capital costs of the assets would increase the 60707
facility's rate by twenty or more cents per resident per day and 60708
the facility provides the department with sufficient documentation 60709~~

~~of the costs before June 1, 1993. If the facility provides the documentation after that date, the department shall adjust the facility's rate to reflect the costs of the assets one month after the first day of the month after the department receives the documentation.~~

~~(2)~~ Except as provided in division ~~(B)(4)(F)(3)~~ of this section, for purposes of calculating the rates to be paid for ~~fiscal years beginning after June 30, 1994,~~ for facilities with dates of licensure on or before June 30, 1993, the capital cost basis of each asset shall be equal to the desk-reviewed, actual, allowable, capital cost basis that is listed on the facility's cost report for the calendar year preceding the fiscal year during which the rate will be paid.

~~(3)(2)~~ For facilities with dates of licensure after June 30, 1993, the capital cost basis shall be determined in accordance with the principles of the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, except as otherwise provided in sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised Code.

~~(4)(3)~~ Except as provided in division ~~(B)(5)(F)(4)~~ of this section, if a provider transfers an interest in a facility to another provider after June 30, 1993, there shall be no increase in the capital cost basis of the asset if the providers are related parties or the provider to which the interest is transferred authorizes the provider that transferred the interest to continue to operate the facility under a lease, management agreement, or other arrangement. If the ~~providers are not related parties or if they are related parties and division (B)(5) of this section requires~~ previous sentence does not prohibit the adjustment of the capital cost basis under this division, the basis of the asset shall be adjusted by the lesser of the following:

(a) One-half of the change in construction costs during the 60742
time that the transferor held the asset, as calculated by the 60743
department of job and family services using the "Dodge building 60744
cost indexes, northeastern and north central states," published by 60745
Marshall and Swift; 60746

(b) One-half of the change in the consumer price index for 60747
all items for all urban consumers, as published by the United 60748
States bureau of labor statistics, during the time that the 60749
transferor held the asset. 60750

~~(5)(4)~~ If a provider transfers an interest in a facility to 60751
another provider who is a related party, the capital cost basis of 60752
the asset shall be adjusted as specified in division ~~(B)(4)(F)(3)~~ 60753
of this section ~~for a transfer to a provider that is not a related~~ 60754
~~party~~ if all of the following conditions are met: 60755

(a) The related party is a relative of owner; 60756

(b) Except as provided in division ~~(B)(5)(F)(4)(c)(ii)~~ of 60757
this section, the provider making the transfer retains no 60758
ownership interest in the facility; 60759

(c) The department of job and family services determines that 60760
the transfer is an arm's length transaction pursuant to rules ~~the~~ 60761
~~department shall adopt in accordance with Chapter 119. adopted~~ 60762
under section 5111.02 of the Revised Code ~~no later than December~~ 60763
~~31, 2000~~. The rules shall provide that a transfer is an arm's 60764
length transaction if all of the following apply: 60765

(i) Once the transfer goes into effect, the provider that 60766
made the transfer has no direct or indirect interest in the 60767
provider that acquires the facility or the facility itself, 60768
including interest as an owner, officer, director, employee, 60769
independent contractor, or consultant, but excluding interest as a 60770
creditor. 60771

(ii) The provider that made the transfer does not reacquire 60772

an interest in the facility except through the exercise of a 60773
creditor's rights in the event of a default. If the provider 60774
reacquires an interest in the facility in this manner, the 60775
department shall treat the facility as if the transfer never 60776
occurred when the department calculates its reimbursement rates 60777
for capital costs. 60778

(iii) The transfer satisfies any other criteria specified in 60779
the rules. 60780

(d) Except in the case of hardship caused by a catastrophic 60781
event, as determined by the department, or in the case of a 60782
provider making the transfer who is at least sixty-five years of 60783
age, not less than twenty years have elapsed since, for the same 60784
facility, the capital cost basis was adjusted most recently under 60785
division ~~(B)(5)~~(F)(4) of this section or actual, allowable cost of 60786
ownership was determined most recently under division ~~(C)(G)~~(9) of 60787
this section. 60788

~~(C)(G)~~ As used in this division, "lease: 60789

"Imputed interest" means the lesser of the prime rate plus 60790
two per cent or ten per cent. 60791

"Lease expense" means lease payments in the case of an 60792
operating lease and depreciation expense and interest expense in 60793
the case of a capital lease. ~~As used in this division, "new 60794~~

"New lease" means a lease, to a different lessee, of a 60795
nursing facility that previously was operated under a lease. 60796

(1) Subject to ~~the limitation specified in~~ division ~~(A)(1)~~(B) 60797
of this section, for a lease of a facility that was effective on 60798
May 27, 1992, the entire lease expense is an actual, allowable 60799
capital cost ~~of ownership~~ during the term of the existing lease. 60800
The entire lease expense also is an actual, allowable capital cost 60801
~~of ownership~~ if a lease in existence on May 27, 1992, is renewed 60802
under either of the following circumstances: 60803

(a) The renewal is pursuant to a renewal option that was in existence on May 27, 1992; 60804
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(b) The renewal is for the same lease payment amount and between the same parties as the lease in existence on May 27, 1992. 60806
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(2) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ of this section, for a lease of a facility that was in existence but not operated under a lease on May 27, 1992, actual, allowable ~~cost of ownership~~ capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis, adjusted by the lesser of the following amounts: 60809
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(a) One-half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift; 60817
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(b) One-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease. 60822
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(3) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that is initially operated under a lease, actual, allowable ~~cost of ownership~~ capital costs shall include the annual lease expense if there was a substantial commitment of money for construction of the facility after December 22, 1992, and before July 1, 1993. If there was not a substantial commitment of money after December 22, 1992, and before July 1, 1993, actual, allowable ~~cost of ownership~~ capital 60826
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costs shall include the lesser of the annual lease expense or the sum of the following:

(a) The annual depreciation expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis;

(b) The greater of the lessor's actual annual amortization of financing costs and interest expense at the inception of the lease or the imputed interest expense calculated at the inception of the lease using seventy per cent of the lessor's historical capital asset cost basis.

(4) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that was not initially operated under a lease and has been in existence for ten years, actual, allowable ~~cost of ownership~~ capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the entire historical capital asset cost basis of the lessor, adjusted by the lesser of the following:

(a) One-half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;

(b) One-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.

(5) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ of this section, for a new lease of a facility that was operated

under a lease on May 27, 1992, actual, allowable ~~cost of ownership~~ 60866
capital costs shall include the lesser of the annual new lease 60867
expense or the annual old lease payment. If the old lease was in 60868
effect for ten years or longer, the old lease payment from the 60869
beginning of the old lease shall be adjusted by the lesser of the 60870
following: 60871

(a) One-half of the change in construction costs from the 60872
beginning of the old lease to the beginning of the new lease, as 60873
calculated by the department using the "Dodge building cost 60874
indexes, northeastern and north central states," published by 60875
Marshall and Swift; 60876

(b) One-half of the change in the consumer price index for 60877
all items for all urban consumers, as published by the United 60878
States bureau of labor statistics, from the beginning of the old 60879
lease to the beginning of the new lease. 60880

(6) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ 60881
of this section, for a new lease of a facility that was not in 60882
existence or that was in existence but not operated under a lease 60883
on May 27, 1992, actual, allowable ~~cost of ownership~~ capital costs 60884
shall include the lesser of annual new lease expense or the annual 60885
amount calculated for the old lease under division ~~(C)(G)~~(2), (3), 60886
(4), or (6) of this section, as applicable. If the old lease was 60887
in effect for ten years or longer, the lessor's historical capital 60888
asset cost basis shall be adjusted by the lesser of the following 60889
for purposes of calculating the annual amount under division 60890
~~(C)(G)~~(2), (3), (4), or (6) of this section: 60891

(a) One-half of the change in construction costs from the 60892
beginning of the old lease to the beginning of the new lease, as 60893
calculated by the department using the "Dodge building cost 60894
indexes, northeastern and north central states," published by 60895
Marshall and Swift; 60896

(b) One-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

In the case of a lease under division ~~(C)~~(G)(3) of this section of a facility for which a substantial commitment of money was made after December 22, 1992, and before July 1, 1993, the old lease payment shall be adjusted for the purpose of determining the annual amount.

(7) For any revision of a lease described in division ~~(C)~~(G)(1), (2), (3), (4), (5), or (6) of this section, or for any subsequent lease of a facility operated under such a lease, other than execution of a new lease, the portion of actual, allowable ~~cost of ownership~~ capital costs attributable to the lease shall be the same as before the revision or subsequent lease.

(8) Except as provided in division ~~(C)~~(G)(9) of this section, if a provider leases an interest in a facility to another provider who is a related party or previously operated the facility, the related party's or previous operator's actual, allowable ~~cost of ownership~~ capital costs shall include the lesser of the annual lease expense or the reasonable cost to the lessor.

(9) If a provider leases an interest in a facility to another provider who is a related party, regardless of the date of the lease, the related party's actual, allowable ~~cost of ownership~~ capital costs shall include the annual lease expense, subject to the limitations specified in divisions ~~(C)~~(G)(1) to (7) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) If the lessor retains an ownership interest, it is, except as provided in division ~~(C)~~(G)(9)(c)(ii) of this section, in only the real property and any improvements on the real

property; 60928

(c) The department of job and family services determines that 60929
the lease is an arm's length transaction pursuant to rules ~~the~~ 60930
~~department shall adopt in accordance with Chapter 119. adopted~~ 60931
under section 5111.02 of the Revised Code ~~no later than December~~ 60932
~~31, 2000~~. The rules shall provide that a lease is an arm's length 60933
transaction if all of the following apply: 60934

(i) Once the lease goes into effect, the lessor has no direct 60935
or indirect interest in the lessee or, except as provided in 60936
division ~~(C)~~(G)(9)(b) of this section, the facility itself, 60937
including interest as an owner, officer, director, employee, 60938
independent contractor, or consultant, but excluding interest as a 60939
lessor. 60940

(ii) The lessor does not reacquire an interest in the 60941
facility except through the exercise of a lessor's rights in the 60942
event of a default. If the lessor reacquires an interest in the 60943
facility in this manner, the department shall treat the facility 60944
as if the lease never occurred when the department calculates its 60945
reimbursement rates for capital costs. 60946

(iii) The lease satisfies any other criteria specified in the 60947
rules. 60948

(d) Except in the case of hardship caused by a catastrophic 60949
event, as determined by the department, or in the case of a lessor 60950
who is at least sixty-five years of age, not less than twenty 60951
years have elapsed since, for the same facility, the capital cost 60952
basis was adjusted most recently under division ~~(B)~~(5)~~(F)~~(4) of 60953
this section or actual, allowable ~~cost of ownership was~~ capital 60954
costs were determined most recently under division ~~(C)~~(G)(9) of 60955
this section. 60956

(10) This division does not apply to leases of specific items 60957
of equipment. 60958

~~(D)(1) Subject to division (D)(2) of this section, the department shall pay each nursing facility an efficiency incentive that is equal to fifty per cent of the difference between the following:~~

~~(a) Eighty eight and sixty five one hundredths per cent of the facility's desk reviewed, actual, allowable, per diem cost of ownership;~~

~~(b) The applicable amount specified in division (E) of this section.~~

~~(2) The efficiency incentive paid to a nursing facility shall not exceed the greater of the following:~~

~~(a) The efficiency incentive the facility was paid during the fiscal year ending June 30, 1994;~~

~~(b) Three dollars per resident per day, adjusted annually for rates paid beginning July 1, 1994, for the inflation rate for the twelve month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which the efficiency incentive is determined and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.~~

~~(3) For purposes of calculating the efficiency incentive, depreciation for costs that are paid or reimbursed by any government agency shall be considered as costs of ownership, and renovation costs that are paid under division (F) of this section shall not be considered costs of ownership.~~

~~(E) The following amounts shall be used to calculate efficiency incentives for nursing facilities under this section:~~

~~(1) For facilities with dates of licensure prior to January~~

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| 1, 1958, four dollars and twenty four cents per patient day; | 60989 |
| (2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968: | 60990 |
| (a) Five dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed; | 60991 |
| (a) Five dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed; | 60992 |
| (a) Five dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed; | 60993 |
| (a) Five dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed; | 60994 |
| (b) Four dollars and twenty four cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed. | 60995 |
| (b) Four dollars and twenty four cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed. | 60996 |
| (b) Four dollars and twenty four cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed. | 60997 |
| (3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976: | 60998 |
| (3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976: | 60999 |
| (a) Six dollars and twenty four cents per patient day if the cost of construction was five thousand one hundred fifty dollars or more per bed; | 61000 |
| (a) Six dollars and twenty four cents per patient day if the cost of construction was five thousand one hundred fifty dollars or more per bed; | 61001 |
| (a) Six dollars and twenty four cents per patient day if the cost of construction was five thousand one hundred fifty dollars or more per bed; | 61002 |
| (b) Five dollars and twenty four cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeded three thousand five hundred dollars per bed; | 61003 |
| (b) Five dollars and twenty four cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeded three thousand five hundred dollars per bed; | 61004 |
| (b) Five dollars and twenty four cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeded three thousand five hundred dollars per bed; | 61005 |
| (b) Five dollars and twenty four cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeded three thousand five hundred dollars per bed; | 61006 |
| (c) Four dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed. | 61007 |
| (c) Four dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed. | 61008 |
| (c) Four dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed. | 61009 |
| (4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979: | 61010 |
| (4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979: | 61011 |
| (a) Seven dollars and twenty four cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed; | 61012 |
| (a) Seven dollars and twenty four cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed; | 61013 |
| (a) Seven dollars and twenty four cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed; | 61014 |
| (b) Six dollars and twenty four cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeded five thousand one hundred fifty dollars per bed; | 61015 |
| (b) Six dollars and twenty four cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeded five thousand one hundred fifty dollars per bed; | 61016 |
| (b) Six dollars and twenty four cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeded five thousand one hundred fifty dollars per bed; | 61017 |
| (b) Six dollars and twenty four cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeded five thousand one hundred fifty dollars per bed; | 61018 |

~~(c) Five dollars and twenty four cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeded three thousand five hundred dollars per bed;~~ 61019
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~~(d) Four dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.~~ 61023
61024
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~~(5) For facilities with dates of licensure after December 31, 1978, but prior to January 1, 1981:~~ 61026
61027

~~(a) Seven dollars and seventy four cents per patient day if the cost of construction was seven thousand six hundred twenty five dollars or more per bed;~~ 61028
61029
61030

~~(b) Seven dollars and twenty four cents per patient day if the cost of construction was less than seven thousand six hundred twenty five dollars per bed but exceeded six thousand eight hundred dollars per bed;~~ 61031
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~~(c) Six dollars and twenty four cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeded five thousand one hundred fifty dollars per bed;~~ 61035
61036
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~~(d) Five dollars and twenty four cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less but exceeded three thousand five hundred dollars per bed;~~ 61039
61040
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~~(e) Four dollars and twenty four cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.~~ 61042
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~~(6) For facilities with dates of licensure in 1981 or any year thereafter prior to December 22, 1992, the following amount:~~ 61045
61046

~~(a) For facilities with construction costs less than seven thousand six hundred twenty five dollars per bed, the applicable~~ 61047
61048

~~amounts for the construction costs specified in divisions 61049
(E)(5)(b) to (c) of this section;~~ 61050

~~(b) For facilities with construction costs of seven thousand 61051
six hundred twenty five dollars or more per bed, six dollars per 61052
patient day, provided that for 1981 and annually thereafter prior 61053
to December 22, 1992, department shall do both of the following to 61054
the six dollar amount:~~ 61055

~~(i) Adjust the amount for fluctuations in construction costs 61056
calculated by the department using the "Dodge building cost 61057
indexes, northeastern and north central states," published by 61058
Marshall and Swift, using 1980 as the base year;~~ 61059

~~(ii) Increase the amount, as adjusted for inflation under 61060
division (E)(6)(b)(i) of this section, by one dollar and 61061
seventy four cents.~~ 61062

~~(7) For facilities with dates of licensure on or after 61063
January 1, 1992, seven dollars and ninety seven cents, adjusted 61064
for fluctuations in construction costs between 1991 and 1993 as 61065
calculated by the department using the "Dodge building cost 61066
indexes, northeastern and north central states," published by 61067
Marshall and Swift, and then increased by one dollar and 61068
seventy four cents.~~ 61069

~~For the fiscal year that begins July 1, 1994, each of the 61070
amounts listed in divisions (E)(1) to (7) of this section shall be 61071
increased by twenty five cents. For the fiscal year that begins 61072
July 1, 1995, each of those amounts shall be increased by an 61073
additional twenty five cents. For subsequent fiscal years, each of 61074
those amounts, as increased for the prior fiscal year, shall be 61075
adjusted to reflect the rate of inflation for the twelve month 61076
period beginning on the first day of July of the calendar year 61077
preceding the calendar year that precedes the fiscal year and 61078
ending on the following thirtieth day of June, using the consumer 61079~~

~~price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.~~

~~If the amount established for a nursing facility under this division is less than the amount that applied to the facility under division (B) of former section 5111.25 of the Revised Code, as the former section existed immediately prior to December 22, 1992, the amount used to calculate the efficiency incentive for the facility under division (D)(2) of this section shall be the amount that was calculated under division (B) of the former section.~~

~~(F) Beginning July 1, 1993, regardless of the facility's date of licensure or the date of the nonextensive renovations, the rate for the costs of nonextensive renovations for nursing facilities shall be eighty five per cent of the desk reviewed, actual, allowable, per diem, nonextensive renovation costs. This division applies to nonextensive renovations regardless of whether they are made by an owner or a lessee. If the tenancy of a lessee that has made nonextensive renovations ends before the depreciation expense for the renovation costs has been fully reported, the former lessee shall not report the undepreciated balance as an expense.~~

~~(1) For a nonextensive renovation made after July 1, 1993, to qualify for payment under this division, both of the following conditions must be met:~~

~~(a) At least five years have elapsed since the date of licensure of the portion of the facility that is proposed to be renovated, except that this condition does not apply if the renovation is necessary to meet the requirements of federal, state, or local statutes, ordinances, rules, or policies.~~

~~(b) The provider has obtained prior approval from the department of job and family services, and if required the~~

~~director of health has granted a certificate of need for the 61111
renovation under section 3702.52 of the Revised Code. The provider 61112
shall submit a plan that describes in detail the changes in 61113
capital assets to be accomplished by means of the renovation and 61114
the timetable for completing the project. The time for completion 61115
of the project shall be no more than eighteen months after the 61116
renovation begins. The department of job and family services shall 61117
adopt rules in accordance with Chapter 119. of the Revised Code 61118
that specify criteria and procedures for prior approval of 61119
renovation projects. No provider shall separate a project with the 61120
intent to evade the characterization of the project as a 61121
renovation or as an extensive renovation. No provider shall 61122
increase the scope of a project after it is approved by the 61123
department of job and family services unless the increase in scope 61124
is approved by the department. 61125~~

~~(2) The payment provided for in this division is the only 61126
payment that shall be made for the costs of a nonextensive 61127
renovation. Nonextensive renovation costs shall not be included in 61128
costs of ownership, and a nonextensive renovation shall not affect 61129
the date of licensure for purposes of calculating the efficiency 61130
incentive under divisions (D) and (E) of this section. 61131~~

~~(G) The owner of a nursing facility operating under a 61132
provider agreement shall provide written notice to the department 61133
of job and family services at least forty five days prior to 61134
entering into any contract of sale for the facility or voluntarily 61135
terminating participation in the medical assistance program. (H) 61136
After the date on which a transaction of sale is closed, the ~~owner~~ 61137
provider shall refund to the department the amount of excess 61138
depreciation paid to the provider for the facility by the 61139
department for each year the ~~owner~~ provider has operated the 61140
facility under a provider agreement and prorated according to the 61141
number of medicaid patient days for which the ~~facility~~ provider 61142~~

has received payment for the facility. If a nursing facility is 61143
sold after five or fewer years of operation under a provider 61144
agreement, the refund to the department shall be equal to the 61145
excess depreciation paid to the facility. If a nursing facility is 61146
sold after more than five years but less than ten years of 61147
operation under a provider agreement, the refund to the department 61148
shall equal the excess depreciation paid to the facility 61149
multiplied by twenty per cent, multiplied by the difference 61150
between ten and the number of years that the facility was operated 61151
under a provider agreement. If a nursing facility is sold after 61152
ten or more years of operation under a provider agreement, the 61153
owner shall not refund any excess depreciation to the department. 61154
The ~~owner~~ provider of a facility that is sold or that voluntarily 61155
terminates participation in the ~~medical assistance~~ medicaid 61156
program also shall refund any other amount that the department 61157
properly finds to be due after the audit conducted under this 61158
division. For the purposes of this division, "depreciation paid to 61159
the provider for the facility" means the amount paid to the 61160
provider for the nursing facility for cost of ownership capital 61161
costs pursuant to this section less any amount paid for interest 61162
costs, amortization of financing costs, and lease expenses. For 61163
the purposes of this division, "excess depreciation" is the 61164
nursing facility's depreciated basis, which is the ~~owner's~~ 61165
provider's cost less accumulated depreciation, subtracted from the 61166
purchase price net of selling costs but not exceeding the amount 61167
of depreciation paid to the provider for the facility. 61168

~~A cost report shall be filed with the department within~~ 61169
~~ninety days after the date on which the transaction of sale is~~ 61170
~~closed or participation is voluntarily terminated. The report~~ 61171
~~shall show the accumulated depreciation, the sales price, and~~ 61172
~~other information required by the department. The department shall~~ 61173
~~provide for a bank, trust company, or savings and loan association~~ 61174
~~to hold in escrow the amount of the last two monthly payments to a~~ 61175

~~nursing facility made pursuant to division (A)(1) of section 61176
5111.22 of the Revised Code before a sale or termination of 61177
participation or, if the owner fails, within the time required by 61178
this division, to notify the department before entering into a 61179
contract of sale for the facility, the amount of the first two 61180
monthly payments made to the facility after the department learns 61181
of the contract, regardless of whether a new owner is in 61182
possession of the facility. If the amount the owner will be 61183
required to refund under this section is likely to be less than 61184
the amount of the two monthly payments otherwise put into escrow 61185
under this division, the department shall take one of the 61186
following actions instead of withholding the amount of the two 61187
monthly payments:~~ 61188

~~(1) In the case of an owner that owns other facilities that 61189
participate in the medical assistance program, obtain a promissory 61190
note in an amount sufficient to cover the amount likely to be 61191
refunded;~~ 61192

~~(2) In the case of all other owners, withhold the amount of 61193
the last monthly payment to the nursing facility or, if the owner 61194
fails, within the time required by this division, to notify the 61195
department before entering into a contract of sale for the 61196
facility, the amount of the first monthly payment made to the 61197
facility after the department learns of the contract, regardless 61198
of whether a new owner is in possession of the facility.~~ 61199

~~The department shall, within ninety days following the filing 61200
of the cost report, audit the cost report and issue an audit 61201
report to the owner. The department also may audit any other cost 61202
report that the facility has filed during the previous three 61203
years. In the audit report, the department shall state its 61204
findings and the amount of any money owed to the department by the 61205
nursing facility. The findings shall be subject to adjudication 61206
conducted in accordance with Chapter 119. of the Revised Code. No 61207~~

~~later than fifteen days after the owner agrees to a settlement, 61208
any funds held in escrow less any amounts due to the department 61209
shall be released to the owner and amounts due to the department 61210
shall be paid to the department. If the amounts in escrow are less 61211
than the amounts due to the department, the balance shall be paid 61212
to the department within fifteen days after the owner agrees to a 61213
settlement. If the department does not issue its audit report 61214
within the ninety day period, the department shall release any 61215
money held in escrow to the owner. For the purposes of this 61216
section, a transfer of corporate stock, the merger of one 61217
corporation into another, or a consolidation does not constitute a 61218
sale. 61219~~

~~If a nursing facility is not sold or its participation is not 61220
terminated after notice is provided to the department under this 61221
division, the department shall order any payments held in escrow 61222
released to the facility upon receiving written notice from the 61223
owner that there will be no sale or termination. After written 61224
notice is received from a nursing facility that a sale or 61225
termination will not take place, the facility shall provide notice 61226
to the department at least forty five days prior to entering into 61227
any contract of sale or terminating participation at any future 61228
time. 61229~~

~~(H) The department shall pay each eligible proprietary 61230
nursing facility a return on the facility's net equity computed at 61231
the rate of one and one half times the average interest rate on 61232
special issues of public debt obligations issued to the federal 61233
hospital insurance trust fund for the cost reporting period, 61234
except that no facility's return on net equity shall exceed fifty 61235
cents per patient day. 61236~~

~~When calculating the rate for return on net equity, the 61237
department shall use the greater of the facility's inpatient days 61238
during the applicable cost reporting period or the number of 61239~~

~~inpatient days the facility would have had during that period if
its occupancy rate had been ninety five per cent.~~ 61240
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~~(I) If a nursing facility would receive a lower rate for
capital costs for assets in the facility's possession on July 1,
1993, under this section than it would receive under former
section 5111.25 of the Revised Code, as the former section existed
immediately prior to December 22, 1992, the facility shall receive
for those assets the rate it would have received under the former
section for each fiscal year beginning on or after July 1, 1993,
until the rate it would receive under this section exceeds the
rate it would have received under the former section. Any facility
that receives a rate calculated under the former section 5111.25
of the Revised Code for assets in the facility's possession on
July 1, 1993, also shall receive a rate calculated under this
section for costs of any assets it constructs or acquires after
July 1, 1993.~~ 61242
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Sec. 5111.251. (A) The department of job and family services 61256
shall pay a provider for each of the provider's eligible 61257
intermediate care ~~faecility~~ facilities for the mentally retarded 61258
for its reasonable capital costs, a per resident per day rate 61259
established prospectively each fiscal year for each intermediate 61260
care facility for the mentally retarded. Except as otherwise 61261
provided in sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised 61262
Code, the rate shall be based on the facility's capital costs for 61263
the calendar year preceding the fiscal year in which the rate will 61264
be paid. The rate shall equal the sum of the following: 61265

(1) The facility's desk-reviewed, actual, allowable, per diem 61266
cost of ownership for the preceding cost reporting period, limited 61267
as provided in divisions (C) and (F) of this section; 61268

(2) Any efficiency incentive determined under division (B) of 61269
this section; 61270

(3) Any amounts for renovations determined under division (D) 61271
of this section; 61272

(4) Any amounts for return on equity determined under 61273
division (I) of this section. 61274

Buildings shall be depreciated using the straight line method 61275
over forty years or over a different period approved by the 61276
department. Components and equipment shall be depreciated using 61277
the straight line method over a period designated by the director 61278
of job and family services in rules adopted ~~in accordance with~~ 61279
~~Chapter 119. under section 5111.02~~ of the Revised Code, consistent 61280
with the guidelines of the American hospital association, or over 61281
a different period approved by the department of job and family 61282
services. Any rules ~~adopted under~~ authorized by this division that 61283
specify useful lives of buildings, components, or equipment apply 61284
only to assets acquired on or after July 1, 1993. Depreciation for 61285
costs paid or reimbursed by any government agency shall not be 61286
included in costs of ownership or renovation unless that part of 61287
the payment under sections 5111.20 to ~~5111.32~~ 5111.33 of the 61288
Revised Code is used to reimburse the government agency. 61289

(B) The department of job and family services shall pay to a 61290
provider for each of the provider's eligible intermediate care 61291
~~facility facilities~~ for the mentally retarded an efficiency 61292
incentive equal to fifty per cent of the difference between any 61293
desk-reviewed, actual, allowable cost of ownership and the 61294
applicable limit on cost of ownership payments under division (C) 61295
of this section. For purposes of computing the efficiency 61296
incentive, depreciation for costs paid or reimbursed by any 61297
government agency shall be considered as a cost of ownership, and 61298
the applicable limit under division (C) of this section shall 61299
apply both to facilities with more than eight beds and facilities 61300
with eight or fewer beds. The efficiency incentive paid to a 61301
provider for a facility with eight or fewer beds shall not exceed 61302

three dollars per patient day, adjusted annually for the inflation 61303
rate for the twelve-month period beginning on the first day of 61304
July of the calendar year preceding the calendar year that 61305
precedes the fiscal year for which the efficiency incentive is 61306
determined and ending on the thirtieth day of the following June, 61307
using the consumer price index for shelter costs for all urban 61308
consumers for the north central region, as published by the United 61309
States bureau of labor statistics. 61310

(C) Cost of ownership payments ~~to~~ for intermediate care 61311
facilities for the mentally retarded with more than eight beds 61312
shall not exceed the following limits: 61313

(1) For facilities with dates of licensure prior to January 61314
1, 1958, not exceeding two dollars and fifty cents per patient 61315
day; 61316

(2) For facilities with dates of licensure after December 31, 61317
1957, but prior to January 1, 1968, not exceeding: 61318

(a) Three dollars and fifty cents per patient day if the cost 61319
of construction was three thousand five hundred dollars or more 61320
per bed; 61321

(b) Two dollars and fifty cents per patient day if the cost 61322
of construction was less than three thousand five hundred dollars 61323
per bed. 61324

(3) For facilities with dates of licensure after December 31, 61325
1967, but prior to January 1, 1976, not exceeding: 61326

(a) Four dollars and fifty cents per patient day if the cost 61327
of construction was five thousand one hundred fifty dollars or 61328
more per bed; 61329

(b) Three dollars and fifty cents per patient day if the cost 61330
of construction was less than five thousand one hundred fifty 61331
dollars per bed, but exceeds three thousand five hundred dollars 61332

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| per bed; | 61333 |
| (c) Two dollars and fifty cents per patient day if the cost | 61334 |
| of construction was three thousand five hundred dollars or less | 61335 |
| per bed. | 61336 |
| (4) For facilities with dates of licensure after December 31, | 61337 |
| 1975, but prior to January 1, 1979, not exceeding: | 61338 |
| (a) Five dollars and fifty cents per patient day if the cost | 61339 |
| of construction was six thousand eight hundred dollars or more per | 61340 |
| bed; | 61341 |
| (b) Four dollars and fifty cents per patient day if the cost | 61342 |
| of construction was less than six thousand eight hundred dollars | 61343 |
| per bed but exceeds five thousand one hundred fifty dollars per | 61344 |
| bed; | 61345 |
| (c) Three dollars and fifty cents per patient day if the cost | 61346 |
| of construction was five thousand one hundred fifty dollars or | 61347 |
| less per bed, but exceeds three thousand five hundred dollars per | 61348 |
| bed; | 61349 |
| (d) Two dollars and fifty cents per patient day if the cost | 61350 |
| of construction was three thousand five hundred dollars or less | 61351 |
| per bed. | 61352 |
| (5) For facilities with dates of licensure after December 31, | 61353 |
| 1978, but prior to January 1, 1980, not exceeding: | 61354 |
| (a) Six dollars per patient day if the cost of construction | 61355 |
| was seven thousand six hundred twenty-five dollars or more per | 61356 |
| bed; | 61357 |
| (b) Five dollars and fifty cents per patient day if the cost | 61358 |
| of construction was less than seven thousand six hundred | 61359 |
| twenty-five dollars per bed but exceeds six thousand eight hundred | 61360 |
| dollars per bed; | 61361 |
| (c) Four dollars and fifty cents per patient day if the cost | 61362 |

of construction was six thousand eight hundred dollars or less per 61363
bed but exceeds five thousand one hundred fifty dollars per bed; 61364

(d) Three dollars and fifty cents per patient day if the cost 61365
of construction was five thousand one hundred fifty dollars or 61366
less but exceeds three thousand five hundred dollars per bed; 61367

(e) Two dollars and fifty cents per patient day if the cost 61368
of construction was three thousand five hundred dollars or less 61369
per bed. 61370

(6) For facilities with dates of licensure after December 31, 61371
1979, but prior to January 1, 1981, not exceeding: 61372

(a) Twelve dollars per patient day if the beds were 61373
originally licensed as residential facility beds by the department 61374
of mental retardation and developmental disabilities; 61375

(b) Six dollars per patient day if the beds were originally 61376
licensed as nursing home beds by the department of health. 61377

(7) For facilities with dates of licensure after December 31, 61378
1980, but prior to January 1, 1982, not exceeding: 61379

(a) Twelve dollars per patient day if the beds were 61380
originally licensed as residential facility beds by the department 61381
of mental retardation and developmental disabilities; 61382

(b) Six dollars and forty-five cents per patient day if the 61383
beds were originally licensed as nursing home beds by the 61384
department of health. 61385

(8) For facilities with dates of licensure after December 31, 61386
1981, but prior to January 1, 1983, not exceeding: 61387

(a) Twelve dollars per patient day if the beds were 61388
originally licensed as residential facility beds by the department 61389
of mental retardation and developmental disabilities; 61390

(b) Six dollars and seventy-nine cents per patient day if the 61391
beds were originally licensed as nursing home beds by the 61392

| | |
|--|----------------------------------|
| department of health. | 61393 |
| (9) For facilities with dates of licensure after December 31, 1982, but prior to January 1, 1984, not exceeding: | 61394 61395 |
| (a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities; | 61396 61397 61398 |
| (b) Seven dollars and nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health. | 61399 61400 61401 |
| (10) For facilities with dates of licensure after December 31, 1983, but prior to January 1, 1985, not exceeding: | 61402 61403 |
| (a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities; | 61404 61405 61406 61407 |
| (b) Seven dollars and twenty-three cents per patient day if the beds were originally licensed as nursing home beds by the department of health. | 61408 61409 61410 |
| (11) For facilities with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding: | 61411 61412 |
| (a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities; | 61413 61414 61415 61416 |
| (b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health. | 61417 61418 61419 |
| (12) For facilities with dates of licensure after December 31, 1985, but prior to January 1, 1987, not exceeding: | 61420 61421 |
| (a) Twelve dollars and seventy cents per patient day if the | 61422 |

beds were originally licensed as residential facility beds by the 61423
department of mental retardation and developmental disabilities; 61424

(b) Seven dollars and fifty cents per patient day if the beds 61425
were originally licensed as nursing home beds by the department of 61426
health. 61427

(13) For facilities with dates of licensure after December 61428
31, 1986, but prior to January 1, 1988, not exceeding: 61429

(a) Twelve dollars and ninety-nine cents per patient day if 61430
the beds were originally licensed as residential facility beds by 61431
the department of mental retardation and developmental 61432
disabilities; 61433

(b) Seven dollars and sixty-seven cents per patient day if 61434
the beds were originally licensed as nursing home beds by the 61435
department of health. 61436

(14) For facilities with dates of licensure after December 61437
31, 1987, but prior to January 1, 1989, not exceeding thirteen 61438
dollars and twenty-six cents per patient day; 61439

(15) For facilities with dates of licensure after December 61440
31, 1988, but prior to January 1, 1990, not exceeding thirteen 61441
dollars and forty-six cents per patient day; 61442

(16) For facilities with dates of licensure after December 61443
31, 1989, but prior to January 1, 1991, not exceeding thirteen 61444
dollars and sixty cents per patient day; 61445

(17) For facilities with dates of licensure after December 61446
31, 1990, but prior to January 1, 1992, not exceeding thirteen 61447
dollars and forty-nine cents per patient day; 61448

(18) For facilities with dates of licensure after December 61449
31, 1991, but prior to January 1, 1993, not exceeding thirteen 61450
dollars and sixty-seven cents per patient day; 61451

(19) For facilities with dates of licensure after December 61452

31, 1992, not exceeding fourteen dollars and twenty-eight cents 61453
per patient day. 61454

(D) Beginning January 1, 1981, regardless of the original 61455
date of licensure, the department of job and family services shall 61456
pay a rate for the per diem capitalized costs of renovations to 61457
intermediate care facilities for the mentally retarded made after 61458
January 1, 1981, not exceeding six dollars per patient day using 61459
1980 as the base year and adjusting the amount annually until June 61460
30, 1993, for fluctuations in construction costs calculated by the 61461
department using the "Dodge building cost indexes, northeastern 61462
and north central states," published by Marshall and Swift. The 61463
payment provided for in this division is the only payment that 61464
shall be made for the capitalized costs of a nonextensive 61465
renovation of an intermediate care facility for the mentally 61466
retarded. Nonextensive renovation costs shall not be included in 61467
cost of ownership, and a nonextensive renovation shall not affect 61468
the date of licensure for purposes of division (C) of this 61469
section. This division applies to nonextensive renovations 61470
regardless of whether they are made by an owner or a lessee. If 61471
the tenancy of a lessee that has made renovations ends before the 61472
depreciation expense for the renovation costs has been fully 61473
reported, the former lessee shall not report the undepreciated 61474
balance as an expense. 61475

For a nonextensive renovation to qualify for payment under 61476
this division, both of the following conditions must be met: 61477

(1) At least five years have elapsed since the date of 61478
licensure or date of an extensive renovation of the portion of the 61479
facility that is proposed to be renovated, except that this 61480
condition does not apply if the renovation is necessary to meet 61481
the requirements of federal, state, or local statutes, ordinances, 61482
rules, or policies. 61483

(2) The provider has obtained prior approval from the 61484

department of job and family services. The provider shall submit a 61485
plan that describes in detail the changes in capital assets to be 61486
accomplished by means of the renovation and the timetable for 61487
completing the project. The time for completion of the project 61488
shall be no more than eighteen months after the renovation begins. 61489
The director of job and family services shall adopt rules ~~in~~ 61490
~~accordance with Chapter 119.~~ under section 5111.02 of the Revised 61491
Code that specify criteria and procedures for prior approval of 61492
renovation projects. No provider shall separate a project with the 61493
intent to evade the characterization of the project as a 61494
renovation or as an extensive renovation. No provider shall 61495
increase the scope of a project after it is approved by the 61496
department of job and family services unless the increase in scope 61497
is approved by the department. 61498

(E) The amounts specified in divisions (C) and (D) of this 61499
section shall be adjusted beginning July 1, 1993, for the 61500
estimated inflation for the twelve-month period beginning on the 61501
first day of July of the calendar year preceding the calendar year 61502
that precedes the fiscal year for which rate will be paid and 61503
ending on the thirtieth day of the following June, using the 61504
consumer price index for shelter costs for all urban consumers for 61505
the north central region, as published by the United States bureau 61506
of labor statistics. 61507

(F)(1) For facilities of eight or fewer beds that have dates 61508
of licensure or have been granted project authorization by the 61509
department of mental retardation and developmental disabilities 61510
before July 1, 1993, and for facilities of eight or fewer beds 61511
that have dates of licensure or have been granted project 61512
authorization after that date if the providers of the facilities 61513
demonstrate that they made substantial commitments of funds on or 61514
before that date, cost of ownership shall not exceed eighteen 61515
dollars and thirty cents per resident per day. The eighteen-dollar 61516

and thirty-cent amount shall be increased by the change in the 61517
"Dodge building cost indexes, northeastern and north central 61518
states," published by Marshall and Swift, during the period 61519
beginning June 30, 1990, and ending July 1, 1993, and by the 61520
change in the consumer price index for shelter costs for all urban 61521
consumers for the north central region, as published by the United 61522
States bureau of labor statistics, annually thereafter. 61523

(2) For facilities with eight or fewer beds that have dates 61524
of licensure or have been granted project authorization by the 61525
department of mental retardation and developmental disabilities on 61526
or after July 1, 1993, for which substantial commitments of funds 61527
were not made before that date, cost of ownership payments shall 61528
not exceed the applicable amount calculated under division (F)(1) 61529
of this section, if the department of job and family services 61530
gives prior approval for construction of the facility. If the 61531
department does not give prior approval, cost of ownership 61532
payments shall not exceed the amount specified in division (C) of 61533
this section. 61534

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this 61535
section, the total payment for cost of ownership, cost of 61536
ownership efficiency incentive, and capitalized costs of 61537
renovations for an intermediate care facility for the mentally 61538
retarded with eight or fewer beds shall not exceed the sum of the 61539
limitations specified in divisions (C) and (D) of this section. 61540

(G) Notwithstanding any provision of this section or section 61541
~~5111.24~~ 5111.241 of the Revised Code, the director of job and 61542
family services may adopt rules ~~in accordance with Chapter 119.~~ 61543
under section 5111.02 of the Revised Code that provide for a 61544
calculation of a combined maximum payment limit for indirect care 61545
costs and cost of ownership for intermediate care facilities for 61546
the mentally retarded with eight or fewer beds. 61547

(H) ~~After June 30, 1980, the owner of an intermediate care~~ 61548

~~facility for the mentally retarded operating under a provider~~ 61549
~~agreement shall provide written notice to the department of job~~ 61550
~~and family services at least forty five days prior to entering~~ 61551
~~into any contract of sale for the facility or voluntarily~~ 61552
~~terminating participation in the medical assistance program. After~~ 61553
the date on which a transaction of sale is closed, the ~~owner~~ 61554
provider shall refund to the department the amount of excess 61555
depreciation paid to the provider for the facility by the 61556
department for each year the ~~owner~~ provider has operated the 61557
facility under a provider agreement and prorated according to the 61558
number of medicaid patient days for which the ~~facility~~ provider 61559
has received payment for the facility. ~~If an intermediate care~~ 61560
~~facility for the mentally retarded is sold after five or fewer~~ 61561
~~years of operation under a provider agreement, the refund to the~~ 61562
~~department shall be equal to the excess depreciation paid to the~~ 61563
~~facility. If an intermediate care facility for the mentally~~ 61564
~~retarded is sold after more than five years but less than ten~~ 61565
~~years of operation under a provider agreement, the refund to the~~ 61566
~~department shall equal the excess depreciation paid to the~~ 61567
~~facility multiplied by twenty per cent, multiplied by the number~~ 61568
~~of years less than ten that a facility was operated under a~~ 61569
~~provider agreement. If an intermediate care facility for the~~ 61570
~~mentally retarded is sold after ten or more years of operation~~ 61571
~~under a provider agreement, the owner shall not refund any excess~~ 61572
~~depreciation to the department. For the purposes of this division,~~ 61573
"depreciation paid to the provider for the facility" means the 61574
amount paid to the provider for the intermediate care facility for 61575
the mentally retarded for cost of ownership pursuant to this 61576
section less any amount paid for interest costs. For the purposes 61577
of this division, "excess depreciation" is the intermediate care 61578
facility for the mentally retarded's depreciated basis, which is 61579
the ~~owner's~~ provider's cost less accumulated depreciation, 61580
subtracted from the purchase price but not exceeding the amount of 61581

depreciation paid to the provider for the facility. 61582

~~A cost report shall be filed with the department within 61583
ninety days after the date on which the transaction of sale is 61584
closed or participation is voluntarily terminated for an 61585
intermediate care facility for the mentally retarded subject to 61586
this division. The report shall show the accumulated depreciation, 61587
the sales price, and other information required by the department. 61588
The department shall provide for a bank, trust company, or savings 61589
and loan association to hold in escrow the amount of the last two 61590
monthly payments to an intermediate care facility for the mentally 61591
retarded made pursuant to division (A)(1) of section 5111.22 of 61592
the Revised Code before a sale or voluntary termination of 61593
participation or, if the owner fails, within the time required by 61594
this division, to notify the department before entering into a 61595
contract of sale for the facility, the amount of the first two 61596
monthly payments made to the facility after the department learns 61597
of the contract, regardless of whether a new owner is in 61598
possession of the facility. If the amount the owner will be 61599
required to refund under this section is likely to be less than 61600
the amount of the two monthly payments otherwise put into escrow 61601
under this division, the department shall take one of the 61602
following actions instead of withholding the amount of the two 61603
monthly payments:~~ 61604

~~(1) In the case of an owner that owns other facilities that 61605
participate in the medical assistance program, obtain a promissory 61606
note in an amount sufficient to cover the amount likely to be 61607
refunded;~~ 61608

~~(2) In the case of all other owners, withhold the amount of 61609
the last monthly payment to the intermediate care facility for the 61610
mentally retarded or, if the owner fails, within the time required 61611
by this division, to notify the department before entering into a 61612
contract of sale for the facility, the amount of the first monthly 61613~~

~~payment made to the facility after the department learns of the 61614
contract, regardless of whether a new owner is in possession of 61615
the facility. 61616~~

~~The department shall, within ninety days following the filing 61617
of the cost report, audit the report and issue an audit report to 61618
the owner. The department also may audit any other cost reports 61619
for the facility that have been filed during the previous three 61620
years. In the audit report, the department shall state its 61621
findings and the amount of any money owed to the department by the 61622
intermediate care facility for the mentally retarded. The findings 61623
shall be subject to an adjudication conducted in accordance with 61624
Chapter 119. of the Revised Code. No later than fifteen days after 61625
the owner agrees to a settlement, any funds held in escrow less 61626
any amounts due to the department shall be released to the owner 61627
and amounts due to the department shall be paid to the department. 61628
If the amounts in escrow are less than the amounts due to the 61629
department, the balance shall be paid to the department within 61630
fifteen days after the owner agrees to a settlement. If the 61631
department does not issue its audit report within the ninety day 61632
period, the department shall release any money held in escrow to 61633
the owner. For the purposes of this section, a transfer of 61634
corporate stock, the merger of one corporation into another, or a 61635
consolidation does not constitute a sale. 61636~~

~~If an intermediate care facility for the mentally retarded is 61637
not sold or its participation is not terminated after notice is 61638
provided to the department under this division, the department 61639
shall order any payments held in escrow released to the facility 61640
upon receiving written notice from the owner that there will be no 61641
sale or termination of participation. After written notice is 61642
received from an intermediate care facility for the mentally 61643
retarded that a sale or termination of participation will not take 61644
place, the facility shall provide notice to the department at 61645~~

~~least forty five days prior to entering into any contract of sale~~ 61646
~~or terminating participation at any future time.~~ 61647

(I) The department of job and family services shall pay a 61648
provider for each of the provider's eligible proprietary 61649
intermediate care ~~facility~~ facilities for the mentally retarded a 61650
return on the facility's net equity computed at the rate of one 61651
and one-half times the average of interest rates on special issues 61652
of public debt obligations issued to the federal hospital 61653
insurance trust fund for the cost reporting period. No facility's 61654
return on net equity paid under this division shall exceed one 61655
dollar per patient day. 61656

In calculating the rate for return on net equity, the 61657
department shall use the greater of the facility's inpatient days 61658
during the applicable cost reporting period or the number of 61659
inpatient days the facility would have had during that period if 61660
its occupancy rate had been ninety-five per cent. 61661

(J)(1) Except as provided in division (J)(2) of this section, 61662
if a provider leases or transfers an interest in a facility to 61663
another provider who is a related party, the related party's 61664
allowable cost of ownership shall include the lesser of the 61665
following: 61666

(a) The annual lease expense or actual cost of ownership, 61667
whichever is applicable; 61668

(b) The reasonable cost to the lessor or provider making the 61669
transfer. 61670

(2) If a provider leases or transfers an interest in a 61671
facility to another provider who is a related party, regardless of 61672
the date of the lease or transfer, the related party's allowable 61673
cost of ownership shall include the annual lease expense or actual 61674
cost of ownership, whichever is applicable, subject to the 61675
limitations specified in divisions (B) to (I) of this section, if 61676

all of the following conditions are met: 61677

(a) The related party is a relative of owner; 61678

(b) In the case of a lease, if the lessor retains any 61679
ownership interest, it is, except as provided in division 61680
(J)(2)(d)(ii) of this section, in only the real property and any 61681
improvements on the real property; 61682

(c) In the case of a transfer, the provider making the 61683
transfer retains, except as provided in division (J)(2)(d)(iv) of 61684
this section, no ownership interest in the facility; 61685

(d) The department of job and family services determines that 61686
the lease or transfer is an arm's length transaction pursuant to 61687
~~rules the department shall adopt in accordance with Chapter 119.~~ 61688
~~adopted under section 5111.02 of the Revised Code no later than~~ 61689
~~December 31, 2000.~~ The rules shall provide that a lease or 61690
transfer is an arm's length transaction if all of the following, 61691
as applicable, apply: 61692

(i) In the case of a lease, once the lease goes into effect, 61693
the lessor has no direct or indirect interest in the lessee or, 61694
except as provided in division (J)(2)(b) of this section, the 61695
facility itself, including interest as an owner, officer, 61696
director, employee, independent contractor, or consultant, but 61697
excluding interest as a lessor. 61698

(ii) In the case of a lease, the lessor does not reacquire an 61699
interest in the facility except through the exercise of a lessor's 61700
rights in the event of a default. If the lessor reacquires an 61701
interest in the facility in this manner, the department shall 61702
treat the facility as if the lease never occurred when the 61703
department calculates its reimbursement rates for capital costs. 61704

(iii) In the case of a transfer, once the transfer goes into 61705
effect, the provider that made the transfer has no direct or 61706
indirect interest in the provider that acquires the facility or 61707

the facility itself, including interest as an owner, officer, 61708
director, employee, independent contractor, or consultant, but 61709
excluding interest as a creditor. 61710

(iv) In the case of a transfer, the provider that made the 61711
transfer does not reacquire an interest in the facility except 61712
through the exercise of a creditor's rights in the event of a 61713
default. If the provider reacquires an interest in the facility in 61714
this manner, the department shall treat the facility as if the 61715
transfer never occurred when the department calculates its 61716
reimbursement rates for capital costs. 61717

(v) The lease or transfer satisfies any other criteria 61718
specified in the rules. 61719

(e) Except in the case of hardship caused by a catastrophic 61720
event, as determined by the department, or in the case of a lessor 61721
or provider making the transfer who is at least sixty-five years 61722
of age, not less than twenty years have elapsed since, for the 61723
same facility, allowable cost of ownership was determined most 61724
recently under this division. 61725

Sec. 5111.254. (A) The department of job and family services 61726
shall establish initial rates for a nursing facility with a first 61727
date of licensure that is on or after July 1, 2006, including a 61728
facility that replaces one or more existing facilities, or for a 61729
nursing facility with a first date of licensure before that date 61730
that was initially certified for the medicaid program on or after 61731
that date, in the following manner: 61732

(1) The rate for direct care costs shall be the product of 61733
the cost per case-mix unit determined under division (D) of 61734
section 5111.231 of the Revised Code for the facility's peer group 61735
and the nursing facility's case-mix score. For the purpose of 61736
division (A)(1) of this section, the nursing facility's case-mix 61737
score shall be the following: 61738

(a) Unless the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the replacement nursing facility begins participating in the medicaid program, the median annual average case-mix score for the nursing facility's peer group; 61739
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(b) If the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the replacement nursing facility begins participating in the medicaid program, the semiannual case-mix score most recently determined under section 5111.232 of the Revised Code for the replaced nursing facility as adjusted, if necessary, to reflect any difference in the number of beds in the replaced and replacement nursing facilities. 61744
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(2) The rate for ancillary and support costs shall be the rate for the facility's peer group determined under division (D) of section 5111.24 of the Revised Code. 61752
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(3) The rate for capital costs shall be the median rate for the facility's peer group determined under division (D) of section 5111.25 of the Revised Code. 61755
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(4) The rate for tax costs as defined in section 5111.242 of the Revised Code shall be the median rate for tax costs for the facility's peer group in which the facility is placed under division (C) of section 5111.24 of the Revised Code. 61758
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(5) The quality incentive payment shall be the mean payment specified in division (B) of section 5111.244 of the Revised Code. 61762
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(B) Subject to division (C) of this section, the department shall adjust the rates established under division (A) of this section effective the first day of July, to reflect new rate calculations for all nursing facilities under sections 5111.20 to 5111.33 of the Revised Code. 61764
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(C) If a rate for direct care costs is determined under this 61769

section for a nursing facility using the median annual average case-mix score for the nursing facility's peer group, the rate shall be redetermined to reflect the replacement nursing facility's actual semiannual case-mix score determined under section 5111.232 of the Revised Code after the nursing facility submits its first two quarterly assessment data that qualify for use in calculating a case-mix score in accordance with rules authorized by division (E) of section 5111.232 of the Revised Code. If the nursing facility's quarterly submissions do not qualify for use in calculating a case-mix score, the department shall continue to use the median annual average case-mix score for the nursing facility's peer group in lieu of the nursing facility's semiannual case-mix score until the nursing facility submits two consecutive quarterly assessment data that qualify for use in calculating a case-mix score.

Sec. 5111.255. (A) The department of job and family services shall establish initial rates for ~~a nursing facility or an~~ intermediate care facility for the mentally retarded with a first date of licensure that is on or after January 1, 1993, including a facility that replaces one or more existing facilities, or for ~~a nursing facility or an~~ intermediate care facility for the mentally retarded with a first date of licensure before that date that was initially certified for the ~~medical assistance~~ medicaid program on or after that date, in the following manner:

(1) The rate for direct care costs shall be determined as follows:

(a) If there are no cost or resident assessment data as necessary to calculate a rate under section 5111.23 of the Revised Code, the rate shall be the median cost per case-mix unit calculated under division (B)(1) of that section for the relevant peer group for the calendar year preceding the fiscal year in

which the rate will be paid, multiplied by the median annual 61801
average case-mix score for the peer group for that period and by 61802
the rate of inflation estimated under division (B)~~(5)~~(3) of that 61803
section. This rate shall be recalculated to reflect the facility's 61804
actual quarterly average case-mix score, in accordance with that 61805
section, after it submits its first quarterly assessment 61806
~~information data~~ data that qualifies for use in calculating a case-mix 61807
score in accordance with rules ~~adopted under~~ authorized by 61808
division ~~(D)~~(E) of section ~~5111.231~~ 5111.232 of the Revised Code. 61809
If the facility's first two quarterly submissions do not contain 61810
assessment ~~information data~~ data that qualifies for use in calculating 61811
a case-mix score, the department shall continue to calculate the 61812
rate using the median annual case-mix score for the peer group in 61813
lieu of an assigned quarterly case-mix score. The department shall 61814
assign a case-mix score or, if necessary, a cost per case-mix unit 61815
under division ~~(C)~~(D) of section ~~5111.231~~ 5111.232 of the Revised 61816
Code for any subsequent submissions that do not contain assessment 61817
~~information data~~ data that qualifies for use in calculating a case-mix 61818
score. 61819

(b) If the facility is a replacement facility and the 61820
facility or facilities that are being replaced are in operation 61821
immediately before the replacement facility opens, the rate shall 61822
be the same as the rate for the replaced facility or facilities, 61823
proportionate to the number of beds in each replaced facility. If 61824
one or more of the replaced facilities is not in operation 61825
immediately before the replacement facility opens, its proportion 61826
shall be determined under division (A)(1)(a) of this section. 61827

(2) The rate for other protected costs shall be one hundred 61828
fifteen per cent of the median rate for ~~the applicable type of~~ 61829
~~facility~~ intermediate care facilities for the mentally retarded 61830
calculated for the fiscal year under section 5111.235 of the 61831
Revised Code. 61832

(3) The rate for indirect care costs shall be the applicable maximum rate for the facility's peer group as specified in division (B) of section ~~5111.24~~ or ~~division (B) of section~~ 5111.241 of the Revised Code.

(4) The rate for capital costs shall be determined under section ~~5111.25~~ or 5111.251 of the Revised Code using the greater of actual inpatient days or an imputed occupancy rate of eighty per cent.

(B) The department shall adjust the rates established under division (A) of this section at both of the following times:

(1) Effective the first day of July, to reflect new rate calculations for all facilities under sections ~~5111.23~~ 5111.20 to ~~5111.25~~ and ~~5111.251~~ 5111.33 of the Revised Code;

(2) Following the ~~facility's~~ provider's submission of ~~its~~ the facility's cost report under division (A)(1)(b) of section 5111.26 of the Revised Code.

The department shall pay the rate adjusted based on the cost report beginning the first day of the calendar quarter that begins more than ninety days after the department receives the cost report.

Sec. 5111.257. If a provider of a nursing facility adds or replaces one or more medicaid certified beds to or at the nursing facility, or renovates one or more of the nursing facility's beds, the rate for the added, replaced, or renovated beds shall be the same as the rate for the nursing facility's existing beds.

Sec. ~~5111.257~~ 5111.258. (A) Notwithstanding sections ~~5111.23~~, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251, and ~~5111.255~~ 5111.20 to 5111.33 of the Revised Code, the director of job and family services shall adopt rules ~~in accordance with~~ Chapter 119. under section 5111.02 of the Revised Code that

establish a methodology for calculating the prospective rates ~~for~~ 61863
~~direct care costs, other protected costs, indirect care costs, and~~ 61864
~~capital costs~~ that will be paid each fiscal year to a provider for 61865
each of the provider's eligible nursing facilities and 61866
intermediate care facilities for the mentally retarded, and 61867
discrete units of the provider's nursing facilities or 61868
intermediate care facilities for the mentally retarded, that serve 61869
residents who have diagnoses or special care needs that require 61870
direct care resources that are not measured adequately by the 61871
applicable assessment instrument specified in rules ~~adopted under~~ 61872
authorized by section ~~5111.231~~ 5111.232 of the Revised Code, or 61873
who have diagnoses or special care needs specified in the rules as 61874
otherwise qualifying for consideration under this section. The 61875
facilities and units of facilities whose rates are established 61876
under this division may include, but shall not be limited to, any 61877
of the following: 61878

(1) In the case of nursing facilities, facilities and units 61879
of facilities that serve medically fragile pediatric residents, 61880
residents who are dependent on ventilators, or residents who have 61881
severe traumatic brain injury, end-stage Alzheimer's disease, or 61882
end-stage acquired immunodeficiency syndrome; 61883

(2) In the case of intermediate care facilities for the 61884
mentally retarded, facilities and units of facilities that serve 61885
residents who have complex medical conditions or severe behavioral 61886
problems. 61887

The department shall use the methodology established under 61888
this division to pay for services rendered by such facilities and 61889
units after June 30, 1993. 61890

The rules ~~adopted under~~ authorized by this division shall 61891
specify the criteria and procedures the department will apply when 61892
designating facilities and units that qualify for calculation of 61893
rates under this division. The criteria shall include 61894

consideration of whether all of the allowable costs of the 61895
facility or unit would be paid by rates established under sections 61896
~~5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251,~~ 61897
~~and 5111.255~~ 5111.20 to 5111.33 of the Revised Code, and shall 61898
establish a minimum bed size for a facility or unit to qualify to 61899
have its rates established under this division. The criteria shall 61900
not be designed to require that residents be served only in 61901
facilities located in large cities. The methodology established by 61902
the rules shall consider the historical costs of providing care to 61903
the residents of the facilities or units. 61904

The rules may require that a facility designated under this 61905
division or containing a unit designated under this division 61906
receive authorization from the department to admit or retain a 61907
resident to the facility or unit and shall specify the criteria 61908
and procedures the department will apply when granting that 61909
authorization. 61910

Notwithstanding any other provision of sections 5111.20 to 61911
~~5111.32~~ 5111.33 of the Revised Code, the costs incurred by 61912
facilities or units whose rates are established under this 61913
division shall not be considered in establishing payment rates for 61914
other facilities or units. 61915

(B) The director may adopt rules ~~in accordance with Chapter~~ 61916
~~119.~~ under section 5111.02 of the Revised Code under which the 61917
department, notwithstanding any other provision of sections 61918
5111.20 to ~~5111.32~~ 5111.33 of the Revised Code, may adjust the 61919
rates determined under sections ~~5111.23~~ 5111.20 to ~~5111.255~~ 61920
5111.33 of the Revised Code for a facility that serves a resident 61921
who has a diagnosis or special care need that, in the rules 61922
~~adopted under~~ authorized by division (A) of this section, would 61923
qualify a facility or unit of a facility to have its rate 61924
determined under that division, but who is not in such a unit. The 61925
rules may require that a facility that qualifies for a rate 61926

adjustment under this division receive authorization from the 61927
department to admit or retain a resident who qualifies the 61928
facility for the rate adjustment and shall specify the criteria 61929
and procedures the department will apply when granting that 61930
authorization. 61931

Sec. 5111.26. (A)(1)(a) Except as provided in division 61932
(A)(1)(b) of this section, each ~~nursing facility and intermediate~~ 61933
~~care facility for the mentally retarded~~ provider shall file with 61934
the department of job and family services an annual cost report 61935
~~prepared for each of the provider's nursing facilities and~~ 61936
intermediate care facilities for the mentally retarded that 61937
participate in the medicaid program. A provider shall prepare the 61938
reports in accordance with guidelines established by the 61939
department. ~~The~~ A report shall cover a calendar year or the 61940
portion of a calendar year during which the facility participated 61941
in the ~~medical assistance~~ medicaid program. ~~All facilities~~ A 61942
provider shall file the reports within ninety days after the end 61943
of the calendar year. The department, for good cause, may grant a 61944
fourteen-day extension of the time for filing cost reports upon 61945
written request from a ~~facility~~ provider. The director of job and 61946
family services shall prescribe, in rules adopted ~~in accordance~~ 61947
~~with Chapter 119.~~ under section 5111.02 of the Revised Code, the 61948
cost reporting form and a uniform chart of accounts for the 61949
purpose of cost reporting, and shall distribute cost reporting 61950
forms or computer software for electronic submission of the cost 61951
report to each ~~nursing facility and intermediate care facility for~~ 61952
~~the mentally retarded~~ provider at least sixty days before the 61953
~~facility's~~ reporting date. 61954

(b) ~~A facility for which~~ If rates are for a provider's 61955
nursing facility or intermediate care facility for the mentally 61956
retarded were most recently established under section 5111.254 or 61957
5111.255 of the Revised Code, the provider shall submit a cost 61958

report for that facility no later than ninety days after the end 61959
of the facility's first three full calendar months of operation. A 61960
If a nursing facility or intermediate care facility for the 61961
mentally retarded undergoes a change of provider that the 61962
department determines, in accordance with rules adopted under 61963
section 5111.02 of the Revised Code, is an arm's length 61964
transaction, the new provider shall submit a cost report for that 61965
facility not later than ninety days after the end of the 61966
facility's first three full calendar months of operation under the 61967
new provider. The provider of a facility that opens or undergoes a 61968
change of provider that is an arm's length transaction after the 61969
first day of October in any calendar year is not required to file 61970
a cost report for that calendar year. 61971

(c) If a nursing facility undergoes a change of provider that 61972
the department determines, in accordance with rules adopted under 61973
section 5111.02 of the Revised Code, is not an arms length 61974
transaction, the new provider shall file a cost report under 61975
division (A)(1)(a) of this section for the facility. The cost 61976
report shall cover the portion of the calendar year during which 61977
the new provider operated the nursing facility and the portion of 61978
the calendar year during which the previous provider operated the 61979
nursing facility. 61980

(2) If a ~~nursing facility or intermediate care facility for~~ 61981
~~the mentally retarded~~ provider required to submit a cost ~~reports~~ 61982
report for a nursing facility or intermediate care facility for 61983
the mentally retarded does not file the ~~reports~~ report within the 61984
required time ~~periods~~ period or within fourteen days thereafter if 61985
an extension is granted under division (A)(1)(a) of this section, 61986
or files an incomplete or inadequate report for the facility, the 61987
department shall provide immediate written notice to the facility 61988
provider that ~~its~~ the provider agreement for the facility will be 61989
terminated in thirty days unless the facility provider submits a 61990

complete and adequate cost report for the facility within thirty 61991
days. During the thirty-day termination period or any additional 61992
time allowed for an appeal of the proposed termination of a 61993
provider agreement, the ~~facility~~ provider shall be paid ~~its~~ the 61994
facility's then current per resident per day rate, minus two 61995
dollars. On July 1, 1994, the department shall adjust the 61996
two-dollar reduction to reflect the rate of inflation during the 61997
preceding twelve months, as shown in the consumer price index for 61998
all items for all urban consumers for the north central region, 61999
published by the United States bureau of labor statistics. On July 62000
1, 1995, and the first day of July of each year thereafter, the 62001
department shall adjust the amount of the reduction in effect 62002
during the previous twelve months to reflect the rate of inflation 62003
during the preceding twelve months, as shown in the same index. 62004

(B) No ~~nursing facility or intermediate care facility for the~~ 62005
~~mentally retarded~~ provider shall report fines paid under sections 62006
5111.35 to 5111.62 or section 5111.99 of the Revised Code in any 62007
cost report filed under this section. 62008

(C) The department shall develop an addendum to the cost 62009
report form that a ~~nursing facility or intermediate care facility~~ 62010
~~for the mentally retarded~~ provider may use to set forth costs that 62011
the ~~facility~~ provider believes may be disputed by the department. 62012
Any costs reported by the ~~facility~~ provider on the addendum may be 62013
considered by the department in setting the facility's rate. If 62014
the department does not consider the costs listed on the addendum 62015
in setting the facility's rate, the ~~facility~~ provider may seek 62016
reconsideration of that determination under section 5111.29 of the 62017
Revised Code. If the department subsequently includes the costs 62018
listed in the addendum in the facility's rate, the department 62019
shall pay the ~~facility~~ provider interest at a reasonable rate 62020
established in rules adopted ~~in accordance with Chapter 119.~~ under 62021
section 5111.02 of the Revised Code for the time that the rate 62022

paid excluded the costs. 62023

Sec. 5111.261. Except as otherwise provided in ~~sections~~ 62024
~~5111.262 to~~ section 5111.264 of the Revised Code, the department 62025
of job and family services, in determining whether an intermediate 62026
care facility for the mentally retarded's direct care costs and 62027
indirect care costs are allowable, shall place no limit on 62028
specific categories of reasonable costs other than compensation of 62029
owners, compensation of relatives of owners, compensation of 62030
administrators and costs for resident meals that are prepared and 62031
consumed outside the facility. 62032

Compensation cost limits for owners and relatives of owners 62033
shall be based on compensation costs for individuals who hold 62034
comparable positions but who are not owners or relatives of 62035
owners, as reported on facility cost reports. As used in this 62036
section, "comparable position" means the position that is held by 62037
the owner or the owner's relative, if that position is listed 62038
separately on the cost report form, or if the position is not 62039
listed separately, the group of positions that is listed on the 62040
cost report form and that includes the position held by the owner 62041
or the owner's relative. In the case of an owner or owner's 62042
relative who serves the facility in a capacity such as corporate 62043
officer, proprietor, or partner for which no comparable position 62044
or group of positions is listed on the cost report form, the 62045
compensation cost limit shall be based on civil service 62046
equivalents and shall be specified in rules adopted ~~by the~~ 62047
~~director of job and family services in accordance with Chapter~~ 62048
~~119.~~ under section 5111.02 of the Revised Code. 62049

Compensation cost limits for administrators shall be based on 62050
compensation costs for administrators who are not owners or 62051
relatives of owners, as reported on facility cost reports. 62052
Compensation cost limits for administrators of four or more 62053

intermediate care facilities for the mentally retarded shall be 62054
the same as the limits for administrators of ~~nursing facilities or~~ 62055
intermediate care facilities for the mentally retarded with one 62056
hundred fifty or more beds. 62057

~~For nursing facilities, cost limits for resident meals that 62058
are prepared and consumed outside the facility shall be based on 62059
the statewide average cost of serving and preparing meals in all 62060
nursing facilities, as reported on the facility cost reports. For 62061
intermediate care facilities for the mentally retarded, cost 62062
limits for resident meals that are prepared and consumed outside 62063
the facility shall be based on the statewide average cost of 62064
serving and preparing meals in all intermediate care facilities 62065
for the mentally retarded, as reported on the facility cost 62066
reports. 62067~~

Sec. 5111.263. (A) As used in this section, "covered therapy 62068
services" means physical therapy, occupational therapy, audiology, 62069
and speech therapy services that are provided by appropriately 62070
licensed therapists or therapy assistants and that are covered for 62071
nursing facility residents either by the medicare program 62072
established under Title XVIII of the ~~"Social Security Act," 49 62073
Stat. 620 (1935), 42 U.S.C.A. 301, as amended, or the medical 62074
assistance medicaid program as specified in rules adopted by the 62075
director of job and family services in accordance with Chapter 62076
119. under section 5111.02 of the Revised Code. 62077~~

(B) Except as provided in division (G) of this section, the 62078
costs of therapy are not allowable costs for nursing facilities 62079
for the purpose of determining rates under sections ~~5111.23, 62080
5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251, 62081
5111.255, and 5111.257 5111.20 to 5111.33~~ of the Revised Code. 62082

(C) The department of job and family services shall process 62083
no claims for payment under the ~~medical assistance~~ medicaid 62084

program for covered therapy services rendered to a resident of a nursing facility other than such claims submitted, in accordance with this section, by a nursing facility that has a valid provider agreement with the department.

(D) ~~Nursing Providers of nursing facilities that have entered into a provider agreement~~ may bill the department of job and family services for covered therapy services ~~it provides the nursing facilities provide~~ to residents of any nursing facility who are medicaid recipients ~~of the medical assistance program~~ and not eligible for the medicare program.

(E) The department shall not process any claim for a covered therapy service provided to a nursing facility resident who is eligible for the medicare program unless the claim is for a copayment or deductible or the conditions in division (E)(1) or (2) of this section apply:

(1) The covered therapy service provided is, under the federal statutes, regulations, or policies governing the medicare program, not covered by the medicare program and the service is, under the provisions of this chapter or the rules adopted under this chapter, covered by the ~~medical assistance~~ medicaid program.

(2) All of the following apply:

(a) The individual or entity who provided the covered therapy service was eligible to bill the medicare program for the service.

(b) A complete, accurate, and timely claim was submitted to the medicare program and the program denied payment for the service as not medically necessary for the resident. For the purposes of division (E)(2)(b) of this section, a claim is not considered to have been denied by the medicare program until either a denial has been issued following a medicare fair hearing or six months have elapsed since the request for a fair hearing was filed.

(c) The facility is required to provide or arrange for the 62116
provision of the service by a licensed therapist or therapy 62117
assistant to be in compliance with federal or state nursing 62118
facility certification requirements for the ~~medical assistance~~ 62119
medicaid program. 62120

(d) The claim for payment for the services under the ~~medical~~ 62121
~~assistance~~ medicaid program is accompanied by documentation that 62122
divisions (E)(2)(b) and (c) of this section apply to the service. 62123

(F) The reimbursement allowed by the department for covered 62124
therapy services provided to nursing facility residents and billed 62125
under division (D) or (E) of this section shall be fifteen per 62126
cent less than the fees it pays for the same services rendered to 62127
hospital outpatients. The director may adopt rules ~~in accordance~~ 62128
~~with Chapter 119.~~ under section 5111.02 of the Revised Code 62129
establishing comparable fees for covered therapy services that are 62130
not included in its schedule of fees paid for services rendered to 62131
hospital outpatients. 62132

(G) A nursing facility's reasonable costs for rehabilitative, 62133
restorative, or maintenance therapy services rendered to facility 62134
residents by nurses or nurse aides, and the facility's overhead 62135
costs to support provision of therapy services provided to nursing 62136
facility residents, are allowable costs for the purposes of 62137
establishing rates under sections ~~5111.23, 5111.231, 5111.235,~~ 62138
~~5111.24, 5111.241, 5111.25, 5111.251, 5111.255, and 5111.257~~ 62139
5111.20 to 5111.33 of the Revised Code. 62140

Sec. 5111.264. Except as provided in section 5111.25 or 62141
~~5111.264~~ 5111.251 of the Revised Code, the costs of goods, 62142
services, and facilities, furnished to a provider by a related 62143
party are includable in the allowable costs of the provider at the 62144
reasonable cost to the related party. 62145

Sec. 5111.265. If one or more medicaid-certified beds are 62146
relocated from one nursing facility to another nursing facility 62147
owned by a different person or government entity and the 62148
application for the certificate of need authorizing the relocation 62149
is filed with the director of health on or after the effective 62150
date of this section, amortization of the cost of acquiring 62151
operating rights for the relocated beds is not an allowable cost 62152
for the purpose of determining the nursing facility's medicaid 62153
reimbursement rate. 62154

Sec. 5111.266. A provider of a nursing facility filing the 62155
facility's cost report with the department of job and family 62156
services under section 5111.26 of the Revised Code shall report as 62157
a nonreimbursable expense the cost of the nursing facility's 62158
franchise permit fee. 62159

Sec. 5111.27. (A) The department of job and family services 62160
shall conduct a desk review of each cost report it receives under 62161
section 5111.26 of the Revised Code. Based on the desk review, the 62162
department shall make a preliminary determination of whether the 62163
reported costs are allowable costs. The department shall notify 62164
each ~~nursing facility and intermediate care facility for the~~ 62165
~~mentally retarded~~ provider of whether any of ~~its~~ the reported 62166
costs are preliminarily determined not to be allowable, the rate 62167
calculation under sections ~~5111.23~~ 5111.20 to ~~5111.257~~ 5111.33 of 62168
the Revised Code that results from that determination, and the 62169
reasons for the determination and resulting rate. The department 62170
shall allow the ~~facility~~ provider to verify the calculation and 62171
submit additional information. 62172

(B) The department may conduct an audit, as defined by rule 62173
~~adopted by the director of job and family services in accordance~~ 62174
~~with Chapter 119.~~ under section 5111.02 of the Revised Code, of 62175

any cost report and shall notify the ~~nursing facility or~~ 62176
~~intermediate care facility for the mentally retarded~~ provider of 62177
its findings. 62178

Audits shall be conducted by auditors under contract with or 62179
employed by the department. The decision whether to conduct an 62180
audit and the scope of the audit, which may be a desk or field 62181
audit, shall be determined based on prior performance of the 62182
provider and may be based on a risk analysis or other evidence 62183
that gives the department reason to believe that the provider has 62184
reported costs improperly. A desk or field audit may be performed 62185
annually, but is required whenever a provider does not pass the 62186
risk analysis tolerance factors. The department shall issue the 62187
audit report no later than three years after the cost report is 62188
filed, or upon the completion of a desk or field audit on the 62189
report or a report for a subsequent cost reporting period, 62190
whichever is earlier. During the time within which the department 62191
may issue an audit report, the provider may amend the cost report 62192
upon discovery of a material error or material additional 62193
information. The department shall review the amended cost report 62194
for accuracy and notify the provider of its determination. 62195

The department may establish a contract for the auditing of 62196
facilities by outside firms. Each contract entered into by bidding 62197
shall be effective for one to two years. The department shall 62198
establish an audit manual and program which shall require that all 62199
field audits, conducted either pursuant to a contract or by 62200
department employees: 62201

(1) Comply with the applicable rules prescribed pursuant to 62202
Titles XVIII and XIX ~~of the "Social Security Act," 49 Stat. 620~~ 62203
~~(1935), 42 U.S.C.A. 301, as amended;~~ 62204

(2) Consider generally accepted auditing standards prescribed 62205
by the American institute of certified public accountants; 62206

(3) Include a written summary as to whether the costs 62207
included in the report examined during the audit are allowable and 62208
are presented fairly in accordance with generally accepted 62209
accounting principles and department rules, and whether, in all 62210
material respects, allowable costs are documented, reasonable, and 62211
related to patient care; 62212

(4) Are conducted by accounting firms or auditors who, during 62213
the period of the auditors' professional engagement or employment 62214
and during the period covered by the cost reports, do not have nor 62215
are committed to acquire any direct or indirect financial interest 62216
in the ownership, financing, or operation of a nursing facility or 62217
intermediate care facility for the mentally retarded in this 62218
state; 62219

(5) Are conducted by accounting firms or auditors who, as a 62220
condition of the contract or employment, shall not audit any 62221
facility that has been a client of the firm or auditor; 62222

(6) Are conducted by auditors who are otherwise independent 62223
as determined by the standards of independence established by the 62224
American institute of certified public accountants; 62225

(7) Are completed within the time period specified by the 62226
department; 62227

(8) Provide to the ~~nursing facility or intermediate care~~ 62228
~~facility for the mentally retarded~~ provider complete written 62229
interpretations that explain in detail the application of all 62230
relevant contract provisions, regulations, auditing standards, 62231
rate formulae, and departmental policies, with explanations and 62232
examples, that are sufficient to permit the ~~facility~~ provider to 62233
calculate with reasonable certainty those costs that are allowable 62234
and the rate to which the provider's facility is entitled. 62235

For the purposes of division (B)(4) of this section, 62236
employment of a member of an auditor's family by a nursing 62237

facility or intermediate care facility for the mentally retarded 62238
that the auditor does not review does not constitute a direct or 62239
indirect financial interest in the ownership, financing, or 62240
operation of the facility. 62241

(C) The department, pursuant to rules adopted ~~in accordance~~ 62242
~~with Chapter 119.~~ under section 5111.02 of the Revised Code, may 62243
conduct an exception review of assessment ~~information data~~ 62244
submitted under section ~~5111.231~~ 5111.232 of the Revised Code. The 62245
department may conduct an exception review based on the findings 62246
of a certification survey conducted by the department of health, a 62247
risk analysis, or prior performance of the provider. 62248

Exception reviews shall be conducted at the facility by 62249
appropriate health professionals under contract with or employed 62250
by the department of job and family services. The professionals 62251
may review resident assessment forms and supporting documentation, 62252
conduct interviews, and observe residents to identify any patterns 62253
or trends of inaccurate assessments and resulting inaccurate 62254
case-mix scores. 62255

The rules shall establish an exception review program that 62256
requires that exception reviews do all of the following: 62257

(1) Comply with Titles XVIII and XIX ~~of the "Social Security~~ 62258
~~Act";~~ 62259

(2) Provide a written summary that states whether the 62260
resident assessment forms have been completed accurately; 62261

(3) Are conducted by health professionals who, during the 62262
period of their professional engagement or employment with the 62263
department, neither have nor are committed to acquire any direct 62264
or indirect financial interest in the ownership, financing, or 62265
operation of a nursing facility or intermediate care facility for 62266
the mentally retarded in this state; 62267

(4) Are conducted by health professionals who, as a condition 62268

of their engagement or employment with the department, shall not 62269
review any facility provider that has been a client of the 62270
professional. 62271

For the purposes of division (C)(3) of this section, 62272
employment of a member of a health professional's family by a 62273
nursing facility or intermediate care facility for the mentally 62274
retarded that the professional does not review does not constitute 62275
a direct or indirect financial interest in the ownership, 62276
financing, or operation of the facility. 62277

If an exception review is conducted before the effective date 62278
of the rate that is based on the case-mix information data subject 62279
to the review and the review results in findings that exceed 62280
tolerance levels specified in the rules adopted under this 62281
division, the department, in accordance with those rules, may use 62282
the findings to recalculate individual resident case-mix scores, 62283
quarterly average facility case-mix scores, and annual average 62284
facility case-mix scores. The department may use the recalculated 62285
quarterly and annual facility average case-mix scores to calculate 62286
the facility's rate for direct care costs for the appropriate 62287
calendar quarter or quarters. 62288

(D) The department shall prepare a written summary of any 62289
audit disallowance or exception review finding that is made after 62290
the effective date of the rate that is based on the cost or 62291
case-mix information data. Where the facility provider is pursuing 62292
judicial or administrative remedies in good faith regarding the 62293
disallowance or finding, the department shall not withhold from 62294
the facility's provider's current payments any amounts the 62295
department claims to be due from the facility provider pursuant to 62296
section 5111.28 of the Revised Code. 62297

(E) The department shall not reduce rates calculated under 62298
sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code on 62299
the basis that the facility provider charges a lower rate to any 62300

resident who is not eligible for the ~~medical assistance~~ medicaid program. 62301
62302

(F) The department shall adjust the rates calculated under 62303
sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code to 62304
account for reasonable additional costs that must be incurred by 62305
nursing facilities and intermediate care facilities for the 62306
mentally retarded to comply with requirements of federal or state 62307
statutes, rules, or policies enacted or amended after January 1, 62308
1992, or with orders issued by state or local fire authorities. 62309

Sec. 5111.28. (A) If a provider properly amends its cost 62310
report under section 5111.27 of the Revised Code and the amended 62311
report shows that the provider received a lower rate under the 62312
original cost report than it was entitled to receive, the 62313
department of job and family services shall adjust the provider's 62314
rate prospectively to reflect the corrected information. The 62315
department shall pay the adjusted rate beginning two months after 62316
the first day of the month after the provider files the amended 62317
cost report. If the department finds, from an exception review of 62318
resident assessment information conducted after the effective date 62319
of the rate for direct care costs that is based on the assessment 62320
information, that inaccurate assessment information resulted in 62321
the provider receiving a lower rate than it was entitled to 62322
receive, the department prospectively shall adjust the provider's 62323
rate accordingly and shall make payments using the adjusted rate 62324
for the remainder of the calendar quarter for which the assessment 62325
information is used to determine the rate, beginning one month 62326
after the first day of the month after the exception review is 62327
completed. 62328

(B) If the provider properly amends its cost report under 62329
section 5111.27 of the Revised Code, the department makes a 62330
finding based on an audit under that section, or the department 62331

makes a finding based on an exception review of resident 62332
assessment information conducted under that section after the 62333
effective date of the rate for direct care costs that is based on 62334
the assessment information, any of which results in a 62335
determination that the provider has received a higher rate than it 62336
was entitled to receive, the department shall recalculate the 62337
provider's rate using the revised information. The department 62338
shall apply the recalculated rate to the periods when the provider 62339
received the incorrect rate to determine the amount of the 62340
overpayment. The provider shall refund the amount of the 62341
overpayment. 62342

In addition to requiring a refund under this division, the 62343
department may charge the provider interest at the applicable rate 62344
specified in this division from the time the overpayment was made. 62345

(1) If the overpayment resulted from costs reported for 62346
calendar year 1993, the interest shall be no greater than one and 62347
one-half times the average bank prime rate. 62348

(2) If the overpayment resulted from costs reported for 62349
subsequent calendar years: 62350

(a) The interest shall be no greater than two times the 62351
average bank prime rate if the overpayment was equal to or less 62352
than one per cent of the total medicaid payments to the provider 62353
for the fiscal year for which the incorrect information was used 62354
to establish a rate. 62355

(b) The interest shall be no greater than two and one-half 62356
times the current average bank prime rate if the overpayment was 62357
greater than one per cent of the total medicaid payments to the 62358
provider for the fiscal year for which the incorrect information 62359
was used to establish a rate. 62360

(C) The department also may impose the following penalties: 62361

(1) If a provider does not furnish invoices or other 62362

documentation that the department requests during an audit within 62363
sixty days after the request, no more than the greater of one 62364
thousand dollars per audit or twenty-five per cent of the 62365
cumulative amount by which the costs for which documentation was 62366
not furnished increased the total medicaid payments to the 62367
provider during the fiscal year for which the costs were used to 62368
establish a rate; 62369

(2) If an exiting operator or owner fails to provide notice 62370
of ~~sale of the a facility or closure~~, voluntary termination, or 62371
voluntary withdrawal of participation in the ~~medical assistance~~ 62372
medicaid program, as required by section ~~5111.25 or 5111.251~~ 62373
5111.66 of the Revised Code, or an exiting operator or owner and 62374
entering operator fail to provide notice of a change of operator 62375
as required by section 5111.67 of the Revised Code, no more than 62376
the current average bank prime rate plus four per cent of the last 62377
two monthly payments. 62378

(D) If the provider continues to participate in the ~~medical~~ 62379
~~assistance~~ medicaid program, the department shall deduct any 62380
amount that the provider is required to refund under this section, 62381
and the amount of any interest charged or penalty imposed under 62382
this section, from the next available payment from the department 62383
to the provider. The department and the provider may enter into an 62384
agreement under which the amount, together with interest, is 62385
deducted in installments from payments from the department to the 62386
provider. 62387

(E) The department shall transmit refunds and penalties to 62388
the treasurer of state for deposit in the general revenue fund. 62389

(F) For the purpose of this section, the department shall 62390
determine the average bank prime rate using statistical release 62391
H.15, "selected interest rates," a weekly publication of the 62392
federal reserve board, or any successor publication. If 62393
statistical release H.15, or its successor, ceases to contain the 62394

bank prime rate information or ceases to be published, the 62395
department shall request a written statement of the average bank 62396
prime rate from the federal reserve bank of Cleveland or the 62397
federal reserve board. 62398

Sec. 5111.29. (A) The director of job and family services 62399
shall adopt rules ~~in accordance with Chapter 119.~~ under section 62400
5111.02 of the Revised Code that establish a process under which a 62401
~~nursing facility or intermediate care facility for the mentally~~ 62402
~~retarded~~ provider, or a group or association of ~~facilities~~ 62403
providers, may seek reconsideration of rates established under 62404
sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code, 62405
including a rate for direct care costs recalculated before the 62406
effective date of the rate as a result of an exception review of 62407
resident assessment information conducted under section 5111.27 of 62408
the Revised Code. 62409

(1) Except as provided in divisions (A)(2) to (4) of this 62410
section, the only issue that a ~~facility~~ provider, group, or 62411
association may raise in the rate reconsideration shall be whether 62412
the rate was calculated in accordance with sections ~~5111.23~~ 62413
5111.20 to ~~5111.28~~ 5111.33 of the Revised Code and the rules 62414
adopted under ~~those sections~~ section 5111.02 of the Revised Code. 62415
The rules shall permit a ~~facility~~ provider, group, or association 62416
to submit written arguments or other materials that support its 62417
position. The rules shall specify time frames within which the 62418
~~facility~~ provider, group, or association and the department must 62419
act. If the department determines, as a result of the rate 62420
reconsideration, that the rate established for one or more 62421
facilities of a provider is less than the rate to which ~~it~~ the 62422
facility is entitled, the department shall increase the rate. If 62423
the department has paid the incorrect rate for a period of time, 62424
the department shall pay the ~~facility~~ provider the difference 62425
between the amount ~~it~~ the provider was paid for that period for 62426

the facility and the amount ~~it~~ the provider should have been paid 62427
for the facility. 62428

(2) The rules shall provide that during a fiscal year, the 62429
department, by means of the rate reconsideration process, may 62430
increase ~~a facility's~~ the rate determined for an intermediate care 62431
facility for the mentally retarded as calculated under sections 62432
~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code if the 62433
provider of the facility demonstrates that ~~its~~ the facility's 62434
actual, allowable costs have increased because of extreme 62435
circumstances. A facility may qualify for a rate increase only if 62436
~~its~~ the facility's per diem, actual, allowable costs have 62437
increased to a level that exceeds its total rate, ~~including any~~ 62438
~~efficiency incentive and return on equity payment.~~ The rules shall 62439
specify the circumstances that would justify a rate increase under 62440
division (A)(2) of this section. ~~In the case of nursing~~ 62441
~~facilities, the~~ The rules shall provide that the extreme 62442
circumstances include ~~increased security costs for an inner-city~~ 62443
~~nursing facility and an increase in workers' compensation~~ 62444
~~experience rating of greater than five per cent for a facility~~ 62445
~~that has an appropriate claims management program but do not~~ 62446
~~include a change of ownership that results from bankruptcy,~~ 62447
~~foreclosure, or findings of violations of certification~~ 62448
~~requirements by the department of health. In the case of~~ 62449
~~intermediate care facilities for the mentally retarded, the rules~~ 62450
~~shall provide that the extreme circumstances include, but are not~~ 62451
~~limited to, natural disasters,~~ renovations approved under division 62452
(D) of section 5111.251 of the Revised Code, an increase in 62453
workers' compensation experience rating of greater than five per 62454
cent for a facility that has an appropriate claims management 62455
program, increased security costs for an inner-city facility, and 62456
a change of ownership that results from bankruptcy, foreclosure, 62457
or findings of violations of certification requirements by the 62458
department of health. An increase under division (A)(2) of this 62459

section is subject to any rate limitations or maximum rates 62460
established by sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the 62461
Revised Code for specific cost centers. Any rate increase granted 62462
under division (A)(2) of this section shall take effect on the 62463
first day of the first month after the department receives the 62464
request. 62465

(3) The rules shall provide that the department, through the 62466
rate reconsideration process, may increase a ~~facility's~~ an 62467
intermediate care facility for the mentally retarded's rate as 62468
calculated under sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of 62469
the Revised Code if the department, in ~~its~~ the department's sole 62470
discretion, determines that the rate as calculated under those 62471
sections works an extreme hardship on the facility. 62472

(4) The rules shall provide that when beds certified for the 62473
~~medical assistance~~ medicaid program are added to an existing 62474
intermediate care facility, ~~for the mentally retarded or~~ replaced 62475
at the same site, ~~or subject to a change of ownership or lease,~~ 62476
the department, through the rate reconsideration process, shall 62477
increase the ~~facility's~~ intermediate care facility for the 62478
mentally retarded's rate for capital costs proportionately, as 62479
limited by any applicable limitation under section ~~5111.25~~ or 62480
5111.251 of the Revised Code, to account for the costs of the beds 62481
that are added, or replaced, ~~or subject to a change of ownership~~ 62482
~~or lease.~~ The department shall make this increase one month after 62483
the first day of the month after the department receives 62484
sufficient documentation of the costs. Any rate increase granted 62485
under division (A)(4) of this section after June 30, 1993, shall 62486
remain in effect until the effective date of a rate calculated 62487
under section ~~5111.25~~ or 5111.251 of the Revised Code that 62488
includes costs incurred for a full calendar year for the bed 62489
addition, or bed replacement, ~~or change of ownership or lease.~~ The 62490
facility shall report double accumulated depreciation in an amount 62491

equal to the depreciation included in the rate adjustment on its 62492
cost report for the first year of operation. During the term of 62493
any loan used to finance a project for which a rate adjustment is 62494
granted under division (A)(4) of this section, if the facility is 62495
operated by the same provider, the facility provider shall 62496
subtract from the interest costs it reports on its cost report an 62497
amount equal to the difference between the following: 62498

(a) The actual, allowable interest costs for the loan during 62499
the calendar year for which the costs are being reported; 62500

(b) The actual, allowable interest costs attributable to the 62501
loan that were used to calculate the rates paid to the provider 62502
for the facility during the same calendar year. 62503

(5) The department's decision at the conclusion of the 62504
reconsideration process shall not be subject to any administrative 62505
proceedings under Chapter 119. or any other provision of the 62506
Revised Code. 62507

(B) ~~Any~~ All of the following are subject to an adjudication 62508
conducted in accordance with Chapter 119. of the Revised Code: 62509

(1) Any audit disallowance that the department makes as the 62510
result of an audit under section 5111.27 of the Revised Code, ~~any;~~ 62511

(2) Any adverse finding that results from an exception review 62512
of resident assessment information conducted under ~~that~~ section 62513
5111.27 of the Revised Code after the effective date of the 62514
facility's rate that is based on the assessment information, ~~and~~ 62515
~~any;~~ 62516

(3) Any medicaid payment deemed an overpayment under section 62517
5111.683 of the Revised Code; 62518

(4) Any penalty the department imposes under division (C) of 62519
section 5111.28 of the Revised Code ~~shall be subject to an~~ 62520
~~adjudication conducted in accordance with Chapter 119. or section~~ 62521

5111.683 of the Revised Code. 62522

Sec. 5111.291. Notwithstanding sections 5111.20 to ~~5111.29~~ 62523
5111.33 of the Revised Code, the department of job and family 62524
services may compute the rate for intermediate care facilities for 62525
the mentally retarded operated by the department of mental 62526
retardation and developmental disabilities or the department of 62527
mental health according to the reasonable cost principles of Title 62528
XVIII of the "~~Social Security Act,~~" ~~49 Stat. 620 (1935), 42~~ 62529
~~U.S.C.A. 1395,~~ as amended. 62530

Sec. 5111.30. The department of job and family services shall 62531
terminate the provider agreement with a ~~nursing facility or~~ 62532
~~intermediate care facility for the mentally retarded~~ provider that 62533
does not comply with the requirements of section 3721.071 of the 62534
Revised Code for the installation of fire extinguishing and fire 62535
alarm systems. 62536

Sec. 5111.31. (A) Every provider agreement with the provider 62537
of a nursing facility or intermediate care facility for the 62538
mentally retarded shall: 62539

(1) Prohibit the ~~facility~~ provider from failing or refusing 62540
to retain as a patient any person because the person is, becomes, 62541
or may, as a patient in the facility, become a medicaid recipient 62542
~~of assistance under the medical assistance program.~~ For the 62543
purposes of this division, a medicaid recipient ~~of medical~~ 62544
~~assistance~~ who is a patient in a facility shall be considered a 62545
patient in the facility during any hospital stays totaling less 62546
than twenty-five days during any twelve-month period. Recipients 62547
who have been identified by the department of job and family 62548
services or its designee as requiring the level of care of an 62549
intermediate care facility for the mentally retarded shall not be 62550
subject to a maximum period of absences during which they are 62551

considered patients if prior authorization of the department for 62552
visits with relatives and friends and participation in therapeutic 62553
programs is obtained under rules adopted under section 5111.02 of 62554
the Revised Code. 62555

(2) ~~Include~~ Except as provided by division (B)(1) of this 62556
section, include any part of the facility that meets standards for 62557
certification of compliance with federal and state laws and rules 62558
for participation in the ~~medical assistance~~ medicaid program, 62559
~~except that nursing facilities that, during the period beginning~~ 62560
~~July 1, 1987, and ending July 1, 1993, added beds licensed as~~ 62561
~~nursing home beds under Chapter 3721. of the Revised Code are not~~ 62562
~~required to include those beds under a provider agreement unless~~ 62563
~~otherwise required by federal law. Once added to the provider~~ 62564
~~agreement, however, those nursing home beds may not be removed~~ 62565
~~unless the facility withdraws from the medical assistance program~~ 62566
~~in its entirety.~~ 62567

(3) Prohibit the ~~facility~~ provider from discriminating 62568
against any patient on the basis of race, color, sex, creed, or 62569
national origin. 62570

(4) Except as otherwise prohibited under section 5111.55 of 62571
the Revised Code, prohibit the ~~facility~~ provider from failing or 62572
refusing to accept a patient because the patient is, becomes, or 62573
may, as a patient in the facility, become a medicaid recipient ~~of~~ 62574
~~assistance under the medical assistance program~~ if less than 62575
eighty per cent of the patients in the facility are medicaid 62576
recipients ~~of medical assistance.~~ 62577

(B)(1) Except as provided by division (B)(2) of this section, 62578
the following are not required to be included in a provider 62579
agreement unless otherwise required by federal law: 62580

(a) Beds added during the period beginning July 1, 1987, and 62581
ending July 1, 1993, to a nursing home licensed under Chapter 62582

3721. of the Revised Code; 62583

(b) Beds in an intermediate care facility for the mentally 62584
retarded that are designated for respite care under a medicaid 62585
waiver component operated pursuant to a waiver sought under 62586
section 5111.87 of the Revised Code. 62587

(2) If a provider chooses to include a bed specified in 62588
division (B)(1) of this section in a provider agreement, the bed 62589
may not be removed from the provider agreement unless the provider 62590
withdraws the facility in which the bed is located from the 62591
medicaid program. 62592

(C) Nothing in this section shall bar ~~any~~ a provider that is 62593
a religious organization operating a religious or denominational 62594
nursing facility or intermediate care facility for the mentally 62595
retarded ~~that is operated, supervised, or controlled by a~~ 62596
~~religious organization~~ from giving preference to persons of the 62597
same religion or denomination. Nothing in this section shall bar 62598
any ~~facility~~ provider from giving preference to persons with whom 62599
~~it~~ the provider has contracted to provide continuing care. 62600

~~(C)~~(D) Nothing in this section shall bar ~~any~~ the provider of 62601
a county home organized under Chapter 5155. of the Revised Code 62602
from admitting residents exclusively from the county in which the 62603
county home is located. 62604

~~(D)~~(E) No provider of a nursing facility or intermediate care 62605
facility for the mentally retarded ~~with~~ for which a provider 62606
agreement is in effect shall violate the provider contract 62607
obligations imposed under this section. 62608

~~(E)~~(F) Nothing in divisions (A) and ~~(B)~~(C) of this section 62609
shall bar ~~any nursing facility or intermediate care facility for~~ 62610
~~the mentally retarded~~ a provider from retaining patients who have 62611
resided in the provider's facility for not less than one year as 62612
private pay patients and who subsequently become medicaid 62613

recipients ~~of assistance under the medicaid program~~, but refusing 62614
to accept as a patient any person who is or may, as a patient in 62615
the facility, become a medicaid recipient ~~of assistance under the~~ 62616
~~medicaid program~~, if all of the following apply: 62617

(1) The ~~facility~~ provider does not refuse to retain any 62618
patient who has resided in the provider's facility for not less 62619
than one year as a private pay patient because the patient becomes 62620
a medicaid recipient ~~of assistance under the medicaid program~~, 62621
except as necessary to comply with division ~~(E)~~(F)(2) of this 62622
section; 62623

(2) The number of medicaid recipients retained under this 62624
division does not at any time exceed ten per cent of all the 62625
patients in the facility; 62626

(3) On July 1, 1980, all the patients in the facility were 62627
private pay patients. 62628

Sec. 5111.32. Any patient has a cause of action against the 62629
provider of a nursing facility or intermediate care facility for 62630
the mentally retarded for breach of the provider agreement 62631
obligations or other duties imposed by section 5111.31 of the 62632
Revised Code. The action may be commenced by the patient, or on 62633
~~his~~ the patient's behalf by ~~his~~ the patient's sponsor or a 62634
residents' rights advocate, as either is defined under section 62635
3721.10 of the Revised Code, by the filing of a civil action in 62636
the court of common pleas of the county in which the facility is 62637
located, or in the court of common pleas of Franklin county. 62638

If the court finds that a breach of the provider agreement 62639
obligations imposed by section 5111.31 of the Revised Code has 62640
occurred, the court may enjoin the ~~facility~~ provider from engaging 62641
in the practice, order such affirmative relief as may be 62642
necessary, and award to the patient and a person or public agency 62643
that brings an action on behalf of a patient actual damages, 62644

costs, and reasonable attorney's fees. 62645

Sec. 5111.33. Reimbursement to ~~nursing facilities and~~ 62646
~~intermediate care facilities for the mentally retarded~~ a provider 62647
under sections 5111.20 to 5111.32 of the Revised Code shall 62648
include payments to ~~facilities~~ the provider, at a rate equal to 62649
the percentage of the per resident per day rates that the 62650
department of job and family services has established for the 62651
provider's nursing facility or intermediate care facility for the 62652
mentally retarded under sections ~~5111.23~~ 5111.20 to ~~5111.29~~ 62653
5111.33 of the Revised Code for the fiscal year for which the cost 62654
of services is reimbursed, to reserve a bed for a recipient during 62655
a temporary absence under conditions prescribed by the department, 62656
to include hospitalization for an acute condition, visits with 62657
relatives and friends, and participation in therapeutic programs 62658
outside the facility, when the resident's plan of care provides 62659
for such absence and federal participation in the payments is 62660
available. The maximum period during which payments may be made to 62661
reserve a bed shall not exceed the maximum period specified under 62662
federal regulations, and shall not be more than thirty days during 62663
any calendar year for hospital stays, visits with relatives and 62664
friends, and participation in therapeutic programs. Recipients who 62665
have been identified by the department as requiring the level of 62666
care of an intermediate care facility for the mentally retarded 62667
shall not be subject to a maximum period during which payments may 62668
be made to reserve a bed if prior authorization of the department 62669
is obtained for hospital stays, visits with relatives and friends, 62670
and participation in therapeutic programs. The director of job and 62671
family services shall adopt rules under ~~division (B) of~~ section 62672
5111.02 of the Revised Code establishing conditions under which 62673
prior authorization may be obtained. 62674

Sec. 5111.34. The director of job and family services shall 62675

prepare an annual report containing recommendations on the 62676
methodology that should be used to transition paying providers of 62677
nursing facilities the rate determined for nursing facilities for 62678
one fiscal year to the immediately succeeding fiscal year. The 62679
director shall submit a copy of the annual report to the governor, 62680
the president and minority leader of the senate, and the speaker 62681
and minority leader of the house of representatives not later than 62682
the first day of each October. 62683

Sec. 5111.62. The proceeds of all fines, including interest, 62684
collected under sections 5111.35 to 5111.62 of the Revised Code 62685
shall be deposited in the state treasury to the credit of the 62686
residents protection fund, which is hereby created. ~~Moneys~~ The 62687
proceeds of all fines, including interest, collected under section 62688
173.42 of the Revised Code shall be deposited in the state 62689
treasury to the credit of the residents protection fund. 62690

Moneys in the fund shall be used for the protection of the 62691
health or property of residents of nursing facilities in which the 62692
department of health finds deficiencies, including payment for the 62693
costs of relocation of residents to other facilities, maintenance 62694
of operation of a facility pending correction of deficiencies or 62695
closure, and reimbursement of residents for the loss of money 62696
managed by the facility under section 3721.15 of the Revised Code. 62697
~~The~~ 62698

The fund shall be maintained and administered by the 62699
department of job and family services under rules developed in 62700
consultation with the departments of health and aging and adopted 62701
by the director of job and family services under Chapter 119. of 62702
the Revised Code. 62703

Sec. 5111.65. As used in sections 5111.65 to 5111.688 of the 62704
Revised Code: 62705

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|---|-------|
| <u>(A) "Change of operator" means an entering operator becoming</u> | 62706 |
| <u>the operator of a nursing facility or intermediate care facility</u> | 62707 |
| <u>for the mentally retarded in the place of the exiting operator.</u> | 62708 |
| <u>(1) Actions that constitute a change of operator include the</u> | 62709 |
| <u>following:</u> | 62710 |
| <u>(a) A change in an exiting operator's form of legal</u> | 62711 |
| <u>organization, including the formation of a partnership or</u> | 62712 |
| <u>corporation from a sole proprietorship;</u> | 62713 |
| <u>(b) A transfer of all the exiting operator's ownership</u> | 62714 |
| <u>interest in the operation of the facility to the entering</u> | 62715 |
| <u>operator, regardless of whether ownership of any or all of the</u> | 62716 |
| <u>real property or personal property associated with the facility is</u> | 62717 |
| <u>also transferred;</u> | 62718 |
| <u>(c) A lease of the facility to the entering operator or the</u> | 62719 |
| <u>exiting operator's termination of the exiting operator's lease;</u> | 62720 |
| <u>(d) If the exiting operator is a partnership, dissolution of</u> | 62721 |
| <u>the partnership;</u> | 62722 |
| <u>(e) If the exiting operator is a partnership, a change in</u> | 62723 |
| <u>composition of the partnership unless both of the following apply:</u> | 62724 |
| <u>(i) The change in composition does not cause the</u> | 62725 |
| <u>partnership's dissolution under state law.</u> | 62726 |
| <u>(ii) The partners agree that the change in composition does</u> | 62727 |
| <u>not constitute a change in operator.</u> | 62728 |
| <u>(f) If the operator is a corporation, dissolution of the</u> | 62729 |
| <u>corporation, a merger of the corporation into another corporation</u> | 62730 |
| <u>that is the survivor of the merger, or a consolidation of one or</u> | 62731 |
| <u>more other corporations to form a new corporation.</u> | 62732 |
| <u>(2) The following, alone, do not constitute a change of</u> | 62733 |
| <u>operator:</u> | 62734 |
| <u>(a) A contract for an entity to manage a nursing facility or</u> | 62735 |

intermediate care facility for the mentally retarded as the operator's agent, subject to the operator's approval of daily operating and management decisions; 62736
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(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing facility or intermediate care facility for the mentally retarded if an entering operator does not become the operator in place of an exiting operator; 62739
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(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator. 62744
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(B) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility or intermediate care facility for the mentally retarded. 62748
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(C) "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility or intermediate care facility for the mentally retarded resides in the facility. 62751
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(D) "Effective date of a voluntary termination" means the day the intermediate care facility for the mentally retarded ceases to accept medicaid patients. 62755
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(E) "Effective date of a voluntary withdrawal of participation" means the day the nursing facility ceases to accept new medicaid patients other than the individuals who reside in the nursing facility on the day before the effective date of the voluntary withdrawal of participation. 62758
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(F) "Entering operator" means the person or government entity that will become the operator of a nursing facility or intermediate care facility for the mentally retarded when a change of operator occurs. 62763
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| <u>(G) "Exiting operator" means any of the following:</u> | 62767 |
| <u>(1) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a change of operator;</u> | 62768 62769 62770 |
| <u>(2) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a facility closure;</u> | 62771 62772 62773 |
| <u>(3) An operator of an intermediate care facility for the mentally retarded that is undergoing or has undergone a voluntary termination;</u> | 62774 62775 62776 |
| <u>(4) An operator of a nursing facility that is undergoing or has undergone a voluntary withdrawal of participation.</u> | 62777 62778 |
| <u>(H)(1) "Facility closure" means discontinuance of the use of the building, or part of the building, that houses the facility as a nursing facility or intermediate care facility for the mentally retarded that results in the relocation of all of the facility's residents. A facility closure occurs regardless of any of the following:</u> | 62779 62780 62781 62782 62783 62784 |
| <u>(a) The operator completely or partially replacing the facility by constructing a new facility or transferring the facility's license to another facility;</u> | 62785 62786 62787 |
| <u>(b) The facility's residents relocating to another of the operator's facilities;</u> | 62788 62789 |
| <u>(c) Any action the department of health takes regarding the facility's certification under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, that may result in the transfer of part of the facility's survey findings to another of the operator's facilities;</u> | 62790 62791 62792 62793 62794 |
| <u>(d) Any action the department of health takes regarding the facility's license under Chapter 3721. of the Revised Code;</u> | 62795 62796 |

(e) Any action the department of mental retardation and developmental disabilities takes regarding the facility's license under section 5123.19 of the Revised Code. 62797
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(2) A facility closure does not occur if all of the facility's residents are relocated due to an emergency evacuation and one or more of the residents return to a medicaid-certified bed in the facility not later than thirty days after the evacuation occurs. 62800
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(I) "Fiscal year," "intermediate care facility for the mentally retarded," "nursing facility," "operator," "owner," and "provider agreement" have the same meanings as in section 5111.20 of the Revised Code. 62805
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(J) "Voluntary termination" means an operator's voluntary election to terminate the participation of an intermediate care facility for the mentally retarded in the medicaid program but to continue to provide service of the type provided by a residential facility as defined in section 5123.19 of the Revised Code. 62809
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(K) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to provide service of the type provided by a nursing facility. 62814
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Sec. 5111.651. Sections 5111.65 to 5111.688 of the Revised Code do not apply to a nursing facility or intermediate care facility for the mentally retarded that undergoes a facility closure, voluntary termination, voluntary withdrawal of participation, or change of operator on or before September 30, 2005, if the exiting operator provided written notice of the facility closure, voluntary termination, voluntary withdrawal of participation, or change of operator to the department of job and family services on or before June 30, 2005. 62818
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Sec. 5111.66. An exiting operator or owner of a nursing facility or intermediate care facility for the mentally retarded participating in the medicaid program shall provide the department of job and family services written notice of a facility closure, voluntary termination, or voluntary withdrawal of participation not less than ninety days before the effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation. The written notice shall include all of the following: 62827
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(A) The name of the exiting operator and, if any, the exiting operator's authorized agent; 62836
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(B) The name of the nursing facility or intermediate care facility for the mentally retarded that is the subject of the written notice; 62838
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(C) The exiting operator's medicaid provider agreement number for the facility that is the subject of the written notice; 62841
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(D) The effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation; 62843
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(E) The signature of the exiting operator's or owner's representative. 62845
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Sec. 5111.661. An operator shall comply with section 1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F) if the operator's nursing facility undergoes a voluntary withdrawal of participation. 62847
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Sec. 5111.67. (A) An exiting operator or owner and entering operator shall provide the department of job and family services written notice of a change of operator if the nursing facility or intermediate care facility for the mentally retarded participates in the medicaid program and the entering operator seeks to 62851
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continue the facility's participation. The written notice shall be 62856
provided to the department not later than forty-five days before 62857
the effective date of the change of operator if the change of 62858
operator does not entail the relocation of residents. The written 62859
notice shall be provided to the department not later than ninety 62860
days before the effective date of the change of operator if the 62861
change of operator entails the relocation of residents. The 62862
written notice shall include all of the following: 62863

(1) The name of the exiting operator and, if any, the exiting 62864
operator's authorized agent; 62865

(2) The name of the nursing facility or intermediate care 62866
facility for the mentally retarded that is the subject of the 62867
change of operator; 62868

(3) The exiting operator's medicaid provider agreement number 62869
for the facility that is the subject of the change of operator; 62870

(4) The name of the entering operator; 62871

(5) The effective date of the change of operator; 62872

(6) The manner in which the entering operator becomes the 62873
facility's operator, including through sale, lease, merger, or 62874
other action; 62875

(7) If the manner in which the entering operator becomes the 62876
facility's operator involves more than one step, a description of 62877
each step; 62878

(8) Written authorization from the exiting operator or owner 62879
and entering operator for the department to process a provider 62880
agreement for the entering operator; 62881

(9) The signature of the exiting operator's or owner's 62882
representative. 62883

(B) The entering operator shall include a completed 62884

application for a provider agreement with the written notice to 62885
the department. The entering operator shall attach to the 62886
application the following: 62887

(1) If the written notice is provided to the department 62888
before the date the exiting operator or owner and entering 62889
operator complete the transaction for the change of operator, all 62890
the proposed leases, management agreements, merger agreements and 62891
supporting documents, and sales contracts and supporting documents 62892
relating to the facility's change of operator; 62893

(2) If the written notice is provided to the department on or 62894
after the date the exiting operator or owner and entering operator 62895
complete the transaction for the change of operator, copies of all 62896
the executed leases, management agreements, merger agreements and 62897
supporting documents, and sales contracts and supporting documents 62898
relating to the facility's change of operator. 62899

Sec. 5111.671. The department of job and family services may 62900
enter into a provider agreement with an entering operator that 62901
goes into effect at 12:01 a.m. on the effective date of the change 62902
of operator if all of the following requirements are met: 62903

(A) The department receives a properly completed written 62904
notice required by section 5111.67 of the Revised Code on or 62905
before the date required by that section. 62906

(B) The entering operator furnishes to the department copies 62907
of all the fully executed leases, management agreements, merger 62908
agreements and supporting documents, and sales contracts and 62909
supporting documents relating to the change of operator not later 62910
than ten days after the effective date of the change of operator. 62911

(C) The entering operator is eligible for medicaid payments 62912
as provided in section 5111.21 of the Revised Code. 62913

Sec. 5111.672. (A) The department of job and family services 62914

may enter into a provider agreement with an entering operator that 62915
goes into effect at 12:01 a.m. on the date determined under 62916
division (B) of this section if all of the following are the case: 62917

(1) The department receives a properly completed written 62918
notice required by section 5111.67 of the Revised Code. 62919

(2) The entering operator furnishes to the department copies 62920
of all the fully executed leases, management agreements, merger 62921
agreements and supporting documents, and sales contracts and 62922
supporting documents relating to the change of operator. 62923

(3) The requirement of division (A)(1) of this section is met 62924
after the time required by section 5111.67 of the Revised Code, 62925
the requirement of division (A)(2) of this section is met more 62926
than ten days after the effective date of the change of operator, 62927
or both. 62928

(4) The entering operator is eligible for medicaid payments 62929
as provided in section 5111.21 of the Revised Code. 62930

(B) The department shall determine the date a provider 62931
agreement entered into under this section is to go into effect as 62932
follows: 62933

(1) The effective date shall give the department sufficient 62934
time to process the change of operator, assure no duplicate 62935
payments are made, make the withholding required by section 62936
5111.681 of the Revised Code, and withhold the final payment to 62937
the exiting operator until one hundred eighty days after either of 62938
the following: 62939

(a) The date that the exiting operator submits to the 62940
department a properly completed cost report under section 5111.682 62941
of the Revised Code; 62942

(b) The date that the department waives the cost report 62943
requirement of section 5111.682 of the Revised Code. 62944

(2) The effective date shall be not earlier than the later of 62945
the effective date of the change of operator or the date that the 62946
exiting operator or owner and entering operator comply with 62947
section 5111.67 of the Revised Code. 62948

(3) The effective date shall be not later than the following 62949
after the later of the dates specified in division (B)(2) of this 62950
section: 62951

(a) Forty-five days if the change of operator does not entail 62952
the relocation of residents; 62953

(b) Ninety days if the change of operator entails the 62954
relocation of residents. 62955

Sec. 5111.673. A provider that enters into a provider 62956
agreement with the department of job and family services under 62957
section 5111.671 or 5111.672 of the Revised Code shall do all of 62958
the following: 62959

(A) Comply with all applicable federal statutes and 62960
regulations; 62961

(B) Comply with section 5111.22 of the Revised Code and all 62962
other applicable state statutes and rules; 62963

(C) Comply with all the terms and conditions of the exiting 62964
operator's provider agreement, including, but not limited to, all 62965
of the following: 62966

(1) Any plan of correction; 62967

(2) Compliance with health and safety standards; 62968

(3) Compliance with the ownership and financial interest 62969
disclosure requirements of 42 C.F.R. 455.104, 455.105, and 1002.3; 62970

(4) Compliance with the civil rights requirements of 45 62971
C.F.R. parts 80, 84, and 90; 62972

(5) Compliance with additional requirements imposed by the 62973

department; 62974

(6) Any sanctions relating to remedies for violation of the 62975
provider agreement, including deficiencies, compliance periods, 62976
accountability periods, monetary penalties, notification for 62977
correction of contract violations, and history of deficiencies. 62978

Sec. 5111.674. In the case of a change of operator, the 62979
exiting operator shall be considered to be the operator of the 62980
nursing facility or intermediate care facility for the mentally 62981
retarded for purposes of the medicaid program, including medicaid 62982
payments, until the effective date of the entering operator's 62983
provider agreement if the provider agreement is entered into under 62984
section 5111.671 or 5111.672 of the Revised Code. 62985

Sec. 5111.675. The department of job and family services may 62986
enter into a provider agreement as provided in section 5111.22 of 62987
the Revised Code, rather than section 5111.671 or 5111.672 of the 62988
Revised Code, with an entering operator if the entering operator 62989
does not agree to a provider agreement that satisfies the 62990
requirements of division (C) of section 5111.673 of the Revised 62991
Code. The department may not enter into the provider agreement 62992
unless the department of health certifies the nursing facility or 62993
intermediate care facility for the mentally retarded under Title 62994
XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 62995
1396, as amended. The effective date of the provider agreement 62996
shall not precede any of the following: 62997

(A) The date that the department of health certifies the 62998
facility; 62999

(B) The effective date of the change of operator; 63000

(C) The date the requirement of section 5111.67 of the 63001
Revised Code is satisfied. 63002

Sec. 5111.676. The director of job and family services may 63003
adopt rules in accordance with Chapter 119. of the Revised Code 63004
governing adjustments to the medicaid reimbursement rate for a 63005
nursing facility or intermediate care facility for the mentally 63006
retarded that undergoes a change of operator. No rate adjustment 63007
resulting from a change of operator shall be effective before the 63008
effective date of the entering operator's provider agreement. This 63009
is the case regardless of whether the provider agreement is 63010
entered into under section 5111.671, section 5111.672, or, 63011
pursuant to section 5111.675, section 5111.22 of the Revised Code. 63012

Sec. 5111.677. Neither of the following shall affect the 63013
department of job and family services' determination of whether or 63014
when a change of operator occurs or the effective date of an 63015
entering operator's provider agreement under section 5111.671, 63016
section 5111.672, or, pursuant to section 5111.675, section 63017
5111.22 of the Revised Code: 63018

(A) The department of health's determination that a change of 63019
operator has or has not occurred for purposes of licensure under 63020
Chapter 3721. of the Revised Code; 63021

(B) The department of mental retardation and developmental 63022
disabilities' determination that a change of operator has or has 63023
not occurred for purposes of licensure under section 5123.19 of 63024
the Revised Code. 63025

Sec. 5111.68. (A) On receipt of a written notice under 63026
section 5111.66 of the Revised Code of a facility closure, 63027
voluntary termination, or voluntary withdrawal of participation or 63028
a written notice under section 5111.67 of the Revised Code of a 63029
change of operator, the department of job and family services 63030
shall determine the amount of any overpayments made under the 63031
medicaid program to the exiting operator, including overpayments 63032

the exiting operator disputes, and other actual and potential 63033
debts the exiting operator owes or may owe to the department and 63034
United States centers for medicare and medicaid services under the 63035
medicaid program. In determining the exiting operator's other 63036
actual and potential debts to the department under the medicaid 63037
program, the department shall include all of the following that 63038
the department determines is applicable: 63039

(1) Refunds due the department under section 5111.27 of the 63040
Revised Code; 63041

(2) Interest owed to the department and United States centers 63042
for medicare and medicaid services; 63043

(3) Final civil monetary and other penalties for which all 63044
right of appeal has been exhausted; 63045

(4) Money owed the department and United States centers for 63046
medicare and medicaid services from any outstanding final fiscal 63047
audit, including a final fiscal audit for the last fiscal year or 63048
portion thereof in which the exiting operator participated in the 63049
medicaid program. 63050

(B) If the department is unable to determine the amount of 63051
the overpayments and other debts for any period before the 63052
effective date of the entering operator's provider agreement or 63053
the effective date of the facility closure, voluntary termination, 63054
or voluntary withdrawal of participation, the department shall 63055
make a reasonable estimate of the overpayments and other debts for 63056
the period. The department shall make the estimate using 63057
information available to the department, including prior 63058
determinations of overpayments and other debts. 63059

Sec. 5111.681. (A) Except as provided in division (B) of this 63060
section, the department of job and family services shall withhold 63061
the greater of the following from payment due an exiting operator 63062

under the medicaid program: 63063

(1) The total amount of any overpayments made under the 63064
medicaid program to the exiting operator, including overpayments 63065
the exiting operator disputes, and other actual and potential 63066
debts, including any unpaid penalties, the exiting operator owes 63067
or may owe to the department and United States centers for 63068
medicare and medicaid services under the medicaid program; 63069

(2) An amount equal to the average amount of monthly payments 63070
to the exiting operator under the medicaid program for the 63071
twelve-month period immediately preceding the month that includes 63072
the last day the exiting operator's provider agreement is in 63073
effect or, in the case of a voluntary withdrawal of participation, 63074
the effective date of the voluntary withdrawal of participation. 63075

(B) The department may choose not to make the withholding 63076
under division (A) of this section if an entering operator does 63077
both of the following: 63078

(1) Enters into a nontransferable, unconditional, written 63079
agreement with the department to pay the department any debt the 63080
exiting operator owes the department under the medicaid program; 63081

(2) Provides the department a copy of the entering operator's 63082
balance sheet that assists the department in determining whether 63083
to make the withholding under division (A) of this section. 63084

Sec. 5111.682. (A) Except as provided in division (B) of this 63085
section, an exiting operator shall file with the department of job 63086
and family services a cost report not later than ninety days after 63087
the last day the exiting operator's provider agreement is in 63088
effect or, in the case of a voluntary withdrawal of participation, 63089
the effective date of the voluntary withdrawal of participation. 63090
The cost report shall cover the period that begins with the day 63091
after the last day covered by the operator's most recent previous 63092

cost report required by section 5111.26 of the Revised Code and 63093
ends on the last day the exiting operator's provider agreement is 63094
in effect or, in the case of a voluntary withdrawal of 63095
participation, the effective date of the voluntary withdrawal of 63096
participation. The cost report shall include, as applicable, all 63097
of the following: 63098

(1) The sale price of the nursing facility or intermediate 63099
care facility for the mentally retarded; 63100

(2) A final depreciation schedule that shows which assets are 63101
transferred to the buyer and which assets are not transferred to 63102
the buyer; 63103

(3) Any other information the department requires. 63104

(B) The department, at its sole discretion, may waive the 63105
requirement that an exiting operator file a cost report in 63106
accordance with division (A) of this section. 63107

Sec. 5111.683. If an exiting operator required by section 63108
5111.682 of the Revised Code to file a cost report with the 63109
department of job and family services fails to file the cost 63110
report in accordance with that section, all payments under the 63111
medicaid program for the period the cost report is required to 63112
cover are deemed overpayments until the date the department 63113
receives the properly completed cost report. The department may 63114
impose on the exiting operator a penalty of one hundred dollars 63115
for each calendar day the properly completed cost report is late. 63116

Sec. 5111.684. The department of job and family services may 63117
not provide an exiting operator final payment under the medicaid 63118
program until the department receives all properly completed cost 63119
reports the exiting operator is required to file under sections 63120
5111.26 and 5111.682 of the Revised Code. 63121

Sec. 5111.685. The department of job and family services 63122
shall determine the actual amount of debt an exiting operator owes 63123
the department under the medicaid program by completing all final 63124
fiscal audits not already completed and performing all other 63125
appropriate actions the department determines to be necessary. The 63126
department shall issue a debt summary report on this matter not 63127
later than ninety days after the date the exiting operator files 63128
the properly completed cost report required by section 5111.682 of 63129
the Revised Code with the department or, if the department waives 63130
the cost report requirement for the exiting operator, ninety days 63131
after the date the department waives the cost report requirement. 63132
The report shall include the department's findings and the amount 63133
of debt the department determines the exiting operator owes the 63134
department and United States centers for medicare and medicaid 63135
services under the medicaid program. Only the parts of the report 63136
that are subject to an adjudication as specified in section 63137
5111.30 of the Revised Code are subject to an adjudication 63138
conducted in accordance with Chapter 119. of the Revised Code. 63139

Sec. 5111.686. The department of job and family services 63140
shall release the actual amount withheld under division (A) of 63141
section 5111.681 of the Revised Code, less any amount the exiting 63142
operator owes the department and United States centers for 63143
medicare and medicaid services under the medicaid program, as 63144
follows: 63145

(A) Ninety-one days after the date the exiting operator files 63146
a properly completed cost report required by section 5111.682 of 63147
the Revised Code unless the department issues the report required 63148
by section 5111.685 of the Revised Code not later than ninety days 63149
after the date the exiting operator files the properly completed 63150
cost report; 63151

(B) Not later than thirty days after the exiting operator 63152

agrees to a final fiscal audit resulting from the report required 63153
by section 5111.685 of the Revised Code if the department issues 63154
the report not later than ninety days after the date the exiting 63155
operator files a properly completed cost report required by 63156
section 5111.682 of the Revised Code; 63157

(C) Ninety-one days after the date the department waives the 63158
cost report requirement of section 5111.682 of the Revised Code 63159
unless the department issues the report required by section 63160
5111.685 of the Revised Code not later than ninety days after the 63161
date the department waives the cost report requirement; 63162

(D) Not later than thirty days after the exiting operator 63163
agrees to a final fiscal audit resulting from the report required 63164
by section 5111.685 of the Revised Code if the department issues 63165
the report not later than ninety days after the date the 63166
department waives the cost report requirement of section 5111.682 63167
of the Revised Code. 63168

Sec. 5111.687. The department of job and family services, at 63169
its sole discretion, may release the amount withheld under 63170
division (A) of section 5111.681 of the Revised Code if the 63171
exiting operator submits to the department written notice of a 63172
postponement of a change of operator, facility closure, voluntary 63173
termination, or voluntary withdrawal of participation and the 63174
transactions leading to the change of operator, facility closure, 63175
voluntary termination, or voluntary withdrawal of participation 63176
are postponed for at least thirty days but less than ninety days 63177
after the date originally proposed for the change of operator, 63178
facility closure, voluntary termination, or voluntary withdrawal 63179
of participation as reported in the written notice required by 63180
section 5111.66 or 5111.67 of the Revised Code. The department 63181
shall release the amount withheld if the exiting operator submits 63182
to the department written notice of a cancellation or postponement 63183

of a change of operator, facility closure, voluntary termination, 63184
or voluntary withdrawal of participation and the transactions 63185
leading to the change of operator, facility closure, voluntary 63186
termination, or voluntary withdrawal of participation are canceled 63187
or postponed for more than ninety days after the date originally 63188
proposed for the change of operator, facility closure, voluntary 63189
termination, or voluntary withdrawal of participation as reported 63190
in the written notice required by section 5111.66 or 5111.67 of 63191
the Revised Code. 63192

After the department receives a written notice regarding a 63193
cancellation or postponement of a facility closure, voluntary 63194
termination, or voluntary withdrawal of participation, the exiting 63195
operator or owner shall provide new written notice to the 63196
department under section 5111.66 of the Revised Code regarding any 63197
transactions leading to a facility closure, voluntary termination, 63198
or voluntary withdrawal of participation at a future time. After 63199
the department receives a written notice regarding a cancellation 63200
or postponement of a change of operator, the exiting operator or 63201
owner and entering operator shall provide new written notice to 63202
the department under section 5111.67 of the Revised Code regarding 63203
any transactions leading to a change of operator at a future time. 63204

Sec. 5111.688. The director of job and family services may 63205
adopt rules under section 5111.02 of the Revised Code to implement 63206
sections 5111.65 to 5111.688 of the Revised Code, including rules 63207
applicable to an exiting operator that provides written 63208
notification under section 5111.66 of the Revised Code of a 63209
voluntary withdrawal of participation. Rules adopted under this 63210
section shall comply with section 1919(c)(2)(F) of the "Social 63211
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F), 63212
regarding restrictions on transfers or discharges of nursing 63213
facility residents in the case of a voluntary withdrawal of 63214

participation. The rules may prescribe a medicaid reimbursement methodology and other procedures that are applicable after the effective date of a voluntary withdrawal of participation that differ from the reimbursement methodology and other procedures that would otherwise apply.

Sec. 5111.85. (A) As used in this section and sections 5111.851 to 5111.856 of the Revised Code, "medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under section 1115 or 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid waiver component" does not include a care management system established under section 5111.16 of the Revised Code.

(B) The director of job and family services may adopt rules under Chapter 119. of the Revised Code governing medicaid waiver components that establish all of the following:

(1) Eligibility requirements for the medicaid waiver components;

(2) The type, amount, duration, and scope of services the medicaid waiver components provide;

(3) The conditions under which the medicaid waiver components cover services;

(4) The amount the medicaid waiver components pay for services or the method by which the amount is determined;

(5) The manner in which the medicaid waiver components pay for services;

(6) Safeguards for the health and welfare of medicaid recipients receiving services under a medicaid waiver component;

(7) Procedures for enforcing the rules, including

establishing corrective action plans for, and imposing financial 63244
and administrative sanctions on, persons and government entities 63245
that violate the rules. Sanctions shall include terminating 63246
medicaid provider agreements. The procedures shall include due 63247
process protections. 63248

(8) Other policies necessary for the efficient administration 63249
of the medicaid waiver components. 63250

(C) The director of job and family services may adopt 63251
different rules for the different medicaid waiver components. The 63252
rules shall be consistent with the terms of the waiver authorizing 63253
the medicaid waiver component. 63254

~~(D) The director of job and family services may conduct 63255
reviews of the medicaid waiver components. The reviews may include 63256
physical inspections of records and sites where services are 63257
provided under the medicaid waiver components and interviews of 63258
providers and recipients of the services. If the director 63259
determines pursuant to a review that a person or government entity 63260
has violated a rule governing a medicaid waiver component, the 63261
director may establish a corrective action plan for the violator 63262
and impose fiscal, administrative, or both types of sanctions on 63263
the violator in accordance with rules adopted under division (B) 63264
of this section. 63265~~

Sec. 5111.851. (A) As used in sections 5111.851 to 5111.855 63266
of the Revised Code: 63267

"Administrative agency" means, with respect to a home and 63268
community-based services medicaid waiver component, the department 63269
of job and family services or, if a state agency or political 63270
subdivision contracts with the department under section 5111.91 of 63271
the Revised Code to administer the component, that state agency or 63272
political subdivision. 63273

"Home and community-based services medicaid waiver component" 63274
means a medicaid waiver component under which home and 63275
community-based services are provided as an alternative to 63276
hospital, nursing facility, or intermediate care facility for the 63277
mentally retarded services. 63278

"Hospital" has the same meaning as in section 3727.01 of the 63279
Revised Code. 63280

"Intermediate care facility for the mentally retarded" has 63281
the same meaning as in section 5111.20 of the Revised Code. 63282

"Level of care determination" means a determination of 63283
whether an individual needs the level of care provided by a 63284
hospital, nursing facility, or intermediate care facility for the 63285
mentally retarded and whether the individual, if determined to 63286
need that level of care, would receive hospital, nursing facility, 63287
or intermediate care facility for the mentally retarded services 63288
if not for a home and community-based services medicaid waiver 63289
component. 63290

"Nursing facility" has the same meaning as in section 5111.20 63291
of the Revised Code. 63292

"Skilled nursing facility" means a facility certified as a 63293
skilled nursing facility under Title XVIII of the "Social Security 63294
Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 63295

(B) The following requirements apply to each home and 63296
community-based services medicaid waiver component: 63297

(1) Only an individual who qualifies for a component shall 63298
receive that component's services. 63299

(2) A level of care determination shall be made as part of 63300
the process of determining whether an individual qualifies for a 63301
component and shall be made each year after the initial 63302
determination if, during such a subsequent year, the 63303

administrative agency determines there is a reasonable indication 63304
that the individual's needs have changed. 63305

(3) A written plan of care or individual service plan based 63306
on an individual assessment of the services that an individual 63307
needs to avoid needing admission to a hospital, nursing facility, 63308
or intermediate care facility for the mentally retarded shall be 63309
created for each individual determined eligible for a component. 63310

(4) Each individual determined eligible for a component shall 63311
receive that component's services in accordance with the 63312
individual's level of care determination and written plan of care 63313
or individual service plan. 63314

(5) No individual may receive services under a component 63315
while the individual is a hospital inpatient or resident of a 63316
skilled nursing facility, nursing facility, or intermediate care 63317
facility for the mentally retarded. 63318

(6) No individual may receive prevocational, educational, or 63319
supported employment services under a component if the individual 63320
is eligible for such services that are funded with federal funds 63321
provided under 29 U.S.C. 730 or the "Individuals with Disabilities 63322
Education Act," 111 Stat. 37 (1997), 20 U.S.C. 1400, as amended. 63323

(7) Safeguards shall be taken to protect the health and 63324
welfare of individuals receiving services under a component, 63325
including safeguards established in rules adopted under section 63326
5111.85 of the Revised Code and safeguards established by 63327
licensing and certification requirements that are applicable to 63328
the providers of that component's services. 63329

(8) No services may be provided under a component by a 63330
provider that is subject to standards that 42 U.S.C. 1382e(e)(1) 63331
requires be established if the provider fails to comply with the 63332
standards applicable to the provider. 63333

(9) Individuals determined to be eligible for a component, or 63334

such individuals' representatives, shall be informed of that 63335
component's services, including any choices that the individual or 63336
representative may make regarding the component's services, and 63337
given the choice of either receiving services under that component 63338
or, as appropriate, hospital, nursing facility, or intermediate 63339
care facility for the mentally retarded services. 63340

Sec. 5111.852. The department of job and family services may 63341
review and approve, modify, or deny written plans of care and 63342
individual service plans that section 5111.851 of the Revised Code 63343
requires be created for individuals determined eligible for a home 63344
and community-based services medicaid waiver component. If a state 63345
agency or political subdivision contracts with the department 63346
under section 5111.91 of the Revised Code to administer a home and 63347
community-based services medicaid waiver component and approves, 63348
modifies, or denies a written plan of care or individual service 63349
plan pursuant to the agency's or subdivision's administration of 63350
the component, the department may review the agency's or 63351
subdivision's approval, modification, or denial and order the 63352
agency or subdivision to reverse or modify the approval, 63353
modification, or denial. The state agency or political subdivision 63354
shall comply with the department's order. 63355

The department of job and family services shall be granted 63356
full and immediate access to any records the department needs to 63357
implement its duties under this section. 63358

Sec. 5111.853. Each administrative agency shall maintain, for 63359
a period of time the department of job and family services shall 63360
specify, financial records documenting the costs of services 63361
provided under the home and community-based services medicaid 63362
waiver components that the agency administers, including records 63363
of independent audits. The administrative agency shall make the 63364
financial records available on request to the United States 63365

secretary of health and human services, United States comptroller
general, and their designees. 63366
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Sec. 5111.854. Each administrative agency is financially
accountable for funds expended for services provided under the
home and community-based services medicaid waiver components that
the agency administers. 63368
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Sec. 5111.855. Each state agency and political subdivision
that enters into a contract with the department of job and family
services under section 5111.91 of the Revised Code to administer a
home and community-based services medicaid waiver component, or
one or more aspects of such a component, shall provide the
department a written assurance that the agency or subdivision will
not violate any of the requirements of sections 5111.85 to
5111.854 of the Revised Code. 63372
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Sec. 5111.856. To the extent necessary for the efficient and
economical administration of medicaid waiver components, the
department of job and family services may transfer an individual
enrolled in a medicaid waiver component administered by the
department to another medicaid waiver component the department
administers if the individual is eligible for the medicaid waiver
component and the transfer does not jeopardize the individual's
health or safety. 63380
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Sec. 5111.97 5111.86. (A) As used in this section: 63388

(1) "Hospital" has the same meaning as in section 3727.01 of
the Revised Code. 63389
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(2) "Medicaid waiver component" has the same meaning as in
section 5111.85 of the Revised Code. 63391
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(3) "Nursing facility" has the same meaning as in section 63393

5111.20 of the Revised Code. 63394

(4) "Ohio home care program" means the program the department of job and family services administers that provides state plan services and medicaid waiver component services pursuant to rules adopted under sections 5111.01 and 5111.02 of the Revised Code and a medicaid waiver that went into effect July 1, 1998. 63395
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(B) The director of job and family services may submit a request requests to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to obtain waivers of federal medicaid requirements that would otherwise be violated in the creation and implementation of two or more medicaid waiver components under which home and community-based services programs to replace the Ohio home care program being operated pursuant to rules adopted under sections 5111.01 and 5111.02 of the Revised Code and a medicaid waiver granted prior to the effective date of this section are provided to eligible individuals who need the level of care provided by a nursing facility or hospital. In the ~~request requests~~, the director may specify the following: 63400
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~~(1) That one of the replacement programs will provide home and community-based services to individuals in need of nursing facility care, including individuals enrolled in the Ohio home care program;~~ 63414
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~~(2) That the other replacement program will provide services to individuals in need of hospital care, including individuals enrolled in the Ohio home care program;~~ 63418
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~~(3) That there will be a~~ The maximum number of individuals who may be enrolled in the ~~replacement programs in addition to the number of individuals to be transferred from the Ohio home care program~~ each of the medicaid waiver components included in the 63421
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requests; 63425

~~(4) That there will be a~~ (2) The maximum amount the 63426
~~department~~ medicaid program may expend each year for each 63427
individual enrolled in the ~~replacement programs~~ medicaid waiver 63428
components; 63429

~~(5) That there will be a~~ (3) The maximum aggregate amount the 63430
~~department~~ medicaid program may expend each year for all 63431
individuals enrolled in the ~~replacement programs~~ medicaid waiver 63432
components; 63433

~~(6)~~(4) Any other ~~requirement~~ requirements the director 63434
selects for the ~~replacement programs~~ medicaid waiver components. 63435

~~(B)~~(C) If the secretary ~~grants~~ approves the medicaid waivers 63436
requested under this section, the director may create and 63437
implement the ~~replacement programs~~ medicaid waiver components in 63438
accordance with the provisions of the approved waivers ~~granted.~~ 63439
The department of job and family services shall administer the 63440
~~replacement programs~~ medicaid waiver components. 63441

~~As the replacement programs are implemented, the director~~ 63442
~~shall reduce the maximum number of individuals who may be enrolled~~ 63443
~~in the Ohio home care program by the number of individuals who are~~ 63444
~~transferred to the replacement programs. When all individuals who~~ 63445
~~are eligible to be transferred to the replacement programs have~~ 63446
~~been transferred, the director may submit to the secretary an~~ 63447
~~amendment to the state medicaid plan to provide for the~~ 63448
~~elimination of the Ohio home care program.~~ 63449

After the first of any medicaid waiver components created 63450
under this section begins to enroll eligible individuals, the 63451
director may submit to the United States secretary of health and 63452
human services an amendment to a medicaid waiver component of the 63453
Ohio home care program authorizing the department to cease 63454
enrolling additional individuals in that medicaid waiver component 63455

of the Ohio home care program. If the secretary approves the 63456
amendment, the director may cease to enroll additional individuals 63457
in that medicaid waiver component of the Ohio home care program. 63458

Sec. 5111.87. (A) As used in this section and section 63459
5111.871 of the Revised Code, ~~"intermediate;~~ 63460

(1) "Intermediate care facility for the mentally retarded" 63461
has the same meaning as in section 5111.20 of the Revised Code. 63462

(2) "Medicaid waiver component" has the same meaning as in 63463
section 5111.85 of the Revised Code. 63464

(B) The director of job and family services may apply to the 63465
United States secretary of health and human services for both of 63466
the following: 63467

(1) One or more medicaid ~~waivers~~ waiver components under 63468
which home and community-based services are provided to 63469
individuals with mental retardation or other developmental 63470
disability as an alternative to placement in an intermediate care 63471
facility for the mentally retarded; 63472

(2) One or more medicaid ~~waivers~~ waiver components under 63473
which home and community-based services are provided in the form 63474
of ~~either or both~~ any of the following: 63475

(a) Early intervention and supportive services for children 63476
under three years of age ~~that are provided or arranged by county~~ 63477
~~boards of mental retardation and who have~~ developmental delays or 63478
disabilities the director determines are significant; 63479

(b) Therapeutic services for children who have autism ~~and are~~ 63480
~~under six years of age at the time of enrollment;~~ 63481

(c) Specialized habilitative services for individuals who are 63482
eighteen years of age or older and have autism. 63483

(C) No medicaid waiver component authorized by division 63484

(B)(2)(b) or (c) of this section shall provide services that are 63485
available under another medicaid waiver component. No medicaid 63486
waiver component authorized by division (B)(2)(b) of this section 63487
shall provide services to an individual that the individual is 63488
eligible to receive through an individualized education program as 63489
defined in section 3323.01 of the Revised Code. 63490

(D) The director of mental retardation and developmental 63491
disabilities or director of health may request that the director 63492
of job and family services apply for one or more medicaid waivers 63493
under this section. 63494

~~(D)~~(E) Before applying for a waiver under this section, the 63495
director of job and family services shall seek, accept, and 63496
consider public comments. 63497

Sec. 5111.871. The department of job and family services 63498
shall enter into a contract with the department of mental 63499
retardation and developmental disabilities under section 5111.91 63500
of the Revised Code with regard to one or more of the components 63501
of the medicaid program established by the department of job and 63502
family services under one or more of the medicaid waivers sought 63503
under section 5111.87 of the Revised Code. The contract shall 63504
provide for the department of mental retardation and developmental 63505
disabilities to administer the components in accordance with the 63506
terms of the waivers. The directors of job and family services and 63507
mental retardation and developmental disabilities shall adopt 63508
rules in accordance with Chapter 119. of the Revised Code 63509
governing the components. 63510

If the department of mental retardation and developmental 63511
disabilities or the department of job and family services denies 63512
an individual's application for home and community-based services 63513
provided under any of these medicaid components, the department 63514
that denied the services shall give timely notice to the 63515

individual that the individual may request a hearing under section 63516
5101.35 of the Revised Code. 63517

The departments of mental retardation and developmental 63518
disabilities and job and family services may approve, reduce, 63519
deny, or terminate a service included in the individualized 63520
service plan developed for a medicaid recipient eligible for home 63521
and community-based services provided under any of these medicaid 63522
components. The departments shall consider the recommendations a 63523
county board of mental retardation and developmental disabilities 63524
makes under division (A)(1)(c) of section 5126.055 of the Revised 63525
Code. If either department approves, reduces, denies, or 63526
terminates a service, that department shall give timely notice to 63527
the medicaid recipient that the recipient may request a hearing 63528
under section 5101.35 of the Revised Code. 63529

If supported living or residential services, as defined in 63530
section 5126.01 of the Revised Code, are to be provided under any 63531
of these components, any person or government entity with a 63532
current, valid medicaid provider agreement and a current, valid 63533
license under section 5123.19 or certificate under section 63534
~~5123.045~~ 5123.16 or 5126.431 of the Revised Code may provide the 63535
services. 63536

Sec. 5111.88. (A) As used in sections 5111.88 to 5111.8812 of 63537
the Revised Code: 63538

"Administrative agency" means the department of job and 63539
family services or, if the department assigns the day-to-day 63540
administration of the ICF/MR conversion pilot program to the 63541
department of mental retardation and developmental disabilities 63542
pursuant to section 5111.887 of the Revised Code, the department 63543
of mental retardation and developmental disabilities. 63544

"ICF/MR conversion pilot program" means the medicaid waiver 63545
component authorized by a waiver sought under division (B)(1) of 63546

this section. 63547

"ICF/MR services" means intermediate care facility for the 63548
mentally retarded services covered by the medicaid program that an 63549
intermediate care facility for the mentally retarded provides to a 63550
resident of the facility who is a medicaid recipient eligible for 63551
medicaid-covered intermediate care facility for the mentally 63552
retarded services. 63553

"Intermediate care facility for the mentally retarded" has 63554
the same meaning as in section 5111.20 of the Revised Code. 63555

"Medicaid waiver component" has the same meaning as in 63556
section 5111.85 of the Revised Code. 63557

(B) By July 1, 2006, or as soon thereafter as practical, but 63558
not later than January 1, 2007, the director of job and family 63559
services shall, after consulting with and receiving input from the 63560
ICF/MR conversion advisory council, submit both of the following 63561
to the United States secretary of health and human services: 63562

(1) An application for a waiver authorizing the ICF/MR 63563
conversion pilot program under which intermediate care facilities 63564
for the mentally retarded, other than such facilities operated by 63565
the department of mental retardation and developmental 63566
disabilities, may volunteer to convert from providing intermediate 63567
care facility for the mentally retarded services to providing home 63568
and community-based services and individuals with mental 63569
retardation or a developmental disability who are eligible for 63570
ICF/MR services may volunteer to receive instead home and 63571
community-based services; 63572

(2) An amendment to the state medicaid plan to authorize the 63573
director, beginning on the first day that the ICF/MR conversion 63574
pilot program begins implementation under section 5111.882 of the 63575
Revised Code and except as provided by section 5111.8811 of the 63576
Revised Code, to refuse to enter into or amend a medicaid provider 63577

agreement with the operator of an intermediate care facility for 63578
the mentally retarded if the provider agreement or amendment would 63579
authorize the operator to receive medicaid payments for more 63580
intermediate care facility for the mentally retarded beds than the 63581
operator receives on the day before that day. 63582

(C) The director shall notify the governor, speaker and 63583
minority leader of the house of representatives, and president and 63584
minority leader of the senate when the director submits the 63585
application for the ICF/MR conversion pilot program under division 63586
(B)(1) of this section and the amendment to the state medicaid 63587
plan under division (B)(2) of this section. The director is not 63588
required to submit the application and the amendment at the same 63589
time. 63590

Sec. 5111.881. (A) There is hereby created the ICF/MR 63591
conversion advisory council. The council shall consist of all of 63592
the following members: 63593

(1) Two members of the house of representatives appointed by 63594
the speaker of the house of representatives, each from a different 63595
political party; 63596

(2) Two members of the senate appointed by the president of 63597
the senate, each from a different political party; 63598

(3) The director of job and family services or the director's 63599
designee; 63600

(4) The director of mental retardation and developmental 63601
disabilities or the director's designee; 63602

(5) One representative of each of the following 63603
organizations, appointed by the organization: 63604

(a) Advocacy and protective services, incorporated; 63605

(b) The arc of Ohio; 63606

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|---|----------------------------------|
| <u>(c) The Ohio league for the mentally retarded;</u> | 63607 |
| <u>(d) People first of Ohio;</u> | 63608 |
| <u>(e) The Ohio association of county boards of mental retardation and developmental disabilities;</u> | 63609 63610 |
| <u>(f) The Ohio provider resource association;</u> | 63611 |
| <u>(g) The Ohio health care association;</u> | 63612 |
| <u>(h) The Ohio legal rights service;</u> | 63613 |
| <u>(i) The Ohio developmental disabilities council;</u> | 63614 |
| <u>(j) The cerebral palsy association of Ohio.</u> | 63615 |
| <u>(B) At least four members appointed to the ICF/MR conversion advisory council, other than the members appointed under division (A)(1) or (2) of this section, shall be either of the following:</u> | 63616 63617 63618 |
| <u>(1) A family member of an individual who, at the time of the family member's appointment, is a resident of an intermediate care facility for the mentally retarded;</u> | 63619 63620 63621 |
| <u>(2) An individual with mental retardation or a developmental disability.</u> | 63622 63623 |
| <u>(C) The speaker of the house of representatives and the president of the senate jointly shall appoint one of the members appointed under division (A)(1) or (2) of this section to serve as chair of the ICF/MR conversion advisory council.</u> | 63624 63625 63626 63627 |
| <u>(D) Members of the ICF/MR conversion advisory council shall receive no compensation for serving on the council.</u> | 63628 63629 |
| <u>(E) The ICF/MR conversion advisory council shall do all of the following:</u> | 63630 63631 |
| <u>(1) Consult with the director of job and family services before the director submits the application for the ICF/MR conversion pilot program and the amendment to the state medicaid plan under division (B) of section 5111.88 of the Revised Code;</u> | 63632 63633 63634 63635 |

(2) Consult with the administrative agency before the administrative agency makes adjustments to the program under division (F) of section 5111.882 of the Revised Code; 63636
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(3) Consult with the director of job and family services when the director adopts the rules for the program; 63639
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(4) Consult with the administrative agency when the administrative agency conducts the evaluation of the program and prepares the initial and final reports of the evaluation under section 5111.889 of the Revised Code. 63641
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(F) The ICF/MR conversion advisory council shall cease to exist on the issuance of the final report of the evaluation conducted under section 5111.889 of the Revised Code. 63645
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Sec. 5111.882. If the United States secretary of health and human services approves the waiver requested under division (B)(1) of section 5111.88 of the Revised Code, the administrative agency shall implement the ICF/MR conversion pilot program for not less than three years as follows: 63648
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(A) Permit no more than two hundred individuals to participate in the program at one time; 63653
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(B) Select, from among volunteers only, enough intermediate care facilities for the mentally retarded to convert from providing ICF/MR services to providing home and community-based services as necessary to accommodate each individual participating in the program and ensure that the facilities selected for conversion cease, except as provided by section 5111.8811 of the Revised Code, to provide any ICF/MR services once the conversion takes place; 63655
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(C) Subject to division (A) of this section, permit individuals who reside in an intermediate care facility for the mentally retarded that converts to providing home and 63663
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community-based services to choose whether to participate in the 63666
program or to transfer to another intermediate care facility for 63667
the mentally retarded that is not converting; 63668

(D) Ensure that no individual receiving ICF/MR services on 63669
the effective date of this section suffers an interruption in 63670
medicaid-covered services that the individual is eligible to 63671
receive; 63672

(E) Collect information as necessary for the evaluation 63673
required by section 5111.889 of the Revised Code; 63674

(F) After consulting with the ICF/MR conversion advisory 63675
council, make adjustments to the program that the administrative 63676
agency and, if the administrative agency is not the department of 63677
job and family services, the department agree are both necessary 63678
for the program to be implemented more effectively and consistent 63679
with the terms of the waiver authorizing the program. No 63680
adjustment may be made that expands the size or scope of the 63681
program. 63682

Sec. 5111.883. Each individual participating in the ICF/MR 63683
conversion pilot program shall receive home and community-based 63684
services pursuant to a written individual service plan that shall 63685
be created for the individual. The individual service plan shall 63686
provide for the individual to receive home and community-based 63687
services as necessary to meet the individual's health and welfare 63688
needs. 63689

Sec. 5111.884. Each individual participating in the ICF/MR 63690
conversion pilot program has the right to choose the qualified and 63691
willing provider from which the individual will receive home and 63692
community-based services provided under the program. 63693

Sec. 5111.885. The administrative agency shall inform each 63694

individual participating in the ICF/MR conversion pilot program of 63695
the individual's right to a state hearing under section 5101.35 of 63696
the Revised Code regarding a decision or order the administrative 63697
agency makes concerning the individual's participation in the 63698
program. 63699

Sec. 5111.886. The department of mental retardation and 63700
developmental disabilities may not convert any of the intermediate 63701
care facilities for the mentally retarded that the department 63702
operates to a provider of home and community-based services under 63703
the ICF/MR conversion pilot program. 63704

Sec. 5111.887. (A) If the United States secretary of health 63705
and human services approves the waiver requested under division 63706
(B)(1) of section 5111.88 of the Revised Code, the department of 63707
job and family services may do both of the following: 63708

(1) Contract with the department of mental retardation and 63709
developmental disabilities under section 5111.91 of the Revised 63710
Code to assign the day-to-day administration of the ICF/MR 63711
conversion pilot program to the department of mental retardation 63712
and developmental disabilities; 63713

(2) Transfer funds to pay for the nonfederal share of the 63714
costs of the ICF/MR conversion pilot program to the department of 63715
mental retardation and developmental disabilities. 63716

(B) If the department of job and family services takes both 63717
actions authorized by division (A) of this section, the department 63718
of mental retardation and developmental disabilities shall be 63719
responsible for paying the nonfederal share of the costs of the 63720
ICF/MR conversion pilot program. 63721

Sec. 5111.888. The director of job and family services, in 63722
consultation with the ICF/MR conversion advisory council, shall 63723

adopt rules under section 5111.85 of the Revised Code as necessary 63724
to implement the ICF/MR conversion pilot program, including rules 63725
establishing both of the following: 63726

(A) The type, amount, duration, and scope of home and 63727
community-based services provided under the program; 63728

(B) The amount the program pays for the home and 63729
community-based services or the method by which the amount is 63730
determined. 63731

Sec. 5111.889. (A) The administrative agency, in consultation 63732
with the ICF/MR conversion advisory council, shall conduct an 63733
evaluation of the ICF/MR conversion pilot program. All of the 63734
following shall be examined as part of the evaluation: 63735

(1) The effectiveness of the home and community-based 63736
services provided under the program in meeting the health and 63737
welfare needs of the individuals participating in the program as 63738
identified in the individuals' written individual service plans; 63739

(2) The satisfaction of the individuals participating in the 63740
program with the home and community-based services; 63741

(3) The impact that the conversion from providing ICF/MR 63742
services to providing home and community-based services has on the 63743
intermediate care facilities for the mentally retarded that 63744
convert; 63745

(4) The program's cost effectiveness, including 63746
administrative cost effectiveness; 63747

(5) Feedback about the program from the individuals 63748
participating in the program, such individuals' families and 63749
guardians, county boards of mental retardation and developmental 63750
disabilities, and providers of home and community-based services 63751
under the program; 63752

(6) Other matters the administrative agency considers 63753
appropriate for evaluation. 63754

(B) The administrative agency, in consultation with the 63755
ICF/MR conversion advisory council, shall prepare two reports of 63756
the evaluation conducted under this section. The initial report 63757
shall be finished not sooner than the last day of the ICF/MR 63758
conversion pilot program's first year of operation. The final 63759
report shall be finished not sooner than the last day of the 63760
program's second year of operation. The administrative agency 63761
shall provide a copy of each report to the governor, president and 63762
minority leader of the senate, and speaker and minority leader of 63763
the house of representatives. 63764

Sec. 5111.8810. The ICF/MR conversion pilot program shall not 63765
be implemented statewide unless the general assembly enacts law 63766
authorizing the statewide implementation. 63767

Sec. 5111.8811. An intermediate care facility for the 63768
mentally retarded that converts from providing ICF/MR services to 63769
providing home and community-based services under the ICF/MR 63770
conversion pilot program may reconvert to providing ICF/MR 63771
services after the program terminates unless either of the 63772
following is the case: 63773

(A) The program, following the general assembly's enactment 63774
of law authorizing the program's statewide implementation, is 63775
implemented statewide; 63776

(B) The facility no longer meets the requirements for 63777
certification as an intermediate care facility for the mentally 63778
retarded. 63779

Sec. 5111.8812. (A) Subject to division (B) of this section 63780
and beginning not later than two and one-half years after the date 63781

the ICF/MR conversion pilot program terminates, the department of 63782
mental retardation and developmental disabilities shall be 63783
responsible for a portion of the nonfederal share of medicaid 63784
expenditures for ICF/MR services provided by an intermediate care 63785
facility for the mentally retarded that reconverts to providing 63786
ICF/MR services under section 5111.8811 of the Revised Code. The 63787
portion for which the department shall be responsible shall be the 63788
portion that the department and department of job and family 63789
services specify in an agreement. 63790

(B) The department of mental retardation and developmental 63791
disabilities shall not be responsible for any portion of the 63792
nonfederal share of medicaid expenditures for ICF/MR services 63793
incurred for any beds of an intermediate care facility for the 63794
mentally retarded that are in excess of the number of beds the 63795
facility had while participating in the ICF/MR conversion pilot 63796
program. 63797

Sec. 5111.89. (A) As used in sections 5111.89 to 5111.893 of 63798
the Revised Code: 63799

"Assisted living program" means the medicaid waiver component 63800
for which the director of job and family services is authorized by 63801
this section to request a medicaid waiver. 63802

"Assisted living services" means the following home and 63803
community-based services: personal care, homemaker, chore, 63804
attendant care, companion, medication oversight, and therapeutic 63805
social and recreational programming. 63806

"County or district home" means a county or district home 63807
operated under Chapter 5155. of the Revised Code. 63808

"Medicaid waiver component" has the same meaning as in 63809
section 5111.85 of the Revised Code. 63810

"Nursing facility" has the same meaning as in section 5111.20 63811

of the Revised Code. 63812

"Residential care facility" has the same meaning as in 63813
section 3721.01 of the Revised Code. 63814

(B) The director of job and family services may submit a 63815
request to the United States secretary of health and human 63816
services under 42 U.S.C. 1396n to obtain a waiver of federal 63817
medicaid requirements that would otherwise be violated in the 63818
creation and implementation of a program under which assisted 63819
living services are provided to not more than one thousand eight 63820
hundred individuals who meet the program's eligibility 63821
requirements established under section 5111.891 of the Revised 63822
Code. 63823

If the secretary approves the medicaid waiver requested under 63824
this section and the director of budget and management approves 63825
the contract, the department of job and family services shall 63826
enter into a contract with the department of aging under section 63827
5111.91 of the Revised Code that provides for the department of 63828
aging to administer the assisted living program. The contract 63829
shall include an estimate of the program's costs. 63830

The director of job and family services may adopt rules under 63831
section 5111.85 of the Revised Code regarding the assisted living 63832
program. The director of aging may adopt rules under Chapter 119. 63833
of the Revised Code regarding the program that the rules adopted 63834
by the director of job and family services authorize the director 63835
of aging to adopt. 63836

Sec. 5111.891. To be eligible for the assisted living 63837
program, an individual must meet all of the following 63838
requirements: 63839

(A) Need an intermediate level of care as determined under 63840
rule 5101:3-3-06 of the Administrative Code; 63841

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|---|-------|
| <u>(B) At the time the individual applies for the assisted living program, be one of the following:</u> | 63842 |
| | 63843 |
| <u>(1) A nursing facility resident who is seeking to move to a residential care facility and would remain in a nursing facility for long term care if not for the assisted living program;</u> | 63844 |
| | 63845 |
| | 63846 |
| <u>(2) A participant of any of the following medicaid waiver components who would move to a nursing facility if not for the assisted living program:</u> | 63847 |
| | 63848 |
| | 63849 |
| <u>(a) The PASSPORT program created under section 173.40 of the Revised Code;</u> | 63850 |
| | 63851 |
| <u>(b) The medicaid waiver component called the choices program that the department of aging administers;</u> | 63852 |
| | 63853 |
| <u>(c) A medicaid waiver component that the department of job and family services administers.</u> | 63854 |
| | 63855 |
| <u>(C) At the time the individual receives assisted living services under the assisted living program, reside in a residential care facility, including both of the following:</u> | 63856 |
| | 63857 |
| | 63858 |
| <u>(1) A residential care facility that is owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating subsidy or rental assistance for the residents of the facility;</u> | 63859 |
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| <u>(2) A county or district home licensed as a residential care facility.</u> | 63864 |
| | 63865 |
| <u>(D) Meet all other eligibility requirements for the assisted living program established in rules adopted under section 5111.85 of the Revised Code.</u> | 63866 |
| | 63867 |
| | 63868 |
| <u>Sec. 5111.892. A residential care facility providing services covered by the assisted living program to an individual enrolled</u> | 63869 |
| | 63870 |

in the program shall have staff on-site twenty-four hours each day 63871
who are able to do all of the following: 63872

(A) Meet the scheduled and unpredicted needs of the 63873
individuals enrolled in the assisted living program in a manner 63874
that promotes the individuals' dignity and independence; 63875

(B) Provide supervision services for those individuals; 63876

(C) Help keep the individuals safe and secure. 63877

Sec. 5111.893. If the United States secretary of health and 63878
human services approves a medicaid waiver authorizing the assisted 63879
living program, the director of aging shall contract with a person 63880
or government entity to evaluate the program's cost effectiveness. 63881
The director shall provide the results of the evaluation to the 63882
governor, president and minority leader of the senate, and speaker 63883
and minority leader of the house of representatives not later than 63884
June 30, 2007. 63885

Sec. 5111.914. (A) As used in this section, "provider" has 63886
the same meaning as in section 5111.06 of the Revised Code. 63887

(B) If a state agency that enters into a contract with the 63888
department of job and family services under section 5111.91 of the 63889
Revised Code identifies that a medicaid overpayment has been made 63890
to a provider, the state agency may commence actions to recover 63891
the overpayment on behalf of the department. 63892

(C) In recovering an overpayment pursuant to this section, a 63893
state agency shall comply with the following procedures: 63894

(1) The state agency shall attempt to recover the overpayment 63895
by notifying the provider of the overpayment and requesting 63896
voluntary repayment. Not later than five business days after 63897
notifying the provider, the state agency shall notify the 63898
department in writing of the overpayment. The state agency may 63899

negotiate a settlement of the overpayment and notify the 63900
department of the settlement. A settlement negotiated by the state 63901
agency is not valid and shall not be implemented until the 63902
department has given its written approval of the settlement. 63903

(2) If the state agency is unable to obtain voluntary 63904
repayment of an overpayment, the agency shall give the provider 63905
notice of an opportunity for a hearing in accordance with Chapter 63906
119. of the Revised Code. If the provider timely requests a 63907
hearing in accordance with section 119.07 of the Revised Code, the 63908
state agency shall conduct the hearing to determine the legal and 63909
factual validity of the overpayment. On completion of the hearing, 63910
the state agency shall submit its hearing officer's report and 63911
recommendation and the complete record of proceedings, including 63912
all transcripts, to the director of job and family services for 63913
final adjudication. The director may issue a final adjudication 63914
order in accordance with Chapter 119. of the Revised Code. The 63915
state agency shall pay any attorney's fees imposed under section 63916
119.092 of the Revised Code. The department of job and family 63917
services shall pay any attorney's fees imposed under section 63918
2335.39 of the Revised Code. 63919

(D) In any action taken by a state agency under this section 63920
that requires the agency to give notice of an opportunity for a 63921
hearing in accordance with Chapter 119. of the Revised Code, if 63922
the agency gives notice of the opportunity for a hearing but the 63923
provider subject to the notice does not request a hearing or 63924
timely request a hearing in accordance with section 119.07 of the 63925
Revised Code, the agency is not required to hold a hearing. The 63926
agency may request that the director of job and family services 63927
issue a final adjudication order in accordance with Chapter 119. 63928
of the Revised Code. 63929

(E) This section does not preclude the department of job and 63930
family services from adjudicating a final fiscal audit under 63931

section 5111.06 of the Revised Code, recovering overpayments under 63932
section 5111.061 of the Revised Code, or making findings or taking 63933
other actions authorized by this chapter. 63934

Sec. 5111.915. (A) The department of job and family services 63935
shall enter into an agreement with the department of 63936
administrative services for the department of administrative 63937
services to contract through competitive selection pursuant to 63938
section 125.07 of the Revised Code with a vendor to perform an 63939
assessment of the data collection and data warehouse functions of 63940
the medicaid data warehouse system, including the ability to link 63941
the data sets of all agencies serving medicaid recipients. 63942

The assessment of the data system shall include functions 63943
related to fraud and abuse detection, program management and 63944
budgeting, and performance measurement capabilities of all 63945
agencies serving medicaid recipients, including the departments of 63946
aging, alcohol and drug addiction services, health, job and family 63947
services, mental health, and mental retardation and developmental 63948
disabilities. 63949

The department of administrative services shall enter into 63950
this contract within thirty days after the effective date of this 63951
section. The contract shall require the vendor to complete the 63952
assessment within ninety days after the effective date of this 63953
section. 63954

A qualified vendor with whom the department of administrative 63955
services contracts to assess the data system shall also assist the 63956
medicaid agencies in the definition of the requirements for an 63957
enhanced data system or a new data system and assist the 63958
department of administrative services in the preparation of a 63959
request for proposal to enhance or develop a data system. 63960

(B) Based on the assessment performed pursuant to division 63961
(A) of this section, the department of administrative services 63962

shall seek a qualified vendor through competitive selection 63963
pursuant to section 125.07 of the Revised Code to develop or 63964
enhance a data collection and data warehouse system for the 63965
department of job and family services and all agencies serving 63966
medicaid recipients. 63967

Within ninety days after the effective date of this section, 63968
the department of job and family services shall seek enhanced 63969
federal funding for ninety per cent of the funds required to 63970
establish or enhance the data system. The department of 63971
administrative services shall not award a contract for 63972
establishing or enhancing the data system until the department of 63973
job and family services receives approval from the secretary of 63974
the United States department of health and human services for the 63975
ninety per cent federal match. 63976

Sec. ~~5111.88~~ 5111.97. (A) As used in this section and in 63977
section 5111.971 of the Revised Code, "nursing facility" has the 63978
same meaning as in section 5111.20 of the Revised Code. 63979

(B) To the extent funds are available, the director of job 63980
and family services may establish the Ohio access success project 63981
to help medicaid recipients make the transition from residing in a 63982
nursing facility to residing in a community setting. The program 63983
may be established as a separate non-medicaid program or 63984
integrated into a new or existing program of medicaid-funded home 63985
and community-based services authorized by a waiver approved by 63986
the United States department of health and human services. ~~The~~ 63987
~~department~~ The director shall permit any recipient of 63988
medicaid-funded nursing facility services to apply for 63989
participation in the program, but may limit the number of program 63990
participants. If an application is received before the applicant 63991
has been a recipient of medicaid-funded nursing facility services 63992
for six months, the director shall ensure that an assessment is 63993

conducted as soon as practicable to determine whether the 63994
applicant is eligible for participation in the program. To the 63995
maximum extent possible, the assessment and eligibility 63996
determination shall be completed not later than the date that 63997
occurs six months after the applicant became a recipient of 63998
medicaid-funded nursing facility services. 63999

(C) To be eligible for benefits under the project, a medicaid 64000
recipient must satisfy all of the following requirements: 64001

(1) Be a recipient of medicaid-funded nursing facility 64002
services, at the time of applying for the benefits; 64003

~~(2) Have resided continuously in a nursing facility for not~~ 64004
~~less than eighteen months prior to applying to participate in the~~ 64005
~~project;~~ 64006

~~(3) Need the level of care provided by nursing facilities;~~ 64007

~~(4)~~ (3) For participation in a non-medicaid program, receive 64008
services to remain in the community with a projected cost not 64009
exceeding eighty per cent of the average monthly medicaid cost of 64010
a medicaid recipient in a nursing facility; 64011

~~(5)~~ (4) For participation in a program established as part of 64012
a medicaid-funded home and community-based services waiver 64013
program, meet waiver enrollment criteria. 64014

~~(C)~~ (D) If the director establishes the Ohio access success 64015
project, the benefits provided under the project may include 64016
payment of all of the following: 64017

(1) The first month's rent in a community setting; 64018

(2) Rental deposits; 64019

(3) Utility deposits; 64020

(4) Moving expenses; 64021

(5) Other expenses not covered by the medicaid program that 64022

facilitate a medicaid recipient's move from a nursing facility to 64023
a community setting. 64024

~~(D)~~ (E) If the project is established as a non-medicaid 64025
program, no participant may receive more than two thousand dollars 64026
worth of benefits under the project. 64027

~~(E)~~ (F) The director may submit a request to the United 64028
States secretary of health and human services pursuant to section 64029
1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 64030
1396n, as amended, to create a medicaid home and community-based 64031
services waiver program to serve individuals who meet the criteria 64032
for participation in the Ohio access success project. The director 64033
may adopt rules under Chapter 119. of the Revised Code for the 64034
administration and operation of the program. 64035

Sec. 5111.971. (A) As used in this section, "long-term 64036
medicaid waiver component" means any of the following: 64037

(1) The PASSPORT program created under section 173.40 of the 64038
Revised Code; 64039

(2) The medicaid waiver component called the choices program 64040
that the department of aging administers; 64041

(3) A medicaid waiver component that the department of job 64042
and family services administers. 64043

(B) The director of job and family services shall submit a 64044
request to the United States secretary of health and human 64045
services for a waiver of federal medicaid requirements that would 64046
be otherwise violated in the creation of a pilot program under 64047
which not more than two hundred individuals who meet the pilot 64048
program's eligibility requirements specified in division (D) of 64049
this section receive a spending authorization to pay for the cost 64050
of medically necessary health care services that the pilot program 64051
covers. The spending authorization shall be in an amount not 64052

exceeding seventy per cent of the average cost under the medicaid 64053
program for providing nursing facility services to an individual. 64054
An individual participating in the pilot program shall also 64055
receive necessary support services, including fiscal intermediary 64056
and other case management services, that the pilot program covers. 64057

(C) If the United States secretary of health and human 64058
services approves the waiver submitted under division (B) of this 64059
section, the department of job and family services shall enter 64060
into a contract with the department of aging under section 5111.91 64061
of the Revised Code that provides for the department of aging to 64062
administer the pilot program that the waiver authorizes. 64063

(D) To be eligible to participate in the pilot program 64064
created under division (B) of this section, an individual must 64065
meet all of the following requirements: 64066

(1) Need an intermediate level of care as determined under 64067
rule 5101:3-3-06 of the Administrative Code; 64068

(2) At the time the individual applies to participate in the 64069
pilot program, be one of the following: 64070

(a) A nursing facility resident who is seeking to move to a 64071
residential care facility or county or district home and who would 64072
remain in a nursing facility if not for the pilot program; 64073

(b) A participant of any long-term medicaid waiver component 64074
who would move to a nursing facility if not for the pilot program. 64075

(3) Meet all other eligibility requirements for the pilot 64076
program established in rules adopted under section 5111.85 of the 64077
Revised Code. 64078

(E) The director of job and family services may adopt rules 64079
under section 5111.85 of the Revised Code as the director 64080
considers necessary to implement the pilot program created under 64081
division (B) of this section. The director of aging may adopt 64082

rules under Chapter 119. of the Revised Code as the director 64083
considers necessary for the pilot program's implementation. The 64084
rules may establish a list of medicaid-covered services not 64085
covered by the pilot program that an individual participating in 64086
the pilot program may not receive if the individual also receives 64087
medicaid-covered services outside of the pilot program. 64088

Sec. 5111.98. (A) The director of job and family services may 64089
do all of the following as necessary for the department of job and 64090
family services to fulfill the duties it has, as the single state 64091
agency for the medicaid program, under the "Medicare Prescription 64092
Drug, Improvement, and Modernization Act of 2003" Pub. L. No. 64093
108-173, 117 Stat. 2066: 64094

(1) Adopt rules; 64095

(2) Assign duties to county departments of job and family 64096
services; 64097

(3) Make payments to the United States department of health 64098
and human services from appropriations made to the department of 64099
job and family services for this purpose. 64100

(B) Rules adopted under division (A)(1) of this section shall 64101
be adopted as follows: 64102

(1) If the rules concern the department's duties regarding 64103
service providers, in accordance with Chapter 119. of the Revised 64104
Code; 64105

(2) If the rules concern the department's duties concerning 64106
individuals' eligibility for services, in accordance with section 64107
111.15 of the Revised Code; 64108

(3) If the rules concern the department's duties concerning 64109
financial and operational matters between the department and 64110
county departments of job and family services, in accordance with 64111
section 111.15 of the Revised Code as if the rules were internal 64112

management rules. 64113

Sec. 5111.99. (A) Whoever violates division (B) of section 64114
5111.26 or division ~~(D)~~(E) of section 5111.31 of the Revised Code 64115
shall be fined not less than five hundred dollars nor more than 64116
one thousand dollars for the first offense and not less than one 64117
thousand dollars nor more than five thousand dollars for each 64118
subsequent offense. Fines paid under this section shall be 64119
deposited in the state treasury to the credit of the general 64120
revenue fund. 64121

(B) Whoever violates division (D) of section 5111.61 of the 64122
Revised Code is guilty of registering a false complaint, a 64123
misdemeanor of the first degree. 64124

Sec. 5112.03. (A) The director of job and family services 64125
shall adopt, and may amend and rescind, rules in accordance with 64126
Chapter 119. of the Revised Code for the purpose of administering 64127
sections 5112.01 to 5112.21 of the Revised Code, including rules 64128
that do all of the following: 64129

(1) Define as a "disproportionate share hospital" any 64130
hospital included under subsection (b) of section 1923 of the 64131
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 64132
1396r-4(b), as amended, and any other hospital the director 64133
determines appropriate; 64134

(2) Prescribe the form for submission of cost reports under 64135
section 5112.04 of the Revised Code; 64136

(3) Establish, in accordance with division (A) of section 64137
5112.06 of the Revised Code, the assessment rate or rates to be 64138
applied to hospitals under that section; 64139

(4) Establish schedules for hospitals to pay installments on 64140
their assessments under section 5112.06 of the Revised Code and 64141
for governmental hospitals to pay installments on their 64142

intergovernmental transfers under section 5112.07 of the Revised Code; 64143
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(5) Establish procedures to notify hospitals of adjustments made under division (B)(2)(b) of section 5112.06 of the Revised Code in the amount of installments on their assessment; 64145
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(6) Establish procedures to notify hospitals of adjustments made under division (D) of section 5112.09 of the Revised Code in the total amount of their assessment and to adjust for the remainder of the program year the amount of the installments on the assessments; 64148
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(7) Establish, in accordance with section 5112.08 of the Revised Code, the methodology for paying hospitals under that section. 64153
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The director shall consult with hospitals when adopting the rules required by divisions (A)(4) and (5) of this section in order to minimize hospitals' cash flow difficulties. 64156
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(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following: 64159
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(1) Recipients of the medical assistance program; 64162

(2) Recipients of financial assistance provided under Chapter 5115. of the Revised Code; 64163
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~~(3) Recipients of medical assistance provided under Chapter 5115. of the Revised Code;~~ 64165
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~~(4)~~ Recipients of the program for medically handicapped children established under section 3701.023 of the Revised Code; 64167
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~~(5)~~(4) Recipients of the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended: 64169
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~~(6)~~(5) Recipients of Title V of the "Social Security Act"; 64172

~~(7)~~(6) Any other category of costs deemed appropriate by the 64173
director in accordance with Title XIX of the "Social Security Act" 64174
and the rules adopted under that title. 64175

Sec. 5112.08. The director of job and family services shall 64176
adopt rules under section 5112.03 of the Revised Code establishing 64177
a methodology to pay hospitals that is sufficient to expend all 64178
money in the indigent care pool. Under the rules: 64179

(A) The department of job and family services may classify 64180
similar hospitals into groups and allocate funds for distribution 64181
within each group. 64182

(B) The department shall establish a method of allocating 64183
funds to hospitals, taking into consideration the relative amount 64184
of indigent care provided by each hospital or group of hospitals. 64185
The amount to be allocated shall be based on any combination of 64186
the following indicators of indigent care that the director 64187
considers appropriate: 64188

(1) Total costs, volume, or proportion of services to 64189
recipients of the medical assistance program, including recipients 64190
enrolled in health insuring corporations; 64191

(2) Total costs, volume, or proportion of services to 64192
low-income patients in addition to recipients of the medical 64193
assistance program, which may include recipients of Title V of the 64194
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 64195
amended, ~~and~~ recipients of disability financial ~~or medical~~ 64196
assistance provided under Chapter 5115. of the Revised Code, and 64197
recipients of disability medical assistance formerly provided 64198
under Chapter 5115. of the Revised Code; 64199

(3) The amount of uncompensated care provided by the hospital 64200
or group of hospitals; 64201

(4) Other factors that the director considers to be 64202

appropriate indicators of indigent care. 64203

(C) The department shall distribute funds to each hospital or 64204
group of hospitals in a manner that first may provide for an 64205
additional distribution to individual hospitals that provide a 64206
high proportion of indigent care in relation to the total care 64207
provided by the hospital or in relation to other hospitals. The 64208
department shall establish a formula to distribute the remainder 64209
of the funds. The formula shall be consistent with section 1923 of 64210
the "Social Security Act," 42 U.S.C.A. 1396r-4, as amended, shall 64211
be based on any combination of the indicators of indigent care 64212
listed in division (B) of this section that the director considers 64213
appropriate. 64214

(D) The department shall distribute funds to each hospital in 64215
installments not later than ten working days after the deadline 64216
established in rules for each hospital to pay an installment on 64217
its assessment under section 5112.06 of the Revised Code. In the 64218
case of a governmental hospital that makes intergovernmental 64219
transfers, the department shall pay an installment under this 64220
section not later than ten working days after the earlier of that 64221
deadline or the deadline established in rules for the governmental 64222
hospital to pay an installment on its intergovernmental transfer. 64223
If the amount in the hospital care assurance program fund and the 64224
hospital care assurance match fund created under section 5112.18 64225
of the Revised Code is insufficient to make the total 64226
distributions for which hospitals are eligible to receive in any 64227
period, the department shall reduce the amount of each 64228
distribution by the percentage by which the amount is 64229
insufficient. The department shall distribute to hospitals any 64230
amounts not distributed in the period in which they are due as 64231
soon as moneys are available in the funds. 64232

Sec. 5112.17. (A) As used in this section: 64233

(1) "Federal poverty guideline" means the official poverty guideline as revised annually by the United States secretary of health and human services in accordance with section 673 of the "Community Service Block Grant Act," 95 Stat. 511 (1981), 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(2) "Third-party payer" means any private or public entity or program that may be liable by law or contract to make payment to or on behalf of an individual for health care services. "Third-party payer" does not include a hospital.

(B) Each hospital that receives funds distributed under sections 5112.01 to 5112.21 of the Revised Code shall provide, without charge to the individual, basic, medically necessary hospital-level services to individuals who are residents of this state, are not recipients of the medical assistance program, and whose income is at or below the federal poverty guideline. Recipients of disability financial assistance ~~and recipients of disability medical assistance~~ provided under Chapter 5115. of the Revised Code qualify for services under this section. The director of job and family services shall adopt rules under section 5112.03 of the Revised Code specifying the hospital services to be provided under this section.

(C) Nothing in this section shall be construed to prevent a hospital from requiring an individual to apply for eligibility under the medical assistance program before the hospital processes an application under this section. Hospitals may bill any third-party payer for services rendered under this section. Hospitals may bill the medical assistance program, in accordance with Chapter 5111. of the Revised Code and the rules adopted under that chapter, for services rendered under this section if the individual becomes a recipient of the program. Hospitals may bill individuals for services under this section if all of the

following apply: 64266

(1) The hospital has an established post-billing procedure 64267
for determining the individual's income and canceling the charges 64268
if the individual is found to qualify for services under this 64269
section. 64270

(2) The initial bill, and at least the first follow-up bill, 64271
is accompanied by a written statement that does all of the 64272
following: 64273

(a) Explains that individuals with income at or below the 64274
federal poverty guideline are eligible for services without 64275
charge; 64276

(b) Specifies the federal poverty guideline for individuals 64277
and families of various sizes at the time the bill is sent; 64278

(c) Describes the procedure required by division (C)(1) of 64279
this section. 64280

(3) The hospital complies with any additional rules the 64281
department adopts under section 5112.03 of the Revised Code. 64282

Notwithstanding division (B) of this section, a hospital 64283
providing care to an individual under this section is subrogated 64284
to the rights of any individual to receive compensation or 64285
benefits from any person or governmental entity for the hospital 64286
goods and services rendered. 64287

(D) Each hospital shall collect and report to the department, 64288
in the form and manner prescribed by the department, information 64289
on the number and identity of patients served pursuant to this 64290
section. 64291

(E) This section applies beginning May 22, 1992, regardless 64292
of whether the department has adopted rules specifying the 64293
services to be provided. Nothing in this section alters the scope 64294
or limits the obligation of any governmental entity or program, 64295

including the program awarding reparations to victims of crime 64296
under sections 2743.51 to 2743.72 of the Revised Code and the 64297
program for medically handicapped children established under 64298
section 3701.023 of the Revised Code, to pay for hospital services 64299
in accordance with state or local law. 64300

Sec. 5112.30. As used in sections 5112.30 to 5112.39 of the 64301
Revised Code, ~~"intermediate:~~ 64302

(A) "Intermediate care facility for the mentally retarded" 64303
has the same meaning as in section 5111.20 of the Revised Code, 64304
except that it does not include any such facility operated by the 64305
department of mental retardation and developmental disabilities. 64306

(B) "Medicaid" has the same meaning as in section 5111.01 of 64307
the Revised Code. 64308

Sec. 5112.31. The department of job and family services shall 64309
do all of the following: 64310

(A) For the purpose of providing home and community-based 64311
services for mentally retarded and developmentally disabled 64312
persons, annually assess each intermediate care facility for the 64313
mentally retarded a franchise permit fee equal to nine dollars and 64314
sixty-three cents multiplied by the product of the following: 64315

(1) The number of beds certified under Title XIX of the 64316
"Social Security Act" on the first day of May of the calendar year 64317
in which the assessment is determined pursuant to division (A) of 64318
section 5112.33 of the Revised Code; 64319

(2) The number of days in the fiscal year beginning on the 64320
first day of July of the same calendar year. 64321

(B) Beginning July 1, ~~2005~~ 2007, and the first day of each 64322
July thereafter, adjust fees determined under division (A) of this 64323
section in accordance with the composite inflation factor 64324

established in rules adopted under section 5112.39 of the Revised Code. 64325
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(C) If the United States secretary of health and human services determines that the franchise permit fee established by sections 5112.30 to 5112.39 of the Revised Code would be an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 42 U.S.C.A. 1396b(w), as amended, ~~the department shall~~ take all necessary actions to cease implementation of those sections in accordance with rules adopted under section 5112.39 of the Revised Code. 64327
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Sec. 5112.341. (A) In addition to assessing a penalty pursuant to section 5112.34 of the Revised Code, the department of job and family services may do either of the following if an intermediate care facility for the mentally retarded fails to pay the full amount of a franchise permit fee installment when due: 64335
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(1) Withhold an amount equal to the installment and penalty assessed under section 5112.34 of the Revised Code from a medicaid payment due the facility until the facility pays the installment and penalty; 64340
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(2) Terminate the facility's medicaid provider agreement. 64344

(B) The department may withhold a medicaid payment under division (A)(1) of this section without providing notice to the intermediate care facility for the mentally retarded and without conducting an adjudication under Chapter 119. of the Revised Code. 64345
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Sec. 5115.20. (A) The department of job and family services shall establish a disability advocacy program and each county department of job and family services shall establish a disability advocacy program unit or join with other county departments of job and family services to establish a joint county disability advocacy program unit. Through the program the department and 64349
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county departments shall cooperate in efforts to assist applicants 64355
for and recipients of assistance under the disability financial 64356
assistance program ~~and the disability medical assistance program,~~ 64357
who might be eligible for supplemental security income benefits 64358
under Title XVI of the "Social Security Act," 86 Stat. 1475 64359
(1972), 42 U.S.C.A. 1383, as amended, in applying for those 64360
benefits. 64361

As part of their disability advocacy programs, the state 64362
department and county departments may enter into contracts for the 64363
services of persons and government entities that in the judgment 64364
of the department or county department have demonstrated expertise 64365
in representing persons seeking supplemental security income 64366
benefits. Each contract shall require the person or entity with 64367
which a department contracts to assess each person referred to it 64368
by the department to determine whether the person appears to be 64369
eligible for supplemental security income benefits, and, if the 64370
person appears to be eligible, assist the person in applying and 64371
represent the person in any proceeding of the social security 64372
administration, including any appeal or reconsideration of a 64373
denial of benefits. The department or county department shall 64374
provide to the person or entity with which it contracts all 64375
records in its possession relevant to the application for 64376
supplemental security income benefits. The department shall 64377
require a county department with relevant records to submit them 64378
to the person or entity. 64379

(B) Each applicant for or recipient of disability financial 64380
assistance ~~or disability medical assistance~~ who, in the judgment 64381
of the department or a county department might be eligible for 64382
supplemental security benefits, shall, as a condition of 64383
eligibility for assistance, apply for such benefits if directed to 64384
do so by the department or county department. 64385

(C) With regard to applicants for and recipients of 64386

disability financial assistance ~~or disability medical assistance~~, 64387
each county department of job and family services shall do all of 64388
the following: 64389

(1) Identify applicants and recipients who might be eligible 64390
for supplemental security income benefits; 64391

(2) Assist applicants and recipients in securing 64392
documentation of disabling conditions or refer them for such 64393
assistance to a person or government entity with which the 64394
department or county department has contracted under division (A) 64395
of this section; 64396

(3) Inform applicants and recipients of available sources of 64397
representation, which may include a person or government entity 64398
with which the department or county department has contracted 64399
under division (A) of this section, and of their right to 64400
represent themselves in reconsiderations and appeals of social 64401
security administration decisions that deny them supplemental 64402
security income benefits. The county department may require the 64403
applicants and recipients, as a condition of eligibility for 64404
assistance, to pursue reconsiderations and appeals of social 64405
security administration decisions that deny them supplemental 64406
security income benefits, and shall assist applicants and 64407
recipients as necessary to obtain such benefits or refer them to a 64408
person or government entity with which the department or county 64409
department has contracted under division (A) of this section. 64410

(4) Require applicants and recipients who, in the judgment of 64411
the county department, are or may be aged, blind, or disabled, to 64412
apply for medical assistance under Chapter 5111. of the Revised 64413
Code, make determinations when appropriate as to eligibility for 64414
medical assistance, and refer their applications when necessary to 64415
the disability determination unit established in accordance with 64416
division (F) of this section for expedited review; 64417

(5) Require each applicant and recipient who in the judgment of the department or the county department might be eligible for supplemental security income benefits, as a condition of eligibility for disability financial assistance ~~or disability medical assistance~~, to execute a written authorization for the secretary of health and human services to withhold benefits due that individual and pay to the director of job and family services or the director's designee an amount sufficient to reimburse the state and county shares of interim assistance furnished to the individual. For the purposes of division (C)(5) of this section, "benefits" and "interim assistance" have the meanings given in Title XVI of the "Social Security Act."

(D) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code for the effective administration of the disability advocacy program. The rules shall include all of the following:

(1) Methods to be used in collecting information from and disseminating it to county departments, including the following:

(a) The number of individuals in the county who are disabled recipients of disability financial assistance ~~or disability medical assistance~~;

(b) The final decision made either by the social security administration or by a court for each application or reconsideration in which an individual was assisted pursuant to this section.

(2) The type and process of training to be provided by the department of job and family services to the employees of the county department of job and family services who perform duties under this section;

(3) Requirements for the written authorization required by division (C)(5) of this section.

(E) The department shall provide basic and continuing 64449
training to employees of the county department of job and family 64450
services who perform duties under this section. Training shall 64451
include but not be limited to all processes necessary to obtain 64452
federal disability benefits, and methods of advocacy. 64453

(F) The department shall establish a disability determination 64454
unit and develop guidelines for expediting reviews of applications 64455
for medical assistance under Chapter 5111. of the Revised Code for 64456
persons who have been referred to the unit under division (C)(4) 64457
of this section. The department shall make determinations of 64458
eligibility for medical assistance for any such person within the 64459
time prescribed by federal regulations. 64460

(G) The department may, under rules the director of job and 64461
family services adopts in accordance with section 111.15 of the 64462
Revised Code, pay a portion of the federal reimbursement described 64463
in division (C)(5) of this section to persons or government 64464
entities that assist or represent assistance recipients in 64465
reconsiderations and appeals of social security administration 64466
decisions denying them supplemental security income benefits. 64467

(H) The director shall conduct investigations to determine 64468
whether disability advocacy programs are being administered in 64469
compliance with the Revised Code and the rules adopted by the 64470
director pursuant to this section. 64471

Sec. 5115.22. (A) If a recipient of disability financial 64472
assistance ~~or disability medical assistance~~, or an individual 64473
whose income and resources are included in determining the 64474
recipient's eligibility for the assistance, becomes possessed of 64475
resources or income in excess of the amount allowed to retain 64476
eligibility, or if other changes occur that affect the recipient's 64477
eligibility or need for assistance, the recipient shall notify the 64478
state or county department of job and family services within the 64479

time limits specified in rules adopted by the director of job and 64480
family services in accordance with section 111.15 of the Revised 64481
Code. Failure of a recipient to report possession of excess 64482
resources or income or a change affecting eligibility or need 64483
within those time limits shall be considered prima-facie evidence 64484
of intent to defraud under section 5115.23 of the Revised Code. 64485

(B) As a condition of eligibility for disability financial 64486
assistance ~~or disability medical assistance~~, and as a means of 64487
preventing or reducing the provision of assistance at public 64488
expense, each applicant for or recipient of the assistance shall 64489
make reasonable efforts to secure support from persons responsible 64490
for the applicant's or recipient's support, and from other 64491
sources, including any federal program designed to provide 64492
assistance to individuals with disabilities. The state or county 64493
department of job and family services may provide assistance to 64494
the applicant or recipient in securing other forms of financial 64495
assistance. 64496

Sec. 5115.23. As used in this section, "erroneous payments" 64497
means disability financial assistance payments ~~or disability~~ 64498
~~medical assistance payments~~ made to persons who are not entitled 64499
to receive them, including payments made as a result of 64500
misrepresentation or fraud, and payments made due to an error by 64501
the recipient or by the county department of job and family 64502
services that made the payment. 64503

The department of job and family services shall adopt rules 64504
in accordance with section 111.15 of the Revised Code specifying 64505
the circumstances under which action is to be taken under this 64506
section to recover erroneous payments. The department, or a county 64507
department of job and family services at the request of the 64508
department, shall take action to recover erroneous payments in the 64509
circumstances specified in the rules. The department or county 64510

department may institute a civil action to recover erroneous 64511
payments. 64512

Whenever disability financial assistance ~~or disability~~ 64513
~~medical assistance~~ has been furnished to a recipient for whose 64514
support another person is responsible, the other person shall, in 64515
addition to the liability otherwise imposed, as a consequence of 64516
failure to support the recipient, be liable for all assistance 64517
furnished the recipient. The value of the assistance so furnished 64518
may be recovered in a civil action brought by the county 64519
department of job and family services. 64520

Each county department of job and family services shall 64521
retain fifty per cent of the erroneous payments it recovers under 64522
this section. The department of job and family services shall 64523
receive the remaining fifty per cent. 64524

Sec. 5119.61. Any provision in this chapter that refers to a 64525
board of alcohol, drug addiction, and mental health services also 64526
refers to the community mental health board in an alcohol, drug 64527
addiction, and mental health service district that has a community 64528
mental health board. 64529

The director of mental health with respect to all facilities 64530
and programs established and operated under Chapter 340. of the 64531
Revised Code for mentally ill and emotionally disturbed persons, 64532
shall do all of the following: 64533

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 64534
that may be necessary to carry out the purposes of Chapter 340. 64535
and sections 5119.61 to 5119.63 of the Revised Code. 64536

(1) The rules shall include all of the following: 64537

(a) Rules governing a community mental health agency's 64538
services under section 340.091 of the Revised Code to an 64539
individual referred to the agency under division (C)(2) of section 64540

173.35 of the Revised Code; 64541

(b) For the purpose of division (A)(16) of section 340.03 of 64542
the Revised Code, rules governing the duties of mental health 64543
agencies and boards of alcohol, drug addiction, and mental health 64544
services under section 3722.18 of the Revised Code regarding 64545
referrals of individuals with mental illness or severe mental 64546
disability to adult care facilities and effective arrangements for 64547
ongoing mental health services for the individuals. The rules 64548
shall do at least the following: 64549

(i) Provide for agencies and boards to participate fully in 64550
the procedures owners and managers of adult care facilities must 64551
follow under division (A)(2) of section 3722.18 of the Revised 64552
Code; 64553

(ii) Specify the manner in which boards are accountable for 64554
ensuring that ongoing mental health services are effectively 64555
arranged for individuals with mental illness or severe mental 64556
disability who are referred by the board or mental health agency 64557
under contract with the board to an adult care facility. 64558

(c) Rules governing a board of alcohol, drug addiction, and 64559
mental health services when making a report to the director of 64560
health under section 3722.17 of the Revised Code regarding the 64561
quality of care and services provided by an adult care facility to 64562
a person with mental illness or a severe mental disability. 64563

(2) Rules may be adopted to govern the method of paying a 64564
community mental health facility, as defined in section ~~5111.022~~ 64565
5111.023 of the Revised Code, for providing services listed in 64566
division (B) of that section. Such rules must be consistent with 64567
the contract entered into between the departments of job and 64568
family services and mental health under section 5111.91 of the 64569
Revised Code and include requirements ensuring appropriate service 64570
utilization. 64571

(B) Review and evaluate, and, taking into account the 64572
findings and recommendations of the board of alcohol, drug 64573
addiction, and mental health services of the district served by 64574
the program and the requirements and priorities of the state 64575
mental health plan, including the needs of residents of the 64576
district now residing in state mental institutions, approve and 64577
allocate funds to support community programs, and make 64578
recommendations for needed improvements to boards of alcohol, drug 64579
addiction, and mental health services; 64580

(C) Withhold state and federal funds for any program, in 64581
whole or in part, from a board of alcohol, drug addiction, and 64582
mental health services in the event of failure of that program to 64583
comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, 64584
or 5119.62 of the Revised Code or rules of the department of 64585
mental health. The director shall identify the areas of 64586
noncompliance and the action necessary to achieve compliance. The 64587
director shall offer technical assistance to the board to achieve 64588
compliance. The director shall give the board a reasonable time 64589
within which to comply or to present its position that it is in 64590
compliance. Before withholding funds, a hearing shall be conducted 64591
to determine if there are continuing violations and that either 64592
assistance is rejected or the board is unable to achieve 64593
compliance. Subsequent to the hearing process, if it is determined 64594
that compliance has not been achieved, the director may allocate 64595
all or part of the withheld funds to a public or private agency to 64596
provide the services not in compliance until the time that there 64597
is compliance. The director shall establish rules pursuant to 64598
Chapter 119. of the Revised Code to implement this division. 64599

(D) Withhold state or federal funds from a board of alcohol, 64600
drug addiction, and mental health services that denies available 64601
service on the basis of religion, race, color, creed, sex, 64602
national origin, age, disability as defined in section 4112.01 of 64603

the Revised Code, developmental disability, or the inability to pay; 64604
64605

(E) Provide consultative services to community mental health agencies with the knowledge and cooperation of the board of alcohol, drug addiction, and mental health services; 64606
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(F) Provide to boards of alcohol, drug addiction, and mental health services state or federal funds, in addition to those allocated under section 5119.62 of the Revised Code, for special programs or projects the director considers necessary but for which local funds are not available; 64609
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(G) Establish criteria by which a board of alcohol, drug addiction, and mental health services reviews and evaluates the quality, effectiveness, and efficiency of services provided through its community mental health plan. The criteria shall include requirements ensuring appropriate service utilization. The department shall assess a board's evaluation of services and the compliance of each board with this section, Chapter 340. or section 5119.62 of the Revised Code, and other state or federal law and regulations. The department, in cooperation with the board, periodically shall review and evaluate the quality, effectiveness, and efficiency of services provided through each board. The department shall collect information that is necessary to perform these functions. 64614
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(H) Develop and operate a community mental health information system. 64627
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Boards of alcohol, drug abuse, and mental health services shall submit information requested by the department in the form and manner prescribed by the department. Information collected by the department shall include, but not be limited to, all of the following: 64629
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(1) Information regarding units of services provided in whole 64634

or in part under contract with a board, including diagnosis and 64635
special needs, demographic information, the number of units of 64636
service provided, past treatment, financial status, and service 64637
dates in accordance with rules adopted by the department in 64638
accordance with Chapter 119. of the Revised Code; 64639

(2) Financial information other than price or price-related 64640
data regarding expenditures of boards and community mental health 64641
agencies, including units of service provided, budgeted and actual 64642
expenses by type, and sources of funds. 64643

Boards shall submit the information specified in division 64644
(H)(1) of this section no less frequently than annually for each 64645
client, and each time the client's case is opened or closed. The 64646
department shall not collect any information for the purpose of 64647
identifying by name any person who receives a service through a 64648
board of alcohol, drug addiction, and mental health services, 64649
except as required by state or federal law to validate appropriate 64650
reimbursement. For the purposes of division (H)(1) of this 64651
section, the department shall use an identification system that is 64652
consistent with applicable nationally recognized standards. 64653

(I) Review each board's community mental health plan 64654
submitted pursuant to section 340.03 of the Revised Code and 64655
approve or disapprove it in whole or in part. Periodically, in 64656
consultation with representatives of boards and after considering 64657
the recommendations of the medical director, the director shall 64658
issue criteria for determining when a plan is complete, criteria 64659
for plan approval or disapproval, and provisions for conditional 64660
approval. The factors that the director considers may include, but 64661
are not limited to, the following: 64662

(1) The mental health needs of all persons residing within 64663
the board's service district, especially severely mentally 64664
disabled children, adolescents, and adults; 64665

(2) The demonstrated quality, effectiveness, efficiency, and 64666
cultural relevance of the services provided in each service 64667
district, the extent to which any services are duplicative of 64668
other available services, and whether the services meet the needs 64669
identified above; 64670

(3) The adequacy of the board's accounting for the 64671
expenditure of funds. 64672

If the director disapproves all or part of any plan, the 64673
director shall provide the board an opportunity to present its 64674
position. The director shall inform the board of the reasons for 64675
the disapproval and of the criteria that must be met before the 64676
plan may be approved. The director shall give the board a 64677
reasonable time within which to meet the criteria, and shall offer 64678
technical assistance to the board to help it meet the criteria. 64679

If the approval of a plan remains in dispute thirty days 64680
prior to the conclusion of the fiscal year in which the board's 64681
current plan is scheduled to expire, the board or the director may 64682
request that the dispute be submitted to a mutually agreed upon 64683
third-party mediator with the cost to be shared by the board and 64684
the department. The mediator shall issue to the board and the 64685
department recommendations for resolution of the dispute. Prior to 64686
the conclusion of the fiscal year in which the current plan is 64687
scheduled to expire, the director, taking into consideration the 64688
recommendations of the mediator, shall make a final determination 64689
and approve or disapprove the plan, in whole or in part. 64690

Sec. 5120.09. Under the supervision and control of the 64691
director of rehabilitation and correction, the division of 64692
business administration shall do all of the following: 64693

(A) Submit the budgets for the several divisions of the 64694
department of rehabilitation and correction, as prepared by the 64695
respective chiefs of those divisions, to the director. The 64696

director, with the assistance of the chief of the division of 64697
business administration, shall compile a departmental budget that 64698
contains all proposals submitted by the chiefs of the divisions 64699
and shall forward the departmental budget to the governor with 64700
comments and recommendations that the director considers 64701
necessary. 64702

(B) Maintain accounts and records and compile statistics that 64703
the director prescribes; 64704

(C) Under the control of the director, coordinate and make 64705
the necessary purchases and requisitions for the department and 64706
its divisions, except as provided under section 5119.16 of the 64707
Revised Code; 64708

(D) Administer within this state federal criminal justice 64709
acts that the governor requires the department to administer. In 64710
order to improve the criminal justice system of this state, the 64711
division of business administration shall apply for, allocate, 64712
disburse, and account for grants that are made available pursuant 64713
to those federal criminal justice acts and grants that are made 64714
available from other federal government sources, state government 64715
sources, or private sources. As used in this division, "criminal 64716
justice system" and "federal criminal justice acts" have the same 64717
meanings as in section ~~181.51~~ 5502.61 of the Revised Code. 64718

(E) Audit the activities of governmental entities, persons as 64719
defined in section 1.59 of the Revised Code, and other types of 64720
nongovernmental entities that are financed in whole or in part by 64721
funds that the department allocates or disburses and that are 64722
derived from grants described in division (D) of this section; 64723

(F) Enter into contracts, including contracts with federal, 64724
state, or local governmental entities, persons as defined in 64725
section 1.59 of the Revised Code, foundations, and other types of 64726
nongovernmental entities, that are necessary for the department to 64727

carry out its duties and that neither the director nor another 64728
section of the Revised Code authorizes another division of the 64729
department to enter; 64730

(G) Exercise other powers and perform other duties that the 64731
director may assign to the division of business administration. 64732

Sec. 5120.51. (A)(1) If the director of rehabilitation and 64733
correction determines that a bill introduced in the general 64734
assembly is likely to have a significant impact on the population 64735
of, or the cost of operating, any or all state correctional 64736
institutions under the administration of the department of 64737
rehabilitation and correction, the department shall prepare a 64738
population and cost impact statement for the bill, in accordance 64739
with division (A)(2) of this section. 64740

(2) A population and cost impact statement required for a 64741
bill ~~shall~~ shall estimate the increase or decrease in the 64742
correctional institution population that likely would result if 64743
the bill were enacted, shall estimate, in dollars, the amount by 64744
which revenues or expenditures likely would increase or decrease 64745
if the bill were enacted, and briefly shall explain each of the 64746
estimates. 64747

A population and cost impact statement required for a bill 64748
initially shall be prepared after the bill is referred to a 64749
committee of the general assembly in the house of origination but 64750
before the meeting of the committee at which the committee is 64751
scheduled to vote on whether to recommend the bill for passage. A 64752
copy of the statement shall be distributed to each member of the 64753
committee that is considering the bill and to the member of the 64754
general assembly who introduced it. If the bill is recommended for 64755
passage by the committee, the department shall update the 64756
statement before the bill is taken up for final consideration by 64757
the house of origination. A copy of the updated statement shall be 64758

distributed to each member of that house and to the member of the 64759
general assembly who introduced the bill. If the bill is passed by 64760
the house of origination and is introduced in the second house, 64761
the provisions of this division concerning the preparation, 64762
updating, and distribution of the statement in the house of 64763
origination also apply in the second house. 64764

(B) The governor or any member of the general assembly, at 64765
any time, may request the department to prepare a population and 64766
cost impact statement for any bill introduced in the general 64767
assembly. Upon receipt of a request, the department promptly shall 64768
prepare a statement that includes the estimates and explanations 64769
described in division (A)(2) of this section and present a copy of 64770
it to the governor or member who made the request. 64771

(C) In the preparation of a population and cost impact 64772
statement required by division (A) or (B) of this section, the 64773
department shall use a technologically sophisticated system 64774
capable of estimating future state correctional institution 64775
populations. The system shall have the capability to adjust its 64776
estimates based on actual and proposed changes in sentencing laws 64777
and trends, sentence durations, parole rates, crime rates, and any 64778
other data that affect state correctional institution populations. 64779
The department, in conjunction with the advisory committee 64780
appointed under division (E) of this section, shall review and 64781
update the data used in the system, not less than once every six 64782
months, to improve the accuracy of the system. 64783

(D) At least once every six months, the department shall 64784
provide to the correctional institution inspection committee a 64785
copy of the estimates of state correctional institution 64786
populations obtained through use of the system described in 64787
division (C) of this section and a description of the assumptions 64788
regarding sentencing laws and trends, sentence durations, parole 64789
rates, crime rates, and other relevant data that were made by the 64790

department to obtain the estimates. Additionally, a copy of the 64791
estimates and a description of the assumptions made to obtain them 64792
shall be provided, upon reasonable request, to other legislative 64793
staff, including the staff of the legislative service commission 64794
~~and the legislative budget office of the legislative service~~ 64795
~~commission~~, to the office of budget and management, and to the 64796
~~office~~ division of criminal justice services in the department of 64797
public safety. 64798

(E) The correctional institution inspection committee shall 64799
appoint an advisory committee to review the operation of the 64800
system for estimating future state correctional institution 64801
populations that is used by the department in the preparation of 64802
population cost impact statements pursuant to this section and to 64803
join with the department in its reviews and updating of the data 64804
used in the system under division (C) of this section. The 64805
advisory committee shall be comprised of at least one prosecuting 64806
attorney, at least one common pleas court judge, at least one 64807
public defender, at least one person who is a member or staff 64808
employee of the committee, and at least one representative of the 64809
~~office~~ division of criminal justice services in the department of 64810
public safety. 64811

Sec. ~~5121.03~~ 5121.01. As used in ~~this chapter~~ sections 64812
5121.01 to 5121.21 of the Revised Code: 64813

(A) ~~Patient means a person receiving care or treatment in a~~ 64814
~~program or facility that provides services to mentally ill~~ 64815
~~individuals.~~ 64816

(B) ~~The department means the department of mental health or~~ 64817
~~the department of mental retardation and developmental~~ 64818
~~disabilities, whichever provides care or treatment to the patient.~~ 64819

(C) "Resident" means a person admitted to an institution or 64820
other facility pursuant to Chapter 5123. of the Revised Code who 64821

is under observation or receiving habilitation and care ~~in an~~ 64822
~~institution for the mentally retarded.~~ 64823

~~(D) State operated community mental health services means~~ 64824
~~community based services the department of mental health operates~~ 64825
~~for a board of alcohol, drug addiction, and mental health services~~ 64826
~~pursuant to a community mental health plan approved under division~~ 64827
~~(A)(1)(c) of section 340.03 of the Revised Code.~~ 64828

~~(E)(B)~~ "Applicable cost" means the rate for support 64829
applicable to a ~~patient or~~ resident as specified in this section. 64830

The cost for support of ~~patients in hospitals and~~ residents 64831
in institutions under the jurisdiction of ~~the department of mental~~ 64832
~~health or~~ the department of mental retardation and developmental 64833
disabilities, and of residents in private facilities or homes 64834
whose care or treatment is being paid for by the department ~~of~~ 64835
~~mental retardation and developmental disabilities~~, shall be based 64836
on the average per capita cost of the care and treatment of ~~such~~ 64837
~~patients or the~~ residents. The cost of services for ~~mentally ill~~ 64838
~~patients or mentally retarded~~ residents shall be computed using 64839
the projected average daily per capita cost at the ~~hospital or~~ 64840
institution, or at the discretion of the department ~~under the~~ 64841
~~jurisdiction of which the hospital or institution is operated~~, the 64842
subunit thereof in which services are provided. Such costs shall 64843
be computed at least annually for the next prospective period 64844
using generally accepted governmental accounting principles. The 64845
cost of services for ~~mentally retarded~~ residents that are being 64846
cared for and maintained in a private facility or home under the 64847
supervision of the department ~~of mental retardation and~~ 64848
~~developmental disabilities regional offices~~ and for which a 64849
purchase of services contract is being paid to the private 64850
facility or home by the department shall not be more than the per 64851
diem cost of the contract. The cost of services for a resident 64852
receiving pre-admission care, after-care, day-care, or routine 64853

consultation and treatment services in a community service unit 64854
under the jurisdiction of the department, shall be computed on the 64855
basis of the average cost of such services at the institution at 64856
which they are provided. 64857

~~The cost for support of a patient receiving state operated 64858
community mental health services is an amount determined using 64859
guidelines the department of mental health shall issue. The 64860
guidelines shall be based on cost findings and rate settings 64861
applicable to such services. 64862~~

The department shall annually determine the ability to pay of 64863
a ~~patient or~~ resident or the ~~patient's or~~ resident's liable 64864
relatives and the amount that such person shall pay in accordance 64865
with section 5121.04 of the Revised Code. 64866

Collections of support payments shall be made by ~~the 64867
department of mental health and the department of mental 64868
retardation and developmental disabilities~~ and, subject to meeting 64869
prior requirements for payment and crediting of such collections 64870
and other available receipts, in accordance with the bond 64871
proceedings applicable to obligations issued pursuant to section 64872
154.20 of the Revised Code, such collections and other available 64873
receipts designated by ~~the director of the department of mental 64874
health and the director of the department of~~ mental retardation 64875
and developmental disabilities for deposit in the special 64876
accounts, together with insurance contract payments provided for 64877
in division (B)(8) of section 5121.04 of the Revised Code, shall 64878
be remitted to the treasurer of state for deposit in the state 64879
treasury to the credit of ~~the mental health operating fund and the 64880
mental retardation operating fund, which are is~~ hereby created, to 64881
be used for the general purposes of ~~the department of mental 64882
health and the department of mental retardation and developmental 64883
disabilities. The department of mental health shall make refunds 64884
of overpayment of support charges from the mental health operating 64885~~

~~fund, and the department of mental retardation and developmental~~ 64886
~~disabilities~~ shall make refunds of overpayment of support charges 64887
from the mental retardation operating fund. 64888

Sec. ~~5121.01~~ 5121.02. All ~~patients or residents of~~ 64889
individuals admitted to a benevolent state institution, operated 64890
by the department of mental retardation and developmental 64891
disabilities under section 5123.03 of the Revised Code shall be 64892
maintained at the expense of the state. Their traveling and 64893
incidental expenses in conveying them to the state institution 64894
shall be paid by the county of commitment. Upon admission, the 64895
~~patients or residents~~ individuals shall be neatly and comfortably 64896
clothed. Thereafter, the expense of necessary clothing shall be 64897
borne by the responsible relatives or guardian if they are 64898
financially able. If not furnished, the state shall bear the 64899
expense. Any required traveling expense after admission to the 64900
state institution shall be borne by the state if the responsible 64901
relatives or guardian are unable to do so. 64902

Sec. ~~5121.02~~ 5121.03. When any person is committed to an 64903
institution under the jurisdiction of ~~the department of mental~~ 64904
~~health or~~ the department of mental retardation and developmental 64905
disabilities pursuant to judicial proceedings, the judge ordering 64906
such commitment shall: 64907

(A) Make a reliable report on the financial condition of such 64908
person and of each of the relatives of the person who are liable 64909
for ~~his~~ the person's support, as provided in section 5121.06 of 64910
the Revised Code and rules and procedures ~~agreed upon~~ adopted by 64911
~~the director of mental health and~~ the director of mental 64912
retardation and developmental disabilities; 64913

(B) Certify to the managing officer of such institution, and 64914
the managing officer shall thereupon enter upon ~~his~~ the managing 64915

officer's records the name and address of any guardian appointed 64916
and of any relative liable for such person's support under section 64917
5121.06 of the Revised Code. 64918

Sec. 5121.04. (A) ~~The department of mental health and the~~ 64919
department of mental retardation and developmental disabilities 64920
shall investigate the financial condition of the ~~patients in~~ 64921
~~hospitals and~~ residents in institutions, residents whose care or 64922
treatment is being paid for in a private facility or home under 64923
the control of the department ~~of mental retardation and~~ 64924
~~developmental disabilities~~, and of the relatives named in section 64925
5121.06 of the Revised Code as liable for the support of such 64926
~~patients or~~ residents, in order to determine the ability of any 64927
~~patient, resident, or such~~ liable relatives to pay for the support 64928
of the ~~patient or~~ resident and to provide suitable clothing as 64929
required by the superintendent of the institution. 64930

~~The department of mental health shall investigate the~~ 64931
~~financial condition of patients receiving state-operated community~~ 64932
~~mental health services and of the liable relatives to determine~~ 64933
~~the patient's or relative's ability to pay for the patient's~~ 64934
~~support. In all cases, in determining ability to pay and the~~ 64935
~~amount to be charged, due regard shall be had for others who may~~ 64936
~~be dependent for support upon such relatives or the estate of the~~ 64937
~~patient.~~ 64938

(B) The department shall follow the provisions of this 64939
division in determining the ability to pay of a ~~patient or~~ 64940
resident or the ~~patient's or~~ resident's liable relatives and the 64941
amount to be charged such ~~patient or~~ resident or liable relatives. 64942

(1) Subject to divisions (B)(10) and (11) of this section, a 64943
~~patient or~~ resident without dependents shall be liable for the 64944
full applicable cost. A ~~patient or~~ resident without dependents who 64945

has a gross annual income equal to or exceeding the sum of the 64946
full applicable cost, plus fifty dollars per month, regardless of 64947
the source of such income, shall pay currently the full amount of 64948
the applicable cost; if the ~~patient's or~~ resident's gross annual 64949
income is less than such sum, not more than fifty dollars per 64950
month shall be kept for personal use by or on behalf of the 64951
~~patient or~~ resident, except as permitted in the state plan for 64952
providing medical assistance under Title XIX of the "Social 64953
Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and 64954
the balance shall be paid currently on the ~~patient's or~~ resident's 64955
support. Subject to divisions (B)(10) and (11) of this section, 64956
the estate of a ~~patient or~~ resident without dependents shall pay 64957
currently any remaining difference between the applicable cost and 64958
the amounts prescribed in this section, or shall execute an 64959
agreement with the department for payment to be made at some 64960
future date under terms suitable to the department. However, no 64961
security interest, mortgage, or lien shall be taken, granted, or 64962
charged against any principal residence of a ~~patient or~~ resident 64963
without dependents under an agreement or otherwise to secure 64964
support payments, and no foreclosure actions shall be taken on 64965
security interests, mortgages, or liens taken, granted, or charged 64966
against principal residences of ~~patients or~~ residents prior to 64967
October 7, 1977. 64968

(2) The ability to pay of a ~~patient or~~ resident with 64969
dependents, or of a liable relative of a ~~patient or~~ resident 64970
either with or without dependents, shall be determined in 64971
accordance with the ~~patient's, resident's, or~~ liable relative's 64972
income or other assets, the needs of others who are dependent on 64973
such income and other assets for support, and, if applicable, 64974
divisions (B)(10) and (11) of this section. 64975

For the first thirty days of care and treatment of each 64976
admission ~~and for the first thirty days of care and treatment from~~ 64977

| | |
|--|----------------------------------|
| state operated community mental health services , but in no event | 64978 |
| for more than thirty days in any calendar year, the mentally ill | 64979 |
| patient or mentally retarded resident with dependents or the | 64980 |
| liable relative of a mentally ill patient or a mentally retarded | 64981 |
| resident either with or without dependents shall be charged an | 64982 |
| amount equal to the percentage of the average applicable cost | 64983 |
| determined in accordance with the schedule of adjusted gross | 64984 |
| annual income contained after this paragraph. After such first | 64985 |
| thirty days of care and treatment, such mentally ill patient or | 64986 |
| mentally retarded resident or such liable relative shall be | 64987 |
| charged an amount equal to the percentage of a base support rate | 64988 |
| of four dollars per day for mentally ill patients and mentally | 64989 |
| retarded residents, as determined in accordance with the schedule | 64990 |
| of gross annual income contained after this paragraph, or in | 64991 |
| accordance with division (B)(5) of this section. Beginning January | 64992 |
| 1, 1978, the department shall increase the base rate when the | 64993 |
| consumer price index average is more than 4.0 for the preceding | 64994 |
| calendar year by not more than the average for such calendar year. | 64995 |
| Adjusted Gross Annual | 64996 |
| Income of Patient or Resident | 64997 |
| or Liable Relative (FN a) | 64998 |
| | Number of Dependents (FN b) |
| | 8 or |
| | 1 2 3 4 5 6 7 more |
| | Rate of Support (In Percentages) |
| \$15,000 or less | -- -- -- -- -- -- -- -- |
| 15,001 to 17,500 | 20 -- -- -- -- -- -- |
| 17,501 to 20,000 | 25 20 -- -- -- -- -- |
| 20,001 to 21,000 | 30 25 20 -- -- -- -- |
| 21,001 to 22,000 | 35 30 25 20 -- -- -- |
| 22,001 to 23,000 | 40 35 30 25 20 -- -- |
| 23,001 to 24,000 | 45 40 35 30 25 20 -- |
| 24,001 to 25,000 | 50 45 40 35 30 25 20 |

| | | | | | | | | | |
|------------------|-----|----|----|----|----|----|----|----|-------|
| 25,001 to 26,000 | 55 | 50 | 45 | 40 | 35 | 30 | 25 | 20 | 65010 |
| 26,001 to 27,000 | 60 | 55 | 50 | 45 | 40 | 35 | 30 | 25 | 65011 |
| 27,001 to 28,000 | 70 | 60 | 55 | 50 | 45 | 40 | 35 | 30 | 65012 |
| 28,001 to 30,000 | 80 | 70 | 60 | 55 | 50 | 45 | 40 | 35 | 65013 |
| 30,001 to 40,000 | 90 | 80 | 70 | 60 | 55 | 50 | 45 | 40 | 65014 |
| 40,001 and over | 100 | 90 | 80 | 70 | 60 | 55 | 50 | 45 | 65015 |

Footnote a. The ~~patient or~~ resident or relative shall furnish 65016
a copy of the ~~patient's~~, resident's, or relative's federal income 65017
tax return as evidence of gross annual income. 65018

Footnote b. The number of dependents includes the liable 65019
relative but excludes ~~the patient or a~~ resident in ~~the hospital or~~ 65020
an institution. "Dependent" includes any person who receives more 65021
than half the person's support from the ~~patient~~ resident or the 65022
~~patient's~~ resident's liable relative. 65023

(3) A ~~patient or~~ resident or liable relative having medical, 65024
funeral, or related expenses in excess of four per cent of the 65025
adjusted gross annual income, which expenses were not covered by 65026
insurance, may adjust such gross annual income by reducing the 65027
adjusted gross annual income by the full amount of such expenses. 65028
Proof of such expenses satisfactory to the department must be 65029
furnished. 65030

(4) Additional dependencies may be claimed if: 65031

(a) The liable relative is blind; 65032

(b) The liable relative is over sixty-five; 65033

(c) A child is a college student with expenses in excess of 65034
fifty dollars per month; 65035

(d) The services of a housekeeper, costing in excess of fifty 65036
dollars per month, are required if the person who normally keeps 65037
house for minor children is the ~~patient or~~ resident. 65038

(5) If with respect to any ~~patient or~~ resident with 65039

dependents there is chargeable under division (B)(2) of this 65040
section less than fifty per cent of the applicable cost or, if the 65041
base support rate was used, less than fifty per cent of the amount 65042
determined by use of the base support rate, and if with respect to 65043
such ~~patient~~ or resident there is a liable relative who has an 65044
estate having a value in excess of fifteen thousand dollars or if 65045
such ~~patient~~ or resident has a dependent and an estate having a 65046
value in excess of fifteen thousand dollars, there shall be paid 65047
with respect to such ~~patient~~ or resident a total of fifty per cent 65048
of the applicable cost or the base support rate amount, as the 65049
case may be, on a current basis or there shall be executed with 65050
respect to such ~~patient~~ or resident an agreement with the 65051
department for payment to be made at some future date under terms 65052
suitable to the department. 65053

(6) When a person has been a ~~patient~~ or resident for fifteen 65054
years and the support charges for which a relative is liable have 65055
been paid for the fifteen-year period, the liable relative shall 65056
be relieved of any further support charges. 65057

(7) The department shall accept voluntary payments from 65058
~~patients~~ or residents or liable relatives whose incomes are below 65059
the minimum shown in the schedule set forth in this division. The 65060
department also shall accept voluntary payments in excess of 65061
required amounts from both liable and nonliable relatives. 65062

(8) If a ~~patient~~ or resident is covered by an insurance 65063
policy, or other contract that provides for payment of expenses 65064
for care and treatment for ~~mental illness~~ or mental retardation or 65065
other developmental disability at or from an institution, or 65066
facility (including a ~~hospital~~ or community service unit under the 65067
jurisdiction of the department), ~~or state-operated community~~ 65068
~~mental health service~~, the other provisions of this section, 65069
except divisions (B)(8), (10), and (11) of this section, and of 65070

section ~~5121.03~~ 5121.01 of the Revised Code shall be suspended to 65071
the extent that such insurance policy or other contract is in 65072
force, and such ~~patient~~ or resident shall be charged the full 65073
amount of the applicable cost. Any insurance carrier or other 65074
third party payor providing coverage for such care and treatment 65075
shall pay for this support obligation in an amount equal to the 65076
lesser of either the applicable cost or the benefits provided 65077
under the policy or other contract. Whether or not an insured, 65078
owner of, or other person having an interest in such policy or 65079
other contract is liable for support payments under other 65080
provisions of this chapter, the insured, policy owner, or other 65081
person shall assign payment directly to the department of all 65082
assignable benefits under the policy or other contract and shall 65083
pay over to the department, within ten days of receipt, all 65084
insurance or other benefits received as reimbursement or payment 65085
for expenses incurred by the ~~patient~~ or resident or for any other 65086
reason. If the insured, policy owner, or other person refuses to 65087
assign such payment to the department or refuses to pay such 65088
received reimbursements or payments over to the department within 65089
ten days of receipt, the insured's, policy owners', or other 65090
person's total liability for the services equals the applicable 65091
statutory liability for payment for the services as determined 65092
under other provisions of this chapter, plus the amounts payable 65093
under the terms of the policy or other contract. In no event shall 65094
this total liability exceed the full amount of the applicable 65095
cost. Upon its request, the department is entitled to a court 65096
order that compels the insured, owner of, or other person having 65097
an interest in the policy or other contract to comply with the 65098
assignment requirements of this division or that itself serves as 65099
a legally sufficient assignment in compliance with such 65100
requirements. Notwithstanding section ~~5122.31~~ 5123.89 of the 65101
Revised Code and any other law relating to confidentiality of 65102

records, the managing officer of the institution or facility where 65103
a person is or has been a ~~patient or resident, or the managing~~ 65104
~~officer of the state operated community mental health services~~ 65105
~~from which the patient receives services,~~ shall disclose pertinent 65106
medical information concerning the ~~patient or resident~~ to the 65107
insurance carrier or other third party payor in question, in order 65108
to effect collection from the carrier or payor of the state's 65109
claim for care and treatment under this division. For such 65110
disclosure, the managing officer is not subject to any civil or 65111
criminal liability. 65112

(9) The rate to be charged for pre-admission care, 65113
after-care, day-care, or routine consultation and treatment 65114
services shall be based upon the ability of the ~~patient or~~ 65115
~~resident or the patient's or resident's~~ liable relatives to pay. 65116
When it is determined by the department that a charge shall be 65117
made, such charge shall be computed as provided in divisions 65118
(B)(1) and (2) of this section. 65119

(10) If a ~~patient or~~ resident with or without dependents is 65120
the beneficiary of a trust created pursuant to section 1339.51 of 65121
the Revised Code, then, notwithstanding any contrary provision of 65122
this chapter or of a rule adopted pursuant to this chapter, 65123
divisions (C) and (D) of that section shall apply in determining 65124
the assets or resources of the ~~patient or~~ resident, the ~~patient's~~ 65125
~~or~~ resident's estate, the settlor, or the settlor's estate and to 65126
claims arising under this chapter against the ~~patient or~~ resident, 65127
the ~~patient's or~~ resident's estate, the settlor, or the settlor's 65128
estate. 65129

(11) If the department ~~of mental retardation and~~ 65130
~~developmental disabilities~~ waives the liability of an individual 65131
and the individual's liable relatives pursuant to section 5123.194 65132
of the Revised Code, the liability of the individual and relative 65133

ceases in accordance with the waiver's terms. 65134

(C) The department may enter into agreements with a ~~patient~~ 65135
~~or~~ resident or a liable relative for support payments to be made 65136
in the future. However, no security interest, mortgage, or lien 65137
shall be taken, granted, or charged against any principal family 65138
residence of a ~~patient~~~~or~~ resident with dependents or a liable 65139
relative under an agreement or otherwise to secure support 65140
payments, and no foreclosure actions shall be taken on security 65141
interests, mortgages or liens taken, granted, or charged against 65142
principal residences of ~~patients~~~~or~~ residents or liable relatives 65143
prior to October 7, 1977. 65144

(D) The department shall make all investigations and 65145
determinations required by this section within ninety days after a 65146
~~patient~~~~or~~ resident is admitted to an institution under the 65147
department's control ~~or a patient begins to receive state operated~~ 65148
~~community mental health services,~~ and immediately shall notify by 65149
mail the persons liable of the amount to be charged. 65150

(E) All actions to enforce the collection of payments agreed 65151
upon or charged by the department shall be commenced within six 65152
years after the date of default of an agreement to pay support 65153
charges or the date such payment becomes delinquent. If a payment 65154
is made pursuant to an agreement which is in default, a new 65155
six-year period for actions to enforce the collection of payments 65156
under such agreement shall be computed from the date of such 65157
payment. For purposes of this division an agreement is in default 65158
or a payment is delinquent if a payment is not made within thirty 65159
days after it is incurred or a payment, pursuant to an agreement, 65160
is not made within thirty days after the date specified for such 65161
payment. In all actions to enforce the collection of payment for 65162
the liability for support, every court of record shall receive 65163
into evidence the proof of claim made by the state together with 65164

all debts and credits, and it shall be prima-facie evidence of the 65165
facts contained in it. 65166

Sec. 5121.05. ~~The department of mental health and the~~ 65167
department of mental retardation and developmental disabilities 65168
may subpoena witnesses, take testimony under oath, and examine any 65169
public records relating to the income and other assets of a 65170
~~patient or resident or of a relative liable for such patient's or~~ 65171
~~resident's support~~ relative. All information, conclusions, and 65172
recommendations shall be submitted to the department by the 65173
investigating agent of the department. The department shall 65174
determine the amount of support to be paid, by whom, and whether 65175
clothing shall be furnished by the relatives or guardian. 65176

Sec. 5121.06. (A) The following persons other than the 65177
~~patient or resident or the patient's or resident's estate~~ are 65178
liable relatives and all the following persons are jointly and 65179
severally liable for the support of a ~~patient or resident in a~~ 65180
~~hospital or an~~ institution under the control of ~~the department of~~ 65181
~~mental health or~~ the department of mental retardation and 65182
developmental disabilities ~~or for the support of a patient~~ 65183
~~receiving state-operated community mental health services:~~ 65184

(1) The ~~patient or resident or the patient's or resident's~~ 65185
estate; 65186

(2) The ~~patient's or resident's~~ spouse; 65187

(3) The father or mother, or both, of a minor ~~patient or~~ 65188
resident under the age of eighteen years. 65189

(B) The department shall determine, pursuant to section 65190
5121.04 of the Revised Code, the amount to be charged each ~~such~~ 65191
resident and liable ~~person~~ relative in the order named in this 65192
section, but shall not collect from any person more than one 65193

hundred per cent of the applicable cost. 65194

(C) An action to collect delinquent payments or to enforce 65195
agreements in default may be brought against any or all persons 65196
named in this section. To the extent parents of adult ~~patients or~~ 65197
residents, pursuant to the language of this section previously in 65198
force, incurred charges for the support of such ~~patients or~~ 65199
residents between the eighteenth birthday of such ~~patient or~~ 65200
resident and July 1, 1975, their liability for such period may be 65201
cancelled, compromised, or settled as provided in section 5121.07 65202
of the Revised Code. 65203

(D) Irrespective of the number of ~~patients or~~ residents whose 65204
care might be chargeable against a liable relative, no individual 65205
liable relative nor ~~any~~ group of liable relatives who are members 65206
of the same family unit shall be charged with the support of more 65207
than one ~~patient or~~ resident during the same period of time, and 65208
different periods of time for which such liable relative has paid 65209
the charges for such different ~~patients' or~~ residents' care and 65210
support shall be added together for the purpose of completing the 65211
maximum fifteen-year period of liability of such liable relative 65212
under division (B)(6) of section 5121.04 of the Revised Code. 65213

Sec. 5121.061. The authority of ~~the department of mental~~ 65214
~~health or~~ the department of mental retardation and developmental 65215
disabilities to modify support charges pursuant to section 5121.04 65216
of the Revised Code shall not be exercised until the ~~patient or~~ 65217
resident or liable relative has petitioned the department for 65218
modification as provided in section 5121.07 of the Revised Code 65219
and has offered to the department satisfactory proof of ~~his~~ the 65220
resident's or liable relative's earnings and assets. The 65221
department may modify the charges if its investigation warrants 65222
such modification. 65223

Sec. 5121.07. Any person who has been charged with the 65224
payment of the support of a ~~patient or resident of any benevolent~~ 65225
~~institution;~~ or for pre-admission care, after-care, day-care, or 65226
routine consultation and treatment services in a community service 65227
unit under the control of ~~the department of mental health or the~~ 65228
department of mental retardation and developmental disabilities; 65229
~~or for the cost of state-operated community mental health services~~ 65230
may petition the department for a release from, or modification 65231
of, such charge, and the department, after an investigation, may 65232
cancel or modify such former charge, or may cancel, compromise, or 65233
settle any accrued liability in an amount not exceeding five 65234
thousand dollars. Amounts in excess thereof may be canceled, 65235
compromised, or settled as provided in section 131.02 of the 65236
Revised Code. The department may for due cause increase the amount 65237
previously ordered paid. 65238

Sec. 5121.08. The managing officers of the ~~benevolent~~ 65239
institutions under the control of ~~the department of mental health~~ 65240
~~and~~ the department of mental retardation and developmental 65241
disabilities, ~~the managing officers of state-operated community~~ 65242
~~mental health services,~~ and the committing court, if requested, 65243
shall submit to the department such information as they may obtain 65244
concerning the financial condition of any ~~patient or~~ resident or 65245
of relatives liable for the ~~patient's or~~ resident's support. 65246

Sec. 5121.09. In case the estate of any ~~patient or~~ resident 65247
in a ~~benevolent~~ an institution under the jurisdiction of ~~the~~ 65248
~~department of mental health or~~ the department of mental 65249
retardation and developmental disabilities ~~or receiving~~ 65250
~~state-operated community mental health services~~ is sufficient for 65251
the ~~patient's or~~ resident's support, without hardship to any 65252
others who may be dependent thereon, and no guardian has been 65253

appointed for such estate, the agent of the department shall 65254
petition the probate court of the proper county to appoint a 65255
guardian. 65256

Sec. 5121.10. Upon the death of a ~~person who is a patient or~~ 65257
~~resident, or has been a patient or former~~ resident, of any 65258
~~benevolent~~ institution under the jurisdiction of ~~the department of~~ 65259
~~mental health or~~ the department of mental retardation and 65260
developmental disabilities ~~or state operated community mental~~ 65261
~~health services~~, or upon the death of a person responsible under 65262
section 5121.06 of the Revised Code for the support of a ~~patient~~ 65263
~~or~~ resident, the department may waive the presentation of any 65264
claim for support against the estate of such decedent, when in its 65265
judgment an otherwise dependent person will be directly benefited 65266
by the estate. Claims against an estate for support of a ~~patient~~ 65267
~~or~~ resident are subject to section 1339.51 and Chapter 2117. of 65268
the Revised Code, and shall be treated, and may be barred, the 65269
same as the claims of other creditors of the estate, pursuant to 65270
that section or chapter. 65271

The department may accept from a guardian or trustee of a 65272
~~patient or~~ resident a contract agreeing to pay to the state from 65273
the property of the guardian's or trustee's ward before or at the 65274
death of the ward a fixed annual amount for the support of the 65275
ward while the ward is a ~~patient or~~ resident, with interest at 65276
four per cent per annum. A copy of the contract shall be filed in 65277
the probate court of the proper county and duly entered as a part 65278
of the records concerning the ward. 65279

Sec. 5121.11. The state shall bear the expense of the burial 65280
or cremation of an indigent ~~patient or~~ resident who dies in a 65281
state ~~hospital for the mentally ill, or institution for the~~ 65282
~~mentally retarded, operated by the department of mental~~ 65283
retardation and developmental disabilities under section 5123.03 65284

of the Revised Code or in a state correctional institution, if the body is not claimed for interment or cremation at the expense of friends or relatives, or is not delivered for anatomical purposes or for the study of embalming in accordance with section 1713.34 of the Revised Code. The managing officer of the institution shall provide at the grave of the person or, if the person's cremated remains are buried, at the grave of the person's cremated remains, a metal, stone, or concrete marker on which shall be inscribed the name and age of the person and the date of death.

Sec. 5121.12. The support and maintenance of ~~patients~~ confined in state hospitals for the mentally ill or of residents confined in state institutions ~~for the mentally retarded~~ operated by the department of mental retardation and developmental disabilities under section 5123.03 of the Revised Code, including those transferred to them from state correctional institutions, and also including persons under indictment or conviction for crime, shall be collected and paid in accordance with ~~this chapter~~ sections 5121.01 to 5121.21 of the Revised Code.

Sec. 5121.21. ~~(A)~~ If payment of any amount due the state under the provisions of Chapter 5121. of the Revised Code is made on account of a ~~patient~~ or resident by any liable relative, as defined in division (A) of section 5121.06 of the Revised Code, such relative may recover the following amounts from the following persons; provided, that in no event may such relative recover in total more than such relative has paid the state, and provided, that in no event is the person from whom recovery is sought obliged to pay at a rate of support higher than such person would have paid had the state proceeded directly against such person:

~~(1)~~ (A) Any liable person may recover from the ~~patient~~ or resident, ~~his~~ the resident's guardian, or from the executor or administrator of the ~~patient's~~ or resident's estate, the full

amount of payment made by such liable relative. 65316

~~(2)~~(B) Any liable relative may recover from the ~~patient's or~~ 65317
resident's ~~husband or wife,~~ spouse the full amount of payment made 65318
by such liable relative. 65319

~~(3)~~(C) A minor ~~patient's or~~ resident's mother may recover 65320
from such minor ~~patient's or~~ resident's father ~~the full~~ one-half 65321
of the amount of payment made by such mother. 65322

~~(4)~~(D) Any liable relative, other than the ~~patient's or~~ 65323
resident's spouse and other than a minor ~~patient's or~~ resident's 65324
parent, may recover from such ~~of a patient's or~~ resident's adult 65325
sons and daughters as are liable under division (A)(4) of section 65326
5121.06 of the Revised Code, the full amount of payment made by 65327
such liable relative; provided, that there may be recovered from 65328
each such son or daughter only such proportion of the total 65329
payment as the figure one bears to the total number of such adult 65330
sons and daughters. 65331

~~(5)~~(E) An adult ~~patient's or~~ resident's mother may recover 65332
from an adult ~~patient's or~~ resident's father ~~the full~~ one-half of 65333
the amount of payment made by such mother. 65334

Sec. 5121.30. As used in sections 5121.30 to 5121.56 of the 65335
Revised Code: 65336

(A) "Community mental health services client" or "client" 65337
means a person receiving state-operated community mental health 65338
services. 65339

(B) "Countable assets" means all of the following: 65340

(1) Cash; 65341

(2) Bank deposits; 65342

(3) Securities; 65343

(4) Individual retirement accounts; 65344

| | |
|--|-------|
| <u>(5) Qualified employer plans, including 401(k) and Keogh plans;</u> | 65345 |
| | 65346 |
| <u>(6) Annuities;</u> | 65347 |
| <u>(7) Funds in a trust created under section 1339.51 of the Revised Code;</u> | 65348 |
| | 65349 |
| <u>(8) Investment property and income;</u> | 65350 |
| <u>(9) The cash surrender values of life insurance policies;</u> | 65351 |
| <u>(10) Assets acquired by gift, bequest, devise, or inheritance;</u> | 65352 |
| | 65353 |
| <u>(11) Any other asset determined by the department of mental health to be equivalent to the assets enumerated in this division.</u> | 65354 |
| | 65355 |
| <u>(C) "Federal poverty level" or "FPL" means the income level represented by the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.</u> | 65356 |
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| | 65360 |
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| <u>(D) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.</u> | 65363 |
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| | 65368 |
| <u>(E) "Hospital" means an institution, hospital, or other place established, controlled, or supervised by the department of mental health under Chapter 5119. of the Revised Code.</u> | 65369 |
| | 65370 |
| | 65371 |
| <u>(F) "Liable relative" means all of the following:</u> | 65372 |
| <u>(1) A patient's spouse;</u> | 65373 |

(2) A patient's mother or father, or both, if the patient is 65374
under eighteen years of age; 65375

(3) A patient's guardian. 65376

(G) "Patient" means a person admitted to a hospital for 65377
inpatient care or treatment, including a person transferred to a 65378
hospital from a state correctional institution or a person under 65379
indictment or conviction who has been transferred to a hospital. 65380

Sec. 5121.31. All patients shall be maintained at the expense 65381
of the state. The traveling and incidental expenses in conveying 65382
them to a hospital shall be paid by the county of commitment. On 65383
admission, patients shall be neatly and comfortably clothed. 65384
Thereafter, the expense of necessary clothing shall be borne by 65385
the responsible relatives or guardian if they are financially 65386
able. If not furnished, the state shall bear the expense. Any 65387
required traveling expense after admission to the hospital shall 65388
be borne by the state if the responsible relatives or guardian is 65389
unable to do so. 65390

Sec. 5121.32. On an annual basis, the department of mental 65391
health shall determine both of the following using generally 65392
accepted governmental accounting principles: 65393

(A) The applicable per diem charge for each hospital operated 65394
by the department; 65395

(B) The ancillary per diem rate for each hospital operated by 65396
the department. 65397

In determining a hospital's applicable per diem charge and 65398
ancillary per diem rate, the department shall consider the average 65399
actual per diem cost of maintaining and treating a patient at the 65400
hospital or, at the department's discretion, the average actual 65401
per diem cost of maintaining and treating a patient in a unit of 65402
the hospital. 65403

Sec. 5121.33. Except as provided in sections 5121.35, 5121.43, 5121.46, 5121.47, 5121.49, and 5121.52 of the Revised Code, the department of mental health shall, for each billing cycle, charge a patient, patient's estate, or liable relative an amount equal to the sum of the following:

(A) The applicable per diem charge multiplied by the number of days the patient was admitted to the hospital;

(B) An amount that was previously billed but not paid.

Sec. 5121.34. (A) A patient, patient's estate, and patient's liable relatives shall be jointly and severally liable for amounts charged by the department of mental health in accordance with section 5121.33 or 5121.35 of the Revised Code. In no case shall any of the foregoing persons be liable for more than one hundred per cent of the full sum charged under section 5121.33 of the Revised Code.

(B) Collections of support payments shall be made by the department and, subject to meeting prior requirements for payment and crediting of such collections and other available receipts, in accordance with the bond proceedings applicable to obligations issued pursuant to section 154.20 of the Revised Code. The collections and other available receipts designated by the director of mental health for deposit in the special accounts, together with insurance contract payments provided for in section 5121.43 of the Revised Code, shall be remitted to the treasurer of state for deposit in the state treasury to the credit of the mental health operating fund, which is hereby created, to be used for the general purposes of the department. The department shall make refunds of overpayment of support charges from the mental health operating fund.

Sec. 5121.35. The department of mental health shall charge a

patient, patient's estate, or liable relative an amount discounted 65434
from the amount the department charges under section 5121.33 of 65435
the Revised Code if the department determines through the 65436
application process described in section 5121.36 of the Revised 65437
Code or through the financial assessment process described in 65438
section 5121.37 of the Revised Code that the patient, estate, or 65439
relative is eligible for a discount. 65440

Sec. 5121.36. (A) A patient, patient's estate, or liable 65441
relative may apply for a discount by completing an application 65442
form prescribed by the director of mental health. The department 65443
of mental health may require a patient, estate, or relative to 65444
furnish any of the following with an application form: 65445

(1) A copy of the patient's, estate's, or liable relative's 65446
federal income tax return for the year preceding the date of 65447
application or, if that is not yet available, the preceding year; 65448

(2) A copy of the patient's, estate's, or liable relative's 65449
employee tax withholding return (form W-2) for the year preceding 65450
the date of application; 65451

(3) Any other relevant documents prescribed by the director 65452
of mental health. 65453

(B) To be considered, an application must be submitted to the 65454
department not later than ninety days after the date the patient 65455
is admitted to a hospital. 65456

(C) From the information provided by a patient, estate, or 65457
relative, the department shall determine whether the department 65458
will charge the person a discounted amount in accordance with 65459
sections 5121.40 and 5121.41 of the Revised Code. In making this 65460
determination, the department shall consider whether the patient 65461
is covered by an insurance policy or other contract that provides 65462
for payment of expenses and treatment for mental illness. If the 65463

department determines that the patient has coverage, the 65464
department shall require payment in accordance with section 65465
5121.43 of the Revised Code. 65466

(D) The department shall notify the patient, executor or 65467
administrator of the patient's estate, or liable relative who 65468
submitted the application form in writing regarding whether that 65469
person will be charged a discounted amount and the per diem rate 65470
to be charged. 65471

(E) In accordance with section 5121.42 of the Revised Code, 65472
the department may, at any time, modify an amount charged or 65473
change the per diem rate to be charged if the department learns of 65474
countable assets or income that was not previously disclosed or 65475
was acquired after the application form was submitted. Within a 65476
reasonable time, the department shall notify in writing any person 65477
affected by a modification or change. 65478

Sec. 5121.37. After a patient's admittance to a hospital, the 65479
department of mental health shall conduct a financial assessment 65480
to determine whether the patient, patient's estate, or liable 65481
relative will be charged an amount discounted from the amount the 65482
department charges under section 5121.33 of the Revised Code. The 65483
department shall make the determination in accordance with 65484
sections 5121.40 and 5121.41 of the Revised Code. 65485

If a discounted rate is to be charged, the department shall 65486
notify the person whose financial condition was assessed. The 65487
notice shall specify the per diem rate to be charged. 65488

In accordance with section 5121.42 of the Revised Code, the 65489
department may, at any time, modify an amount charged or change 65490
the per diem rate to be charged if the department learns of 65491
countable assets or income that was not previously disclosed or 65492
was acquired after the assessment was conducted. Within a 65493
reasonable time, the department shall notify in writing any person 65494

affected by a modification or change. 65495

Sec. 5121.38. The department of mental health may subpoena 65496
witnesses, take testimony under oath, and examine any public 65497
records relating to the income and other assets of a patient or of 65498
a relative liable for such patient's support. All information, 65499
conclusions, and recommendations shall be submitted to the 65500
department by the investigating agent of the department. 65501

Sec. 5121.40. (A) A patient, patient's estate, or liable 65502
relative may be eligible to be charged an amount discounted from 65503
the amount the department of mental health charges under section 65504
5121.33 of the Revised Code if the patient, estate, or relative 65505
has countable assets with a total value that is not greater than 65506
an amount equal to fifty per cent of the difference between the 65507
following: 65508

(1) The gross annual income that corresponds with a family 65509
size of two persons at one hundred per cent of the federal poverty 65510
level for the state; 65511

(2) The gross annual income that corresponds with a family 65512
size of one person at one hundred per cent of the federal poverty 65513
level for the state. For purposes of determining family size, the 65514
patient is one dependent. One additional dependent shall be 65515
included for each of the following circumstances and persons: 65516

(a) The patient or liable relative is legally blind or deaf. 65517

(b) The patient or liable relative is of sixty-five years of 65518
age or older. 65519

(c) Each child under eighteen years of age for which the 65520
patient or liable relative has legal custody; 65521

(d) The patient's or liable relative's spouse. 65522

(B) A patient, estate, or relative may, not later than ninety 65523

days after the patient's admission to a hospital, surrender the 65524
value of countable assets sufficient to reduce countable assets to 65525
not more than the limit described in division (A) of this section. 65526

Sec. 5121.41. (A) If the assets of a patient, patient's 65527
estate, or liable relative do not exceed the countable asset limit 65528
in section 5121.40 of the Revised Code and the annual income of 65529
the patient, estate, or relative does not exceed four hundred per 65530
cent of the federal poverty level, the patient, estate, or 65531
relative shall be charged an amount discounted from the amount the 65532
department charges under section 5121.33 of the Revised Code for 65533
the first thirty days the patient is admitted as an inpatient in a 65534
hospital and for which the patient is liable for the cost of care. 65535
The amount of the discount shall be computed according to the 65536
following schedule: 65537

| | <u>Annual Gross Income</u> | | | | | | 65538 |
|------------------|--|--------------|--------------|--------------|--------------|--------------|-------|
| | <u>Expressed as a Percentage of FPL</u> | | | | | | 65539 |
| <u>Inpatient</u> | <u>0 -</u> | <u>176 -</u> | <u>200 -</u> | <u>250 -</u> | <u>300 -</u> | <u>350 -</u> | 65540 |
| <u>Days at a</u> | <u>175</u> | <u>199</u> | <u>249</u> | <u>299</u> | <u>349</u> | <u>400</u> | 65541 |
| <u>Hospital</u> | | | | | | | 65542 |
| | <u>Percentage discount from charged amount</u> | | | | | | 65543 |
| <u>1 - 14</u> | <u>100</u> | <u>90</u> | <u>70</u> | <u>50</u> | <u>30</u> | <u>10</u> | 65544 |
| <u>15 - 30</u> | <u>100</u> | <u>95</u> | <u>75</u> | <u>55</u> | <u>35</u> | <u>15</u> | 65545 |

(B) A patient, estate, or relative who is charged a 65546
discounted amount for the first thirty days the patient is 65547
admitted as an inpatient and who has an annual income not greater 65548
than one hundred seventy-five per cent of the federal poverty 65549
level shall not be charged for the days the patient is admitted 65550
beyond the thirtieth day. 65551

(C) A patient, estate, or relative who is charged a 65552
discounted amount for the first thirty days the patient is 65553
admitted as an inpatient and who has an annual income greater than 65554

one hundred seventy-five per cent of the federal poverty level 65555
shall be charged an amount equal to the sum of the following for 65556
the days the patient is admitted beyond the thirtieth day: 65557

(1) The ancillary per diem rate multiplied by the number of 65558
days the patient was admitted to the hospital; 65559

(2) An amount that was previously charged but not paid. 65560

Sec. 5121.42. (A) Except as provided in division (B) of this 65561
section, a patient, patient's estate, or liable relative shall 65562
cease to be eligible for a discount under sections 5121.36 or 65563
5121.37 of the Revised Code on accumulation of countable assets in 65564
excess of an amount equal to fifty per cent of the difference 65565
between the following: 65566

(1) The gross annual income that corresponds with a family 65567
size of two persons at one hundred per cent of the federal poverty 65568
level for the state; 65569

(2) The gross annual income that corresponds with a family 65570
size of one person at one hundred per cent of the federal poverty 65571
level for the state. 65572

(B) Money needed to meet the patient's needs and burial fund 65573
as determined by a needs assessment conducted by the department of 65574
mental health pursuant to rules adopted under section 5119.01 of 65575
the Revised Code shall be excluded from any determination the 65576
department makes under division (A) of this section. 65577

Sec. 5121.43. If a patient is covered by an insurance policy 65578
or other contract that provides for payment of expenses for care 65579
and treatment for mental illness at or from a hospital under the 65580
jurisdiction of the department of mental health, sections 5121.33 65581
to 5121.55 of the Revised Code are inapplicable to the extent that 65582
the policy or contract is in force. Any insurance carrier or other 65583
third party payor providing coverage for such care and treatment 65584

shall pay for the patient's support obligation in amounts equal to 65585
the lesser of amounts charged by the department under section 65586
5121.33 of the Revised Code or the benefits provided under the 65587
policy or other contract. Whether or not an insured, owner of, or 65588
other person having an interest in such policy or other contract 65589
is liable for support payments, the insured, policy owner, or 65590
other person shall assign payment directly to the department of 65591
all assignable benefits under the policy or other contract and 65592
shall pay to the department, within ten days of receipt, all 65593
insurance or other benefits received as reimbursement or payment 65594
for expenses incurred by the patient or for any other reason. If 65595
the insured, policy owner, or other person refuses to assign 65596
payment to the department or refuses to pay received 65597
reimbursements or payments to the department within ten days of 65598
receipt, the total liability of the insured, policy owner, or 65599
other person for the services is an amount equal to the per diem 65600
charge for the hospital where the patient was admitted multiplied 65601
by the number of days the patient was admitted. 65602

In no event shall this total liability exceed the 65603
department's actual cost of providing care and treatment to a 65604
patient. The department may disqualify patients and liable 65605
relatives who have retained third party funds from future 65606
discounts. The department may request that the attorney general 65607
petition a court of competent jurisdiction to compel the insured, 65608
owner of, or other person having an interest in the policy or 65609
contract to comply with the assignment requirements in this 65610
section. 65611

Sec. 5121.44. The department of mental health may enter into 65612
an extended payment agreement with a patient, patient's estate, or 65613
liable relative who has notified the department that the patient, 65614
estate, or relative cannot reasonably pay an amount the department 65615

has charged. In no case shall the department take a security 65616
interest, mortgage, or lien against the principal family residence 65617
of a patient or liable relative. 65618

Sec. 5121.45. (A) For purposes of this section, "delinquent 65619
payment" means an amount owed by a patient, patient's estate, or 65620
liable relative to the department of mental health for which the 65621
person has failed to do either of the following not later than 65622
ninety days after the service associated with the charge was 65623
incurred: 65624

(1) Make payment in full; 65625

(2) Make a payment in accordance with the terms of an 65626
agreement entered into under section 5121.44 of the Revised Code. 65627

(B) An action to enforce the collection of a delinquent 65628
payment shall be commenced not later than six years after the 65629
later of the following: 65630

(1) The last date the department received money to satisfy 65631
the delinquent payment; 65632

(2) The date the charge was due. 65633

(C) In all actions to enforce the collection of delinquent 65634
payments, a court of record shall receive into evidence the proof 65635
of claim document made by the state together with all debts and 65636
credits. The proof of claim document shall be prima-facie evidence 65637
of the facts stated in the document. 65638

Sec. 5121.46. The department of mental health shall not 65639
charge a liable relative under sections 5121.33 and 5121.35 of the 65640
Revised Code who has done either of the following: 65641

(A) Paid all amounts charged by the department for the care 65642
and treatment of a particular patient for fifteen consecutive 65643

years; 65644

(B) Paid amounts charged by the department for the care and 65645
treatment of more than one patient for a total of fifteen 65646
consecutive years. 65647

Sec. 5121.47. Irrespective of the number of patients for 65648
which the department of mental health may charge a liable relative 65649
under sections 5121.33 or 5121.35 of the Revised Code, the 65650
department shall not charge a liable relative or group of liable 65651
relatives who are members of the same family unit for the support 65652
of more than one patient during the same period of time. 65653

Sec. 5121.48. The department shall accept voluntary payments 65654
from a patient, patient's estate, or liable relative in excess of 65655
a discounted amount charged in accordance with section 5121.35 of 65656
the Revised Code. 65657

Sec. 5121.49. (A) Any person who has been charged under 65658
section 5121.33 or 5121.35 of the Revised Code may petition the 65659
department of mental health to do the following: 65660

(1) Release the person from a charge; 65661

(2) Modify or cancel a charge. 65662

(B) The department shall respond to a petition in writing and 65663
inform the petitioner of whether a release, modification, or 65664
cancellation has been approved. 65665

Sec. 5121.50. When a patient is committed to a hospital 65666
pursuant to judicial proceedings, the judge ordering the 65667
commitment shall: 65668

(A) Make a reliable report on the financial condition of the 65669
patient and of each liable relative, as provided in rules adopted 65670
by the director of mental health; 65671

(B) Certify the report required under division (A) of this section to the managing officer of the hospital. The managing officer shall thereupon enter in the managing officer's records the name and address of any guardian appointed and of any relative liable for the patient's support. 65672
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Sec. 5121.51. In case the estate of any patient in a hospital is sufficient for the patient's support and no guardian has been appointed for such estate, the agent of the department of mental health shall petition the probate court of the proper county to appoint a guardian. 65677
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Sec. 5121.52. On the death of a person who is a patient, or has been a patient in a hospital, or on the death of a person responsible under section 5121.34 of the Revised Code for the support of a patient, the department of mental health may waive the presentation of any claim for support against the estate of such decedent, when in its judgment an otherwise dependent person will be directly benefited by the estate. Claims against an estate for support of a patient are subject to section 1339.51 and Chapter 2117. of the Revised Code, and shall be treated, and may be barred, the same as the claims of other creditors of the estate, pursuant to that section or chapter. 65682
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The department of mental health may accept from a guardian or trustee of a patient a contract agreeing to pay to the state from the property of the guardian's or trustee's ward before or at the death of the ward a fixed annual amount for the support of the ward while the ward is a patient, with interest at four per cent per annum. A copy of the contract shall be filed in the probate court of the proper county and duly entered as a part of the records concerning the ward. 65693
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Sec. 5121.53. The state shall bear the expense of the burial 65701

or cremation of an indigent patient who dies in a hospital if the 65702
body is not claimed for interment or cremation at the expense of 65703
friends or relatives, or is not delivered for anatomical purposes 65704
or for the study of embalming in accordance with section 1713.34 65705
of the Revised Code. The managing officer of the hospital shall 65706
provide at the grave of the patient or, if the patient's cremated 65707
remains are buried, at the grave of the patient's cremated 65708
remains, a metal, stone, or concrete marker on which shall be 65709
inscribed the name and age of the patient and the date of death. 65710

Sec. 5121.54. If payment of any amount due the state under 65711
the provisions of this chapter is made on account of a patient by 65712
any liable relative, as defined in section 5121.30 of the Revised 65713
Code, the relative may recover from the patient, the patient's 65714
guardian, or the executor or administrator of the patient's 65715
estate, the full amount of payment made by the liable relative; 65716
provided, that in no event may a relative recover in total more 65717
than the relative has paid the state, and provided, that in no 65718
event is the person from whom recovery is sought obliged to pay at 65719
a rate of support higher than the person would have paid had the 65720
state proceeded directly against that person. 65721

Sec. 5121.55. The cost for support of a client of 65722
state-operated community mental health services is an amount 65723
determined using guidelines the department of mental health shall 65724
issue. The guidelines shall be based on cost findings and 65725
rate-settings applicable to such services. 65726

Sec. 5121.56. The support and maintenance of patients 65727
confined in state hospitals for the mentally ill, including 65728
persons transferred to them from state correctional institutions, 65729
and also including persons under indictment or conviction for 65730
crime, shall be collected and paid in accordance with sections 65731

5121.30 to 5121.55 of the Revised Code. 65732

Sec. 5122.03. A patient admitted under section 5122.02 of the Revised Code who requests ~~his~~ release in writing, or whose release is requested in writing by ~~his~~ the patient's counsel, legal guardian, parent, spouse, or adult next of kin shall be released forthwith, except that when:

(A) The patient was admitted on ~~his~~ the patient's own application and the request for release is made by a person other than the patient, release may be conditional upon the agreement of the patient; or

(B) The chief clinical officer of the hospital, within three court days from the receipt of the request for release, files or causes to be filed with the court of the county where the patient is hospitalized or of the county where the patient is a resident, an affidavit under section 5122.11 of the Revised Code. Release may be postponed until the hearing held under section 5122.141 of the Revised Code. A telephone communication within three court days from the receipt of the request for release from the chief clinical officer to the court, indicating that the required affidavit has been mailed, is sufficient compliance with the time limit for filing such affidavit.

Unless the patient is released within three days from the receipt of the request by the chief clinical officer, the request shall serve as a request for an initial hearing under section 5122.141 of the Revised Code. If the court finds that the patient is a mentally ill person subject to hospitalization by court order, all provisions of this chapter with respect to involuntary hospitalization apply to such person.

Judicial proceedings for hospitalization shall not be commenced with respect to a voluntary patient except pursuant to

this section. 65762

Sections ~~5121.01 to 5121.10~~ 5121.30 to 5121.56 of the Revised Code apply to persons received in a hospital operated by the department of mental health on a voluntary application. 65763
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The chief clinical officer of the hospital shall provide reasonable means and arrangements for informing patients of their rights to release as provided in this section and for assisting them in making and presenting requests for release or for a hearing under section 5122.141 of the Revised Code. 65766
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Before a patient is released from a public hospital, the chief clinical officer shall, when possible, notify the board of the patient's county of residence of the patient's pending release after ~~he~~ the chief clinical officer has informed the patient that the board will be so notified. 65771
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Sec. 5122.31. (A) All certificates, applications, records, and reports made for the purpose of this chapter and sections 2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised Code, other than court journal entries or court docket entries, and directly or indirectly identifying a patient or former patient or person whose hospitalization has been sought under this chapter, shall be kept confidential and shall not be disclosed by any person except: 65776
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~~(A)~~(1) If the person identified, or the person's legal guardian, if any, or if the person is a minor, the person's parent or legal guardian, consents, and if the disclosure is in the best interests of the person, as may be determined by the court for judicial records and by the chief clinical officer for medical records; 65784
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~~(B)~~(2) When disclosure is provided for in this chapter or section 5123.60 of the Revised Code; 65790
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~~(C)~~(3) That hospitals, boards of alcohol, drug addiction, and 65792
mental health services, and community mental health agencies may 65793
release necessary medical information to insurers and other 65794
third-party payers, including government entities responsible for 65795
processing and authorizing payment, to obtain payment for goods 65796
and services furnished to the patient; 65797

~~(D)~~(4) Pursuant to a court order signed by a judge; 65798

~~(E)~~(5) That a patient shall be granted access to the 65799
patient's own psychiatric and medical records, unless access 65800
specifically is restricted in a patient's treatment plan for clear 65801
treatment reasons; 65802

~~(F)~~(6) That hospitals and other institutions and facilities 65803
within the department of mental health may exchange psychiatric 65804
records and other pertinent information with other hospitals, 65805
institutions, and facilities of the department, and with community 65806
mental health agencies and boards of alcohol, drug addiction, and 65807
mental health services with which the department has a current 65808
agreement for patient care or services. Records and information 65809
that may be released pursuant to this division shall be limited to 65810
medication history, physical health status and history, financial 65811
status, summary of course of treatment in the hospital, summary of 65812
treatment needs, and a discharge summary, if any. 65813

~~(G)~~(7) That a patient's family member who is involved in the 65814
provision, planning, and monitoring of services to the patient may 65815
receive medication information, a summary of the patient's 65816
diagnosis and prognosis, and a list of the services and personnel 65817
available to assist the patient and the patient's family, if the 65818
patient's treating physician determines that the disclosure would 65819
be in the best interests of the patient. No such disclosure shall 65820
be made unless the patient is notified first and receives the 65821
information and does not object to the disclosure. 65822

~~(H)~~(8) That community mental health agencies may exchange 65823
psychiatric records and certain other information with the board 65824
of alcohol, drug addiction, and mental health services and other 65825
agencies in order to provide services to a person involuntarily 65826
committed to a board. Release of records under this division shall 65827
be limited to medication history, physical health status and 65828
history, financial status, summary of course of treatment, summary 65829
of treatment needs, and discharge summary, if any. 65830

~~(I)~~(9) That information may be disclosed to the executor or 65831
the administrator of an estate of a deceased patient when the 65832
information is necessary to administer the estate; 65833

~~(J)~~(10) That records in the possession of the Ohio historical 65834
society may be released to the closest living relative of a 65835
deceased patient upon request of that relative; 65836

~~(K)~~(11) That information may be disclosed to staff members of 65837
the appropriate board or to staff members designated by the 65838
director of mental health for the purpose of evaluating the 65839
quality, effectiveness, and efficiency of services and determining 65840
if the services meet minimum standards. Information obtained 65841
during such evaluations shall not be retained with the name of any 65842
patient. 65843

~~(L)~~(12) That records pertaining to the patient's diagnosis, 65844
course of treatment, treatment needs, and prognosis shall be 65845
disclosed and released to the appropriate prosecuting attorney if 65846
the patient was committed pursuant to section 2945.38, 2945.39, 65847
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 65848
attorney designated by the board for proceedings pursuant to 65849
involuntary commitment under this chapter. 65850

~~(M)~~(13) That the department of mental health may exchange 65851
psychiatric hospitalization records, other mental health treatment 65852
records, and other pertinent information with the department of 65853

rehabilitation and correction to ensure continuity of care for 65854
inmates who are receiving mental health services in an institution 65855
of the department of rehabilitation and correction. The department 65856
shall not disclose those records unless the inmate is notified, 65857
receives the information, and does not object to the disclosure. 65858
The release of records under this division is limited to records 65859
regarding an inmate's medication history, physical health status 65860
and history, summary of course of treatment, summary of treatment 65861
needs, and a discharge summary, if any. 65862

~~(N)~~(14) That a community mental health agency that ceases to 65863
operate may transfer to either a community mental health agency 65864
that assumes its caseload or to the board of alcohol, drug 65865
addiction, and mental health services of the service district in 65866
which the patient resided at the time services were most recently 65867
provided any treatment records that have not been transferred 65868
elsewhere at the patient's request. 65869

~~(O)~~(B) Before records are disclosed pursuant to divisions 65870
~~(C)~~(A)(3), ~~(F)~~(6), and ~~(H)~~(8) of this section, the custodian of 65871
the records shall attempt to obtain the patient's consent for the 65872
disclosure. No person shall reveal the contents of a medical 65873
record of a patient except as authorized by law. 65874

(C) The managing officer of a hospital who releases necessary 65875
medical information under division (A)(3) of this section to allow 65876
an insurance carrier or other third party payor to comply with 65877
section 5121.43 of the Revised Code shall neither be subject to 65878
criminal nor civil liability. 65879

Sec. 5123.01. As used in this chapter: 65880

(A) "Chief medical officer" means the licensed physician 65881
appointed by the managing officer of an institution for the 65882
mentally retarded with the approval of the director of mental 65883
retardation and developmental disabilities to provide medical 65884

treatment for residents of the institution. 65885

(B) "Chief program director" means a person with special 65886
training and experience in the diagnosis and management of the 65887
mentally retarded, certified according to division (C) of this 65888
section in at least one of the designated fields, and appointed by 65889
the managing officer of an institution for the mentally retarded 65890
with the approval of the director to provide habilitation and care 65891
for residents of the institution. 65892

(C) "Comprehensive evaluation" means a study, including a 65893
sequence of observations and examinations, of a person leading to 65894
conclusions and recommendations formulated jointly, with 65895
dissenting opinions if any, by a group of persons with special 65896
training and experience in the diagnosis and management of persons 65897
with mental retardation or a developmental disability, which group 65898
shall include individuals who are professionally qualified in the 65899
fields of medicine, psychology, and social work, together with 65900
such other specialists as the individual case may require. 65901

(D) "Education" means the process of formal training and 65902
instruction to facilitate the intellectual and emotional 65903
development of residents. 65904

(E) "Habilitation" means the process by which the staff of 65905
the institution assists the resident in acquiring and maintaining 65906
those life skills that enable the resident to cope more 65907
effectively with the demands of the resident's own person and of 65908
the resident's environment and in raising the level of the 65909
resident's physical, mental, social, and vocational efficiency. 65910
Habilitation includes but is not limited to programs of formal, 65911
structured education and training. 65912

(F) ~~"Habilitation center services" means services provided by~~ 65913
~~a habilitation center certified by the department of mental~~ 65914
~~retardation and developmental disabilities under section 5123.041~~ 65915

~~of the Revised Code and covered by the medicaid program pursuant to rules adopted under section 5111.041 of the Revised Code.~~ 65916
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~~(G)~~ "Health officer" means any public health physician, public health nurse, or other person authorized or designated by a city or general health district. 65918
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~~(H)~~(G) "Home and community-based services" means medicaid-funded home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code provided under the medicaid waiver components the department of mental retardation and developmental disabilities administers pursuant to section 5111.871 of the Revised Code. 65921
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~~(I)~~(H) "Indigent person" means a person who is unable, without substantial financial hardship, to provide for the payment of an attorney and for other necessary expenses of legal representation, including expert testimony. 65927
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~~(J)~~(I) "Institution" means a public or private facility, or a part of a public or private facility, that is licensed by the appropriate state department and is equipped to provide residential habilitation, care, and treatment for the mentally retarded. 65931
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~~(K)~~(J) "Licensed physician" means a person who holds a valid certificate issued under Chapter 4731. of the Revised Code authorizing the person to practice medicine and surgery or osteopathic medicine and surgery, or a medical officer of the government of the United States while in the performance of the officer's official duties. 65936
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~~(L)~~(K) "Managing officer" means a person who is appointed by the director of mental retardation and developmental disabilities to be in executive control of an institution for the mentally retarded under the jurisdiction of the department. 65942
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~~(M)~~(L) "Medicaid" has the same meaning as in section 5111.01 65946

of the Revised Code. 65947

~~(N)~~(M) "Medicaid case management services" means case 65948
management services provided to an individual with mental 65949
retardation or other developmental disability that the state 65950
medicaid plan requires. 65951

~~(O)~~(N) "Mentally retarded person" means a person having 65952
significantly subaverage general intellectual functioning existing 65953
concurrently with deficiencies in adaptive behavior, manifested 65954
during the developmental period. 65955

~~(P)~~(O) "Mentally retarded person subject to 65956
institutionalization by court order" means a person eighteen years 65957
of age or older who is at least moderately mentally retarded and 65958
in relation to whom, because of the person's retardation, either 65959
of the following conditions exist: 65960

(1) The person represents a very substantial risk of physical 65961
impairment or injury to self as manifested by evidence that the 65962
person is unable to provide for and is not providing for the 65963
person's most basic physical needs and that provision for those 65964
needs is not available in the community; 65965

(2) The person needs and is susceptible to significant 65966
habilitation in an institution. 65967

~~(Q)~~(P) "A person who is at least moderately mentally 65968
retarded" means a person who is found, following a comprehensive 65969
evaluation, to be impaired in adaptive behavior to a moderate 65970
degree and to be functioning at the moderate level of intellectual 65971
functioning in accordance with standard measurements as recorded 65972
in the most current revision of the manual of terminology and 65973
classification in mental retardation published by the American 65974
association on mental retardation. 65975

~~(R)~~(O) As used in this division, "substantial functional 65976
limitation," "developmental delay," and "established risk" have 65977

the meanings established pursuant to section 5123.011 of the Revised Code. 65978
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"Developmental disability" means a severe, chronic disability that is characterized by all of the following: 65980
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(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code. 65982
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(2) It is manifested before age twenty-two. 65986

(3) It is likely to continue indefinitely. 65987

(4) It results in one of the following: 65988

(a) In the case of a person under three years of age, at least one developmental delay or an established risk; 65989
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(b) In the case of a person at least three years of age but under six years of age, at least two developmental delays or an established risk; 65991
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(c) In the case of a person six years of age or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least sixteen years of age, capacity for economic self-sufficiency. 65994
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(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person. 66001
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~~(S)~~(R) "Developmentally disabled person" means a person with a developmental disability. 66005
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~~(T)~~(S) "State institution" means an institution that is 66007

tax-supported and under the jurisdiction of the department. 66008

~~(U)~~(T) "Residence" and "legal residence" have the same 66009
meaning as "legal settlement," which is acquired by residing in 66010
Ohio for a period of one year without receiving general assistance 66011
prior to July 17, 1995, under former Chapter 5113. of the Revised 66012
Code, financial assistance under Chapter 5115. of the Revised 66013
Code, or assistance from a private agency that maintains records 66014
of assistance given. A person having a legal settlement in the 66015
state shall be considered as having legal settlement in the 66016
assistance area in which the person resides. No adult person 66017
coming into this state and having a spouse or minor children 66018
residing in another state shall obtain a legal settlement in this 66019
state as long as the spouse or minor children are receiving public 66020
assistance, care, or support at the expense of the other state or 66021
its subdivisions. For the purpose of determining the legal 66022
settlement of a person who is living in a public or private 66023
institution or in a home subject to licensing by the department of 66024
job and family services, the department of mental health, or the 66025
department of mental retardation and developmental disabilities, 66026
the residence of the person shall be considered as though the 66027
person were residing in the county in which the person was living 66028
prior to the person's entrance into the institution or home. 66029
Settlement once acquired shall continue until a person has been 66030
continuously absent from Ohio for a period of one year or has 66031
acquired a legal residence in another state. A woman who marries a 66032
man with legal settlement in any county immediately acquires the 66033
settlement of her husband. The legal settlement of a minor is that 66034
of the parents, surviving parent, sole parent, parent who is 66035
designated the residential parent and legal custodian by a court, 66036
other adult having permanent custody awarded by a court, or 66037
guardian of the person of the minor, provided that: 66038

(1) A minor female who marries shall be considered to have 66039

the legal settlement of her husband and, in the case of death of 66040
her husband or divorce, she shall not thereby lose her legal 66041
settlement obtained by the marriage. 66042

(2) A minor male who marries, establishes a home, and who has 66043
resided in this state for one year without receiving general 66044
assistance prior to July 17, 1995, under former Chapter 5113. of 66045
the Revised Code, financial assistance under Chapter 5115. of the 66046
Revised Code, or assistance from a private agency that maintains 66047
records of assistance given shall be considered to have obtained a 66048
legal settlement in this state. 66049

(3) The legal settlement of a child under eighteen years of 66050
age who is in the care or custody of a public or private child 66051
caring agency shall not change if the legal settlement of the 66052
parent changes until after the child has been in the home of the 66053
parent for a period of one year. 66054

No person, adult or minor, may establish a legal settlement 66055
in this state for the purpose of gaining admission to any state 66056
institution. 66057

~~(V)~~(U)(1) "Resident" means, subject to division (R)(2) of 66058
this section, a person who is admitted either voluntarily or 66059
involuntarily to an institution or other facility pursuant to 66060
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 66061
Code subsequent to a finding of not guilty by reason of insanity 66062
or incompetence to stand trial or under this chapter who is under 66063
observation or receiving habilitation and care in an institution. 66064

(2) "Resident" does not include a person admitted to an 66065
institution or other facility under section 2945.39, 2945.40, 66066
2945.401, or 2945.402 of the Revised Code to the extent that the 66067
reference in this chapter to resident, or the context in which the 66068
reference occurs, is in conflict with any provision of sections 66069
2945.37 to 2945.402 of the Revised Code. 66070

~~(W)~~(V) "Respondent" means the person whose detention, 66071
commitment, or continued commitment is being sought in any 66072
proceeding under this chapter. 66073

~~(X)~~(W) "Working day" and "court day" mean Monday, Tuesday, 66074
Wednesday, Thursday, and Friday, except when such day is a legal 66075
holiday. 66076

~~(Y)~~(X) "Prosecutor" means the prosecuting attorney, village 66077
solicitor, city director of law, or similar chief legal officer 66078
who prosecuted a criminal case in which a person was found not 66079
guilty by reason of insanity, who would have had the authority to 66080
prosecute a criminal case against a person if the person had not 66081
been found incompetent to stand trial, or who prosecuted a case in 66082
which a person was found guilty. 66083

~~(Z)~~(Y) "Court" means the probate division of the court of 66084
common pleas. 66085

Sec. 5123.045. ~~(A)~~ No person or government entity shall 66086
receive payment for providing home and community-based services 66087
unless the person or government entity is one of the following: 66088

~~(1)~~(A) Certified under ~~this~~ section 5123.16 of the Revised 66089
Code; 66090

~~(2)~~ Certified as a supported living provider under section 66091
~~5126.431 of the Revised Code~~; 66092

~~(3)~~(B) Licensed as a residential facility under section 66093
5123.19 of the Revised Code. ~~Division (A)(3) of this section does~~ 66094
~~not apply to an intermediate care facility for the mentally~~ 66095
~~retarded as defined in section 5111.20 of the Revised Code.~~ 66096

~~(B)~~ The department of mental retardation and developmental 66097
disabilities shall do all of the following in accordance with 66098
Chapter 119. of the Revised Code: 66099

~~(1)~~ Certify a person or government entity to provide home and 66100

~~community based services if the person or government entity 66101
satisfies the requirements for certification established by rules 66102
adopted under division (C) of this section; 66103~~

~~(2) Revoke a certificate when required to do so by rules 66104
adopted under division (C) of this section; 66105~~

~~(3) Hold hearings when there is a dispute between the 66106
department and a person or government entity concerning actions 66107
the department takes or does not take under division (B)(1) or (2) 66108
of this section. 66109~~

~~(C) The director of mental retardation and developmental 66110
disabilities shall adopt rules in accordance with Chapter 119. of 66111
the Revised Code establishing certification requirements and 66112
procedures for a person or government entity that seeks to provide 66113
home and community based services and is not certified as a 66114
supported living provider under section 5126.431 of the Revised 66115
Code or licensed as a residential facility under section 5123.19 66116
of the Revised Code. The rules shall specify the program areas for 66117
which certification is required and include procedures for all of 66118
the following: 66119~~

~~(1) Ensuring that providers comply with section 5126.28 or 66120
5126.281 of the Revised Code, as appropriate; 66121~~

~~(2) Evaluating the services provided to ensure that they are 66122
provided in a quality manner advantageous to the individual 66123
receiving the services. The procedures shall require that all of 66124
the following be considered as part of an evaluation: 66125~~

~~(a) The provider's experience and financial responsibility; 66126~~

~~(b) The provider's ability to comply with standards for the 66127
home and community based services that the provider provides; 66128~~

~~(c) The provider's ability to meet the needs of the 66129
individuals served; 66130~~

~~(d) Any other factor the director considers relevant.~~ 66131

~~(3) Determining when to revoke a provider's certificate. The reasons for which a certificate may be revoked may include good cause, including misfeasance, malfeasance, nonfeasance, confirmed abuse or neglect, financial irresponsibility, or other conduct the director determines is injurious to individuals being served.~~ 66132
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~~(D) The records of an evaluation conducted in accordance with rules adopted under division (C)(2) of this section are public records for purposes of section 149.43 of the Revised Code and shall be made available on request of any person, including individuals being served, individuals seeking home and community-based services, and county boards of mental retardation and developmental disabilities.~~ 66137
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Sec. 5123.046. The department of mental retardation and developmental disabilities shall review each component of the three-calendar year plan it receives from a county board of mental retardation and developmental disabilities under section 5126.054 of the Revised Code and, in consultation with the department of job and family services and office of budget and management, approve each component that includes all the information and conditions specified in that section. The fourth component of the plan shall be approved or disapproved not later than forty-five days after the fourth component is submitted to the department under division (B)(3) of section 5126.054 of the Revised Code. If the department approves all four components of the plan, the plan is approved. Otherwise, the plan is disapproved. If the plan is disapproved, the department shall take action against the county board under division (B) of section 5126.056 of the Revised Code. 66144
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In approving plans under this section, the department shall ensure that the aggregate of all plans provide for the increased enrollment into home and community-based services during each 66159
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state fiscal year of at least five hundred individuals who did not 66162
receive residential services, supported living, or home and 66163
community-based services the prior state fiscal year if the 66164
department has enough additional enrollment available for this 66165
purpose. 66166

The department shall establish protocols that the department 66167
shall use to determine whether a county board is complying with 66168
the programmatic and financial accountability mechanisms and 66169
achieving outcomes specified in its approved plan. If the 66170
department determines that a county board is not in compliance 66171
with the mechanisms or achieving the outcomes specified in its 66172
approved plan, the department may take action under division 66173
(G)(F) of section 5126.055 of the Revised Code. 66174

Sec. 5123.047. (A) ~~The department of mental retardation and 66175
developmental disabilities shall pay the nonfederal share of 66176
medicaid expenditures for habilitation center services provided to 66177
an individual with mental retardation or other developmental 66178
disability unless section 5111.041 of the Revised Code requires a 66179
county board of mental retardation and developmental disabilities 66180
or a school district to pay the nonfederal share.~~ 66181

~~(B) The department of mental retardation and developmental 66182
disabilities shall pay the nonfederal share of medicaid 66183
expenditures for medicaid case management services if ~~either of 66184
the following apply:~~ 66185~~

~~(1) The the services are provided to an individual with 66186
mental retardation or other developmental disability who a county 66187
board of mental retardation and developmental disabilities has 66188
determined under section 5126.041 of the Revised Code is not 66189
eligible for county board services:~~ 66190

~~(2) The services are provided to an individual with mental 66191
retardation or other developmental disability by a public or 66192~~

~~private agency with which the department has contracted under~~ 66193
~~section 5123.56 of the Revised Code to provide protective services~~ 66194
~~to the individual.~~ 66195

~~(C)~~(B) The department shall pay the nonfederal share of 66196
medicaid expenditures for home and community-based services if 66197
~~either~~ any of the following apply: 66198

(1) The services are provided to an individual with mental 66199
retardation or other developmental disability who a county board 66200
has determined under section 5126.041 of the Revised Code is not 66201
eligible for county board services; 66202

(2) The services are provided to an individual with mental 66203
retardation or other developmental disability given priority for 66204
the services pursuant to division (D)(3) of section 5126.042 of 66205
the Revised Code. The department shall pay the nonfederal share of 66206
medicaid expenditures for home and community-based services 66207
provided to such an individual for as long as the individual 66208
continues to be eligible for and receive the services, regardless 66209
of whether the services are provided after June 30, 2003. 66210

(3) An agreement entered into under section 5123.048 of the 66211
Revised Code requires that the department pay the nonfederal share 66212
of medicaid expenditures for the services. 66213

Sec. 5123.048. The director of mental retardation and 66214
developmental disabilities may enter into an agreement with a 66215
county board of mental retardation and developmental disabilities 66216
under which the department of mental retardation and developmental 66217
disabilities is to pay the nonfederal share of medicaid 66218
expenditures for home and community-based services provided to 66219
individuals with mental retardation or other developmental 66220
disability residing in the county served by the county board. 66221

Sec. 5123.049. The director of mental retardation and 66222

developmental disabilities shall adopt rules in accordance with 66223
Chapter 119. of the Revised Code governing the authorization and 66224
payment of home and community-based services, and medicaid case 66225
management services, ~~and habilitation center services~~. The rules 66226
shall provide for private providers of the services to receive one 66227
hundred per cent of the medicaid allowable payment amount and for 66228
government providers of the services to receive the federal share 66229
of the medicaid allowable payment, less the amount withheld as a 66230
fee under section 5123.0412 of the Revised Code and any amount 66231
that may be required by rules adopted under section 5123.0413 of 66232
the Revised Code to be deposited into the state MR/DD risk fund. 66233
The rules shall establish the process by which county boards of 66234
mental retardation and developmental disabilities shall certify 66235
and provide the nonfederal share of medicaid expenditures that the 66236
county board is required by division (A) of section 5126.057 of 66237
the Revised Code to pay. The process shall require a county board 66238
to certify that the county board has funding available at one time 66239
for two months costs for those expenditures. The process may 66240
permit a county board to certify that the county board has funding 66241
available at one time for more than two months costs for those 66242
expenditures. 66243

Sec. 5123.0412. (A) The department of mental retardation and 66244
developmental disabilities shall charge each county board of 66245
mental retardation and developmental disabilities an annual fee 66246
equal to one and one-half per cent of the total value of all 66247
medicaid paid claims for medicaid case management services and 66248
home and community-based services ~~for which the county board~~ 66249
~~contracts or provides itself~~ provided during the year to an 66250
individual eligible for services from the county board. No county 66251
board shall pass the cost of a fee charged to the county board 66252
under this section on to a ~~person or government entity with which~~ 66253
~~the county board contracts to provide the~~ another provider of 66254

these services. 66255

(B) The fees collected under this section shall be deposited 66256
into the ODMR/DD administration and oversight fund and the ODJFS 66257
administration and oversight fund, both of which are hereby 66258
created in the state treasury. The portion of the fees to be 66259
deposited into the ODMR/DD administration and oversight fund and 66260
the portion of the fees to be deposited into the ODJFS 66261
administration and oversight fund shall be the portion specified 66262
in an interagency agreement entered into under division (C) of 66263
this section. The department of mental retardation and 66264
developmental disabilities shall use the money in the ODMR/DD 66265
administration and oversight fund and the department of job and 66266
family services shall use the money in the ODJFS administration 66267
and oversight fund for both of the following purposes: 66268

(1) The administrative and oversight costs of ~~habilitation~~ 66269
~~center services~~, medicaid case management services, and home and 66270
community-based services ~~that a county board develops and monitors~~ 66271
~~and the county board or a person or government entity under~~ 66272
~~contract with the county board provides~~. The administrative and 66273
oversight costs shall include costs for staff, systems, and other 66274
resources the departments need and dedicate solely to the 66275
following duties associated with the services: 66276

(a) Eligibility determinations; 66277

(b) Training; 66278

(c) Fiscal management; 66279

(d) Claims processing; 66280

(e) Quality assurance oversight; 66281

(f) Other duties the departments identify. 66282

(2) Providing technical support to county boards' local 66283
administrative authority under section 5126.055 of the Revised 66284

Code for the services. 66285

(C) The departments of mental retardation and developmental 66286
disabilities and job and family services shall enter into an 66287
interagency agreement to do both of the following: 66288

(1) Specify which portion of the fees collected under this 66289
section is to be deposited into the ODMR/DD administration and 66290
oversight fund and which portion is to be deposited into the ODJFS 66291
administration and oversight fund; 66292

(2) Provide for the departments to coordinate the staff whose 66293
costs are paid for with money in the ODMR/DD administration and 66294
oversight fund and the ODJFS administration and oversight fund. 66295

(D) The departments shall submit an annual report to the 66296
director of budget and management certifying how the departments 66297
spent the money in the ODMR/DD administration and oversight fund 66298
and the ODJFS administration and oversight fund for the purposes 66299
specified in division (B) of this section. 66300

Sec. 5123.16. (A) In accordance with Chapter 119. of the 66301
Revised Code, the director of mental retardation and developmental 66302
disabilities shall adopt and may amend and rescind rules for the 66303
certification of persons or government entities as described in 66304
division (A) of section 5123.045 of the Revised Code that provide 66305
or propose to provide home and community-based waiver services. 66306
The rules shall establish or specify all of the following: 66307

(1) Procedures for issuing and renewing certification and 66308
establishing expiration dates for currently certified providers; 66309

(2) Procedures and criteria for denying, refusing to renew, 66310
terminating, and revoking certification in accordance with this 66311
section and Chapter 119. of the Revised Code; 66312

(3) Procedures for ordering the suspension of a certified 66313
provider's certification; 66314

(4) Fees for issuing and renewing certification. All fees collected pursuant to this section shall be deposited in the state treasury to the credit of the provider certification fund, which is hereby created. Money credited to the fund shall be used solely for the operation of the provider certification program established under this section. 66315
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(5) Program services for which certification is required and provider standards for those services; 66321
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(6) Procedures for certification; 66323

(7) Procedures for ensuring that providers comply with sections 5123.52 and 5126.281 of the Revised Code. 66324
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(B) A provider's certification may be terminated when the certified provider has not billed for services for a period of more than twelve consecutive months and the provider has been notified in accordance with Chapter 119. of the Revised Code. 66326
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(C) The director may suspend or revoke a provider's certification in accordance with Chapter 119. of the Revised Code for good cause, including misfeasance, malfeasance, nonfeasance, confirmed abuse or neglect, noncompliance with provider certification standards, financial irresponsibility, or other conduct the department determines is injurious to individuals being served. 66330
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(D)(1) The director may suspend a certified provider's certification to serve one or more individuals currently served by the provider in one or more counties before providing an opportunity for an adjudication under Chapter 119. of the Revised Code when the director determines that the certified provider has demonstrated a pattern of serious noncompliance with certification standards or that a violation of certification standards creates a substantial risk to the health and safety of an individual served by the certified provider and both the following conditions are 66337
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met: 66346

(a) The individual or guardian, as appropriate, has been made 66347
aware of the patterns of serious noncompliance or violations of 66348
certification standards that create a substantial risk to the 66349
health and safety of the individual, and the individual or 66350
guardian does not choose to select another certified provider; and 66351

(b) A county board of mental retardation and developmental 66352
disabilities has filed a complaint with the probate court in 66353
accordance with section 5126.33 of the Revised Code and the 66354
probate court does not issue an order authorizing the board to 66355
arrange protective services for the individual. 66356

(2) The director may suspend a certified provider's 66357
certification to begin to serve one or more individuals not 66358
currently being served by the provider in one or more counties 66359
before providing an opportunity for an adjudication under Chapter 66360
119. of the Revised Code when the director determines that the 66361
certified provider has demonstrated a pattern of serious 66362
noncompliance with certification standards or that a violation of 66363
certification standards creates a substantial risk to the health 66364
and safety of an individual served by the certified provider. 66365

(3) Except as provided in division (D)(4) of this section, 66366
appeals from proceedings initiated to terminate a provider's 66367
certification under division (B) of this section or to suspend or 66368
revoke a provider's certification under division (C) of this 66369
section shall be conducted in accordance with Chapter 119. of the 66370
Revised Code. 66371

(4) Appeals from proceedings initiated to order the 66372
suspension of a certified provider's certification shall be 66373
conducted in accordance with Chapter 119. of the Revised Code, 66374
unless the order was issued before providing an opportunity for an 66375
adjudication, in which case all of the following apply: 66376

(a) The department shall notify the certified provider within 66377
twenty-four hours of ordering of the suspension. 66378

(b) The certified provider may request a hearing not later 66379
than ten days after receiving the notice specified in section 66380
119.07 of the Revised Code. 66381

(c) If a timely request for a hearing is made, the hearing 66382
shall commence not later than thirty days after the department 66383
receives the request. 66384

(d) After commencing, the hearing shall continue, 66385
uninterrupted, except for Saturdays, Sundays, and legal holidays, 66386
unless other interruptions are agreed to by the provider and the 66387
director. 66388

(e) If the hearing is conducted by a hearing examiner, the 66389
hearing examiner shall file a report and recommendations not later 66390
than ten days after the close of the hearing. For purposes of 66391
division (D)(4)(d) of this section, the hearing shall not be 66392
considering closed until the hearing examiner receives the 66393
transcript of the hearing, if a transcript is ordered, and all 66394
post-hearing briefs, if any, are timely filed. 66395

(f) A copy of such written report and recommendations of the 66396
hearing examiner shall, within five days of the date of the filing 66397
thereof, be served upon the provider or the provider's attorney, 66398
by certified mail. 66399

(g) The provider may file objections to the report and 66400
recommendations not later than five days after the receipt of the 66401
report and recommendations. 66402

(h) No recommendation of the hearing examiner shall be 66403
approved, modified, or disapproved by the department until five 66404
days after service of the hearing examiner's report and 66405
recommendations upon the provider or the provider's attorney. 66406

(i) Not later than fifteen days after the service of such report and recommendations of the hearing examiner upon the provider or the provider's attorney, the director shall issue an order approving, modifying, or disapproving the report and recommendation. 66407
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(j) The order shall be lifted when the provider has submitted an acceptable plan of compliance and the department determines the plan of compliance has been appropriately implemented. 66412
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(k) Following the issuance of an adjudication order by the director, the provider may appeal the order in accordance with section 119.12 of the Revised Code. 66415
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(l) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of the certified provider's certification under division (D)(1) or (D)(2) of this section when the director determines that the violation that formed the basis for the order has been corrected. The hearing shall continue unless the provider withdraws, in writing, the appeal of the department's suspension. 66418
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(E) All applicants for or holders of certification under this section shall maintain a current address with the director at all times. 66425
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(F) An applicant whose certification has been denied in accordance with this section may not apply to become a certified provider within one year of the date of the applicant's denial of certification. A certified provider whose certification has been revoked in accordance with this section may not apply for certification within five years of the revocation of the certified provider's certification. 66428
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(G) The records of surveys of providers conducted in accordance with this section are public records for purposes of section 149.43 of the Revised Code and shall be made available 66435
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upon request of any person, including individuals being served, 66438
individuals seeking home and community-based services, and county 66439
boards of mental retardation and developmental disabilities. 66440

(H) The certification of a provider that is certified to 66441
provide home and community-based services on the effective date of 66442
this section shall remain in effect until the department 66443
establishes an expiration date for the certification unless the 66444
certification is voluntarily surrendered or terminated, suspended 66445
or revoked in accordance with this section. 66446

(I) As used in this section, "home and community-based 66447
services" has the same meaning as in section 5126.01 of the 66448
Revised Code. 66449

(J) The director of mental retardation and developmental 66450
disabilities shall not apply any provisions of sections 5126.40 to 66451
5126.47 of the Revised Code to any provider of home and 66452
community-based services certified under this section. 66453

Sec. 5123.34. This chapter attempts to do all of the 66454
following: 66455

(A) Provide humane and scientific treatment and care and the 66456
highest attainable degree of individual development for persons 66457
with mental retardation or a developmental disability; 66458

(B) Promote the study of the causes of mental retardation and 66459
developmental disabilities, with a view to ultimate prevention; 66460

(C) Secure by uniform and systematic management the highest 66461
attainable degree of economy in the administration of the 66462
institutions under the control of the department of mental 66463
retardation and developmental disabilities. 66464

Sections 5123.02 to 5123.04, ~~5123.041 to~~ 5123.042, 5123.043, 66465
5123.10, 5123.21, 5123.221, 5123.25, and 5123.31 of the Revised 66466
Code shall be liberally construed to attain these purposes. 66467

Sec. 5123.41. As used in this section and sections 5123.42 to 66468
5123.47 of the Revised Code: 66469

(A) "Adult services" has the same meaning as in section 66470
5126.01 of the Revised Code. 66471

(B) "Certified home and community-based services provider" 66472
means a person or government entity certified under section 66473
~~5123.045~~ 5123.16 of the Revised Code. 66474

(C) "Certified supported living provider" means a person or 66475
government entity certified under section 5126.431 of the Revised 66476
Code. 66477

(D) "Drug" has the same meaning as in section 4729.01 of the 66478
Revised Code. 66479

(E) "Family support services" has the same meaning as in 66480
section 5126.01 of the Revised Code. 66481

(F) "Health-related activities" means the following: 66482

(1) Taking vital signs; 66483

(2) Application of clean dressings that do not require health 66484
assessment; 66485

(3) Basic measurement of bodily intake and output; 66486

(4) Oral suctioning; 66487

(5) Use of glucometers; 66488

(6) External urinary catheter care; 66489

(7) Emptying and replacing colostomy bags; 66490

(8) Collection of specimens by noninvasive means. 66491

(G) "Licensed health professional authorized to prescribe 66492
drugs" has the same meaning as in section 4729.01 of the Revised 66493
Code. 66494

(H) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code. 66495
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(I) "MR/DD personnel" means the employees and the workers under contract who provide specialized services to individuals with mental retardation and developmental disabilities. "MR/DD personnel" includes those who provide the services as follows: 66497
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(1) Through direct employment with the department of mental retardation and developmental disabilities or a county board of mental retardation and developmental disabilities; 66501
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(2) Through an entity under contract with the department of mental retardation and developmental disabilities or a county board of mental retardation and developmental disabilities; 66504
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(3) Through direct employment or by being under contract with private entities, including private entities that operate residential facilities. 66507
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(J) "Nursing delegation" means the process established in rules adopted by the board of nursing pursuant to Chapter 4723. of the Revised Code under which a registered nurse or licensed practical nurse acting at the direction of a registered nurse transfers the performance of a particular nursing activity or task to another person who is not otherwise authorized to perform the activity or task. 66510
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(K) "Prescribed medication" means a drug that is to be administered according to the instructions of a licensed health professional authorized to prescribe drugs. 66517
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(L) "Residential facility" means a facility licensed under section 5123.19 of the Revised Code or subject to section 5123.192 of the Revised Code. 66520
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(M) "Specialized services" has the same meaning as in section 5123.50 of the Revised Code. 66523
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(N) "Tube feeding" means the provision of nutrition to an individual through a gastrostomy tube or a jejunostomy tube.

Sec. 5123.701. (A) Except as provided in division (E) of this section, any person in the community who is eighteen years of age or older and who is or believes self to be mentally retarded may make written application to the managing officer of any institution for temporary admission for short-term care. The application may be made on behalf of a minor by a parent or guardian, and on behalf of an adult adjudicated mentally incompetent by a guardian.

(B) For purposes of this section, short-term care shall be defined to mean appropriate services provided to a person with mental retardation for no more than fourteen consecutive days and for no more than forty-two days in a fiscal year. When circumstances warrant, the fourteen-day period may be extended at the discretion of the managing officer. Short-term care is provided in a developmental center to meet the family's or caretaker's needs for separation from the person with mental retardation.

(C) The managing officer of an institution, with the concurrence of the chief program director, may admit a person for short-term care only after a medical examination has been made of the person and only if the managing officer concludes that the person is mentally retarded.

(D) If application for admission for short-term care of a minor or of a person adjudicated mentally incompetent is made by the minor's parent or guardian or by the incompetent's guardian and the minor or incompetent is admitted, the probate division of the court of common pleas shall determine, upon petition by the legal rights service, whether the admission for short-term care is in the best interest of the minor or the incompetent.

(E) A person who is found not guilty by reason of insanity 66556
shall not admit self to an institution for short-term care unless 66557
a hearing was held regarding the person pursuant to division (A) 66558
of section 2945.40 of the Revised Code and either of the following 66559
applies: 66560

(1) The person was found at the hearing not to be a mentally 66561
retarded person subject to institutionalization by court order; 66562

(2) The person was found at the hearing to be a mentally 66563
retarded person subject to institutionalization by court order, 66564
was involuntarily committed, and was finally discharged. 66565

(F) The mentally retarded person, liable relatives, and 66566
guardians of mentally retarded persons admitted for respite care 66567
shall pay support charges in accordance with sections ~~5121.03~~ 66568
5121.01 to ~~5121.07~~ 5121.21 of the Revised Code. 66569

(G) At the conclusion of each period of short-term care, the 66570
person shall return to the person's family or caretaker. Under no 66571
circumstances shall a person admitted for short-term care 66572
according to this section remain in the institution after the 66573
period of short-term care unless the person is admitted according 66574
to section 5123.70, sections 5123.71 to 5123.76, or section 66575
2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 66576
Code. 66577

Sec. 5123.71. (A)(1) Proceedings for the involuntary 66578
institutionalization of a person pursuant to sections 5123.71 to 66579
5123.76 of the Revised Code shall be commenced by the filing of an 66580
affidavit with the probate division of the court of common pleas 66581
of the county where the person resides or where the person is 66582
institutionalized, in the manner and form prescribed by the 66583
department of mental retardation and developmental disabilities 66584
either on information or actual knowledge, whichever is determined 66585
to be proper by the court. The affidavit may be filed only by a 66586

person who has custody of the individual as a parent, guardian, or 66587
service provider or by a person acting on behalf of the department 66588
or a county board of mental retardation and developmental 66589
disabilities. This section does not apply regarding the 66590
institutionalization of a person pursuant to section 2945.39, 66591
2945.40, 2945.401, or 2945.402 of the Revised Code. 66592

The affidavit shall contain an allegation setting forth the 66593
specific category or categories under division ~~(P)~~(O) of section 66594
5123.01 of the Revised Code upon which the commencement of 66595
proceedings is based and a statement of the factual ground for the 66596
belief that the person is a mentally retarded person subject to 66597
institutionalization by court order. Except as provided in 66598
division (A)(2) of this section, the affidavit shall be 66599
accompanied by both of the following: 66600

(a) A comprehensive evaluation report prepared by the 66601
person's evaluation team that includes a statement by the members 66602
of the team certifying that they have performed a comprehensive 66603
evaluation of the person and that they are of the opinion that the 66604
person is a mentally retarded person subject to 66605
institutionalization by court order; 66606

(b) An assessment report prepared by the county board of 66607
mental retardation and developmental disabilities under section 66608
5123.711 of the Revised Code specifying that the individual is in 66609
need of services on an emergency or priority basis. 66610

(2) In lieu of the comprehensive evaluation report, the 66611
affidavit may be accompanied by a written and sworn statement that 66612
the person or the guardian of a person adjudicated incompetent has 66613
refused to allow a comprehensive evaluation and county board 66614
assessment and assessment reports. Immediately after accepting an 66615
affidavit that is not accompanied by the reports of a 66616
comprehensive evaluation and county board assessment, the court 66617
shall cause a comprehensive evaluation and county board assessment 66618

of the person named in the affidavit to be performed. The 66619
evaluation shall be conducted in the least restrictive environment 66620
possible and the assessment shall be conducted in the same manner 66621
as assessments conducted under section 5123.711 of the Revised 66622
Code. The evaluation and assessment must be completed before a 66623
probable cause hearing or full hearing may be held under section 66624
5123.75 or 5123.76 of the Revised Code. 66625

A written report of the evaluation team's findings and the 66626
county board's assessment shall be filed with the court. The 66627
reports shall, consistent with the rules of evidence, be accepted 66628
as probative evidence in any proceeding under section 5123.75 or 66629
5123.76 of the Revised Code. If the counsel for the person who is 66630
evaluated or assessed is known, the court shall send to the 66631
counsel a copy of the reports as soon as possible after they are 66632
filed and prior to any proceedings under section 5123.75 or 66633
5123.76 of the Revised Code. 66634

(B) Any person who is involuntarily detained in an 66635
institution or otherwise is in custody under this chapter shall be 66636
informed of the right to do the following: 66637

(1) Immediately make a reasonable number of telephone calls 66638
or use other reasonable means to contact an attorney, a physician, 66639
or both, to contact any other person or persons to secure 66640
representation by counsel, or to obtain medical assistance, and be 66641
provided assistance in making calls if the assistance is needed 66642
and requested; 66643

(2) Retain counsel and have independent expert evaluation 66644
and, if the person is an indigent person, be represented by 66645
court-appointed counsel and have independent expert evaluation at 66646
court expense; 66647

(3) Upon request, have a hearing to determine whether there 66648
is probable cause to believe that the person is a mentally 66649

retarded person subject to institutionalization by court order. 66650

(C) No person who is being treated by spiritual means through 66651
prayer alone in accordance with a recognized religious method of 66652
healing may be ordered detained or involuntarily committed unless 66653
the court has determined that the person represents a very 66654
substantial risk of self-impairment, self-injury, or impairment or 66655
injury to others. 66656

Sec. 5123.76. (A) The full hearing shall be conducted in a 66657
manner consistent with the procedures outlined in this chapter and 66658
with due process of law. The hearing shall be held by a judge of 66659
the probate division or, upon transfer by the judge of the probate 66660
division, by another judge of the court of common pleas, or a 66661
referee designated by the judge of the probate division. Any 66662
referee designated by the judge of the probate division must be an 66663
attorney. 66664

(1) The following shall be made available to counsel for the 66665
respondent: 66666

(a) All relevant documents, information, and evidence in the 66667
custody or control of the state or prosecutor; 66668

(b) All relevant documents, information, and evidence in the 66669
custody or control of the institution, facility, or program in 66670
which the respondent currently is held or in which the respondent 66671
has been held pursuant to these proceedings; 66672

(c) With the consent of the respondent, all relevant 66673
documents, information, and evidence in the custody or control of 66674
any institution or person other than the state. 66675

(2) The respondent has the right to be represented by counsel 66676
of the respondent's choice and has the right to attend the hearing 66677
except if unusual circumstances of compelling medical necessity 66678
exist that render the respondent unable to attend and the 66679

respondent has not expressed a desire to attend. 66680

(3) If the respondent is not represented by counsel and the 66681
court determines that the conditions specified in division (A)(2) 66682
of this section justify the respondent's absence and the right to 66683
counsel has not been validly waived, the court shall appoint 66684
counsel forthwith to represent the respondent at the hearing, 66685
reserving the right to tax costs of appointed counsel to the 66686
respondent unless it is shown that the respondent is indigent. If 66687
the court appoints counsel, or if the court determines that the 66688
evidence relevant to the respondent's absence does not justify the 66689
absence, the court shall continue the case. 66690

(4) The respondent shall be informed of the right to retain 66691
counsel, to have independent expert evaluation, and, if an 66692
indigent person, to be represented by court appointed counsel and 66693
have expert independent evaluation at court expense. 66694

(5) The hearing may be closed to the public unless counsel 66695
for the respondent requests that the hearing be open to the 66696
public. 66697

(6) Unless objected to by the respondent, the respondent's 66698
counsel, or the designee of the director of mental retardation and 66699
developmental disabilities, the court, for good cause shown, may 66700
admit persons having a legitimate interest in the proceedings. 66701

(7) The affiant under section 5123.71 of the Revised Code 66702
shall be subject to subpoena by either party. 66703

(8) The court shall examine the sufficiency of all documents 66704
filed and shall inform the respondent, if present, and the 66705
respondent's counsel of the nature of the content of the documents 66706
and the reason for which the respondent is being held or for which 66707
the respondent's placement is being sought. 66708

(9) The court shall receive only relevant, competent, and 66709
material evidence. 66710

(10) The designee of the director shall present the evidence 66711
for the state. In proceedings under this chapter, the attorney 66712
general shall present the comprehensive evaluation, assessment, 66713
diagnosis, prognosis, record of habilitation and care, if any, and 66714
less restrictive habilitation plans, if any. The attorney general 66715
does not have a similar presentation responsibility in connection 66716
with a person who has been found not guilty by reason of insanity 66717
and who is the subject of a hearing under section 2945.40 of the 66718
Revised Code to determine whether the person is a mentally 66719
retarded person subject to institutionalization by court order. 66720

(11) The respondent has the right to testify and the 66721
respondent or the respondent's counsel has the right to subpoena 66722
witnesses and documents and to present and cross-examine 66723
witnesses. 66724

(12) The respondent shall not be compelled to testify and 66725
shall be so advised by the court. 66726

(13) On motion of the respondent or the respondent's counsel 66727
for good cause shown, or upon the court's own motion, the court 66728
may order a continuance of the hearing. 66729

(14) To an extent not inconsistent with this chapter, the 66730
Rules of Civil Procedure shall be applicable. 66731

(B) Unless, upon completion of the hearing, the court finds 66732
by clear and convincing evidence that the respondent named in the 66733
affidavit is a mentally retarded person subject to 66734
institutionalization by court order, it shall order the 66735
respondent's discharge forthwith. 66736

(C) If, upon completion of the hearing, the court finds by 66737
clear and convincing evidence that the respondent is a mentally 66738
retarded person subject to institutionalization by court order, 66739
the court may order the respondent's discharge or order the 66740
respondent, for a period not to exceed ninety days, to any of the 66741

following: 66742

(1) A public institution, provided that commitment of the 66743
respondent to the institution will not cause the institution to 66744
exceed its licensed capacity determined in accordance with section 66745
5123.19 of the Revised Code and provided that such a placement is 66746
indicated by the comprehensive evaluation report filed pursuant to 66747
section 5123.71 of the Revised Code; 66748

(2) A private institution; 66749

(3) A county mental retardation program; 66750

(4) Receive private habilitation and care; 66751

(5) Any other suitable facility, program, or the care of any 66752
person consistent with the comprehensive evaluation, assessment, 66753
diagnosis, prognosis, and habilitation needs of the respondent. 66754

(D) Any order made pursuant to division (C)(2), (4), or (5) 66755
of this section shall be conditional upon the receipt by the court 66756
of consent by the facility, program, or person to accept the 66757
respondent. 66758

(E) In determining the place to which, or the person with 66759
whom, the respondent is to be committed, the court shall consider 66760
the comprehensive evaluation, assessment, diagnosis, and projected 66761
habilitation plan for the respondent, and shall order the 66762
implementation of the least restrictive alternative available and 66763
consistent with habilitation goals. 66764

(F) If, at any time it is determined by the director of the 66765
facility or program to which, or the person to whom, the 66766
respondent is committed that the respondent could be equally well 66767
habilitated in a less restrictive environment that is available, 66768
the following shall occur: 66769

(1) The respondent shall be released by the director of the 66770
facility or program or by the person forthwith and referred to the 66771

court together with a report of the findings and recommendations 66772
of the facility, program, or person. 66773

(2) The director of the facility or program or the person 66774
shall notify the respondent's counsel and the designee of the 66775
director of mental retardation and developmental disabilities. 66776

(3) The court shall dismiss the case or order placement in 66777
the less restrictive environment. 66778

(G)(1) Except as provided in divisions (G)(2) and (3) of this 66779
section, any person who has been committed under this section may 66780
apply at any time during the ninety-day period for voluntary 66781
admission to an institution under section 5123.69 of the Revised 66782
Code. Upon admission of a voluntary resident, the managing officer 66783
immediately shall notify the court, the respondent's counsel, and 66784
the designee of the director in writing of that fact by mail or 66785
otherwise, and, upon receipt of the notice, the court shall 66786
dismiss the case. 66787

(2) A person who is found incompetent to stand trial or not 66788
guilty by reason of insanity and who is committed pursuant to 66789
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 66790
Code shall not be voluntarily admitted to an institution pursuant 66791
to division (G)(1) of this section until after the termination of 66792
the commitment, as described in division (J) of section 2945.401 66793
of the Revised Code. 66794

(H) If, at the end of any commitment period, the respondent 66795
has not already been discharged or has not requested voluntary 66796
admission status, the director of the facility or program, or the 66797
person to whose care the respondent has been committed, shall 66798
discharge the respondent forthwith, unless at least ten days 66799
before the expiration of that period the designee of the director 66800
of mental retardation and developmental disabilities or the 66801
prosecutor files an application with the court requesting 66802

continued commitment. 66803

(1) An application for continued commitment shall include a 66804
written report containing a current comprehensive evaluation and 66805
assessment, a diagnosis, a prognosis, an account of progress and 66806
past habilitation, and a description of alternative habilitation 66807
settings and plans, including a habilitation setting that is the 66808
least restrictive setting consistent with the need for 66809
habilitation. A copy of the application shall be provided to 66810
respondent's counsel. The requirements for notice under section 66811
5123.73 of the Revised Code and the provisions of divisions (A) to 66812
(E) of this section apply to all hearings on such applications. 66813

(2) A hearing on the first application for continued 66814
commitment shall be held at the expiration of the first ninety-day 66815
period. The hearing shall be mandatory and may not be waived. 66816

(3) Subsequent periods of commitment not to exceed one 66817
hundred eighty days each may be ordered by the court if the 66818
designee of the director of mental retardation and developmental 66819
disabilities files an application for continued commitment, after 66820
a hearing is held on the application or without a hearing if no 66821
hearing is requested and no hearing required under division (H)(4) 66822
of this section is waived. Upon the application of a person 66823
involuntarily committed under this section, supported by an 66824
affidavit of a licensed physician alleging that the person is no 66825
longer a mentally retarded person subject to institutionalization 66826
by court order, the court for good cause shown may hold a full 66827
hearing on the person's continued commitment prior to the 66828
expiration of any subsequent period of commitment set by the 66829
court. 66830

(4) A mandatory hearing shall be held at least every two 66831
years after the initial commitment. 66832

(5) If the court, after a hearing upon a request to continue 66833

commitment, finds that the respondent is a mentally retarded 66834
person subject to institutionalization by court order, the court 66835
may make an order pursuant to divisions (C), (D), and (E) of this 66836
section. 66837

(I) Notwithstanding the provisions of division (H) of this 66838
section, no person who is found to be a mentally retarded person 66839
subject to institutionalization by court order pursuant to 66840
division ~~(P)~~(O)(2) of section 5123.01 of the Revised Code shall be 66841
held under involuntary commitment for more than five years. 66842

(J) The managing officer admitting a person pursuant to a 66843
judicial proceeding, within ten working days of the admission, 66844
shall make a report of the admission to the department. 66845

Sec. 5126.01. As used in this chapter: 66846

(A) As used in this division, "adult" means an individual who 66847
is eighteen years of age or over and not enrolled in a program or 66848
service under Chapter 3323. of the Revised Code and an individual 66849
sixteen or seventeen years of age who is eligible for adult 66850
services under rules adopted by the director of mental retardation 66851
and developmental disabilities pursuant to Chapter 119. of the 66852
Revised Code. 66853

(1) "Adult services" means services provided to an adult 66854
outside the home, except when they are provided within the home 66855
according to an individual's assessed needs and identified in an 66856
individual service plan, that support learning and assistance in 66857
the area of self-care, sensory and motor development, 66858
socialization, daily living skills, communication, community 66859
living, social skills, or vocational skills. 66860

(2) "Adult services" includes all of the following: 66861

(a) Adult day habilitation services; 66862

(b) Adult day care; 66863

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|---|--|
| (c) Prevocational services; | 66864 |
| (d) Sheltered employment; | 66865 |
| (e) Educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports; | 66866 66867 66868 66869 66870 66871 66872 |
| (f) Community employment services and supported employment services. | 66873 66874 |
| (B)(1) "Adult day habilitation services" means adult services that do the following: | 66875 66876 |
| (a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community events, and activities where individuals without disabilities are involved; | 66877 66878 66879 66880 66881 66882 66883 66884 |
| (b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community. | 66885 66886 66887 66888 |
| (2) "Adult day habilitation services" includes all of the following: | 66889 66890 |
| (a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult | 66891 66892 66893 |

| | |
|--|---|
| day habilitation services; | 66894 |
| (b) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services; | 66895 66896 66897 66898 |
| (c) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills, exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community; | 66899 66900 66901 66902 66903 66904 66905 |
| (d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports; | 66906 66907 66908 |
| (e) Counseling and assistance provided to obtain housing, including such counseling as identifying options for either rental or purchase, identifying financial resources, assessing needs for environmental modifications, locating housing, and planning for ongoing management and maintenance of the housing selected; | 66909 66910 66911 66912 66913 |
| (f) Transportation necessary to access adult day habilitation services; | 66914 66915 |
| (g) Habilitation management, as described in section 5126.14 of the Revised Code. | 66916 66917 |
| (3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services. | 66918 66919 66920 |
| (C) "Appointing authority" means the following: | 66921 |
| (1) In the case of a member of a county board of mental retardation and developmental disabilities appointed by, or to be | 66922 66923 |

appointed by, a board of county commissioners, the board of county commissioners; 66924
66925

(2) In the case of a member of a county board appointed by, 66926
or to be appointed by, a senior probate judge, the senior probate 66927
judge. 66928

(D) "Community employment services" or "supported employment 66929
services" means job training and other services related to 66930
employment outside a sheltered workshop. "Community employment 66931
services" or "supported employment services" include all of the 66932
following: 66933

(1) Job training resulting in the attainment of competitive 66934
work, supported work in a typical work environment, or 66935
self-employment; 66936

(2) Supervised work experience through an employer paid to 66937
provide the supervised work experience; 66938

(3) Ongoing work in a competitive work environment at a wage 66939
commensurate with workers without disabilities; 66940

(4) Ongoing supervision by an employer paid to provide the 66941
supervision. 66942

(E) As used in this division, "substantial functional 66943
limitation," "developmental delay," and "established risk" have 66944
the meanings established pursuant to section 5123.011 of the 66945
Revised Code. 66946

"Developmental disability" means a severe, chronic disability 66947
that is characterized by all of the following: 66948

(1) It is attributable to a mental or physical impairment or 66949
a combination of mental and physical impairments, other than a 66950
mental or physical impairment solely caused by mental illness as 66951
defined in division (A) of section 5122.01 of the Revised Code; 66952

(2) It is manifested before age twenty-two; 66953

- (3) It is likely to continue indefinitely; 66954
- (4) It results in one of the following: 66955
- (a) In the case of a person under age three, at least one developmental delay or an established risk; 66956
66957
- (b) In the case of a person at least age three but under age six, at least two developmental delays or an established risk; 66958
66959
- (c) In the case of a person age six or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: 66960
66961
self-care, receptive and expressive language, learning, mobility, 66962
66963
self-direction, capacity for independent living, and, if the person is at least age sixteen, capacity for economic 66964
66965
self-sufficiency. 66966
- (5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person. 66967
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- (F) "Early childhood services" means a planned program of habilitation designed to meet the needs of individuals with mental retardation or other developmental disabilities who have not attained compulsory school age. 66971
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- (G)(1) "Environmental modifications" means the physical adaptations to an individual's home, specified in the individual's service plan, that are necessary to ensure the individual's health, safety, and welfare or that enable the individual to function with greater independence in the home, and without which the individual would require institutionalization. 66975
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- (2) "Environmental modifications" includes such adaptations as installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, and installation of 66981
66982
66983

specialized electric and plumbing systems necessary to accommodate 66984
the individual's medical equipment and supplies. 66985

(3) "Environmental modifications" does not include physical 66986
adaptations or improvements to the home that are of general 66987
utility or not of direct medical or remedial benefit to the 66988
individual, including such adaptations or improvements as 66989
carpeting, roof repair, and central air conditioning. 66990

(H) "Family support services" means the services provided 66991
under a family support services program operated under section 66992
5126.11 of the Revised Code. 66993

(I) "Habilitation" means the process by which the staff of 66994
the facility or agency assists an individual with mental 66995
retardation or other developmental disability in acquiring and 66996
maintaining those life skills that enable the individual to cope 66997
more effectively with the demands of the individual's own person 66998
and environment, and in raising the level of the individual's 66999
personal, physical, mental, social, and vocational efficiency. 67000
Habilitation includes, but is not limited to, programs of formal, 67001
structured education and training. 67002

~~(J) "Habilitation center services" means services provided by 67003
a habilitation center certified by the department of mental 67004
retardation and developmental disabilities under section 5123.041 67005
of the Revised Code and covered by the medicaid program pursuant 67006
to rules adopted under section 5111.041 of the Revised Code. 67007~~

~~(K)~~ "Home and community-based services" means medicaid-funded 67008
home and community-based services specified in division (B)(1) of 67009
section 5111.87 of the Revised Code and provided under the 67010
medicaid waiver components the department of mental retardation 67011
and developmental disabilities administers pursuant to section 67012
5111.871 of the Revised Code. 67013

~~(L)~~(K) "Immediate family" means parents, brothers, sisters, 67014

spouses, sons, daughters, mothers-in-law, fathers-in-law, 67015
brothers-in-law, sisters-in-law, sons-in-law, and 67016
daughters-in-law. 67017

~~(M)~~(L) "Medicaid" has the same meaning as in section 5111.01 67018
of the Revised Code. 67019

~~(N)~~(M) "Medicaid case management services" means case 67020
management services provided to an individual with mental 67021
retardation or other developmental disability that the state 67022
medicaid plan requires. 67023

~~(O)~~(N) "Mental retardation" means a mental impairment 67024
manifested during the developmental period characterized by 67025
significantly subaverage general intellectual functioning existing 67026
concurrently with deficiencies in the effectiveness or degree with 67027
which an individual meets the standards of personal independence 67028
and social responsibility expected of the individual's age and 67029
cultural group. 67030

~~(P)~~(O) "Residential services" means services to individuals 67031
with mental retardation or other developmental disabilities to 67032
provide housing, food, clothing, habilitation, staff support, and 67033
related support services necessary for the health, safety, and 67034
welfare of the individuals and the advancement of their quality of 67035
life. "Residential services" includes program management, as 67036
described in section 5126.14 of the Revised Code. 67037

~~(Q)~~(P) "Resources" means available capital and other assets, 67038
including moneys received from the federal, state, and local 67039
governments, private grants, and donations; appropriately 67040
qualified personnel; and appropriate capital facilities and 67041
equipment. 67042

~~(R)~~(Q) "Senior probate judge" means the current probate judge 67043
of a county who has served as probate judge of that county longer 67044
than any of the other current probate judges of that county. If a 67045

county has only one probate judge, "senior probate judge" means 67046
that probate judge. 67047

~~(S)~~(R) "Service and support administration" means the duties 67048
performed by a service and support administrator pursuant to 67049
section 5126.15 of the Revised Code. 67050

~~(T)~~(S)(1) "Specialized medical, adaptive, and assistive 67051
equipment, supplies, and supports" means equipment, supplies, and 67052
supports that enable an individual to increase the ability to 67053
perform activities of daily living or to perceive, control, or 67054
communicate within the environment. 67055

(2) "Specialized medical, adaptive, and assistive equipment, 67056
supplies, and supports" includes the following: 67057

(a) Eating utensils, adaptive feeding dishes, plate guards, 67058
mylatex straps, hand splints, reaches, feeder seats, adjustable 67059
pointer sticks, interpreter services, telecommunication devices 67060
for the deaf, computerized communications boards, other 67061
communication devices, support animals, veterinary care for 67062
support animals, adaptive beds, supine boards, prone boards, 67063
wedges, sand bags, sidelayers, bolsters, adaptive electrical 67064
switches, hand-held shower heads, air conditioners, humidifiers, 67065
emergency response systems, folding shopping carts, vehicle lifts, 67066
vehicle hand controls, other adaptations of vehicles for 67067
accessibility, and repair of the equipment received. 67068

(b) Nondisposable items not covered by medicaid that are 67069
intended to assist an individual in activities of daily living or 67070
instrumental activities of daily living. 67071

~~(U)~~(T) "Supportive home services" means a range of services 67072
to families of individuals with mental retardation or other 67073
developmental disabilities to develop and maintain increased 67074
acceptance and understanding of such persons, increased ability of 67075
family members to teach the person, better coordination between 67076

school and home, skills in performing specific therapeutic and 67077
management techniques, and ability to cope with specific 67078
situations. 67079

~~(V)~~(U)(1) "Supported living" means services provided for as 67080
long as twenty-four hours a day to an individual with mental 67081
retardation or other developmental disability through any public 67082
or private resources, including moneys from the individual, that 67083
enhance the individual's reputation in community life and advance 67084
the individual's quality of life by doing the following: 67085

(a) Providing the support necessary to enable an individual 67086
to live in a residence of the individual's choice, with any number 67087
of individuals who are not disabled, or with not more than three 67088
individuals with mental retardation and developmental disabilities 67089
unless the individuals are related by blood or marriage; 67090

(b) Encouraging the individual's participation in the 67091
community; 67092

(c) Promoting the individual's rights and autonomy; 67093

(d) Assisting the individual in acquiring, retaining, and 67094
improving the skills and competence necessary to live successfully 67095
in the individual's residence. 67096

(2) "Supported living" includes the provision of all of the 67097
following: 67098

(a) Housing, food, clothing, habilitation, staff support, 67099
professional services, and any related support services necessary 67100
to ensure the health, safety, and welfare of the individual 67101
receiving the services; 67102

(b) A combination of life-long or extended-duration 67103
supervision, training, and other services essential to daily 67104
living, including assessment and evaluation and assistance with 67105
the cost of training materials, transportation, fees, and 67106

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| supplies; | 67107 |
| (c) Personal care services and homemaker services; | 67108 |
| (d) Household maintenance that does not include modifications to the physical structure of the residence; | 67109 67110 |
| (e) Respite care services; | 67111 |
| (f) Program management, as described in section 5126.14 of the Revised Code. | 67112 67113 |
| Sec. 5126.035. (A) As used in this section: | 67114 |
| (1) "Provider" means a person or government entity that provides services to an individual with mental retardation or other developmental disability pursuant to a service contract. | 67115 67116 67117 |
| (2) "Service contract" means a contract between a county board of mental retardation and developmental disabilities and a provider under which the provider is to provide services to an individual with mental retardation or other developmental disability. | 67118 67119 67120 67121 67122 |
| (B) Each service contract that a county board of mental retardation and developmental disabilities enters into with a provider shall do all <u>both</u> of the following: | 67123 67124 67125 |
| (1) Comply with rules adopted under division (E) of this section; | 67126 67127 |
| (2) If the provider is to provide home and community-based services, <u>or</u> medicaid case management services, or habilitation center services, comply with all applicable statewide medicaid requirements; | 67128 67129 67130 67131 |
| (3) <u>(2)</u> Include a general operating agreement component and an individual service needs addendum. | 67132 67133 |
| (C) The general operating agreement component shall include all of the following: | 67134 67135 |

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| (1) The roles and responsibilities of the county board regarding services for individuals with mental retardation or other developmental disability who reside in the county the county board serves; | 67136 67137 67138 67139 |
| (2) The roles and responsibilities of the provider as specified in the individual service needs addendum; | 67140 67141 |
| (3) Procedures for the county board to monitor the provider's services; | 67142 67143 |
| (4) Procedures for the county board to evaluate the quality of care and cost effectiveness of the provider's services; | 67144 67145 |
| (5) Procedures for payment of eligible claims; | 67146 |
| (6) If the provider is to provide home and community-based services, <u>or</u> medicaid case management services, or habilitation center services , both of the following: | 67147 67148 67149 |
| (a) Procedures for reimbursement that conform to the statewide reimbursement process and the county board's plan submitted under section 5126.054 of the Revised Code; | 67150 67151 67152 |
| (b) Procedures that ensure that the county board pays the nonfederal share of the medicaid expenditures that the county board is required by division (A) of section 5126.057 of the Revised Code to pay. | 67153 67154 67155 67156 |
| (7) Procedures for the county board to perform service utilization reviews and the implementation of required corrective actions; | 67157 67158 67159 |
| (8) Procedures for the provider to submit claims for payment for a service no later than three hundred thirty days after the date the service is provided; | 67160 67161 67162 |
| (9) Procedures for rejecting claims for payment that are submitted after the time required by division (B)(9) <u>(C)(8)</u> of this section; | 67163 67164 67165 |

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| (10) Procedures for developing, modifying, and executing initial and subsequent service plans. The procedures shall provide for the provider's participation. | 67166 67167 67168 |
| (11) Procedures for affording individuals due process protections; | 67169 67170 |
| (12) General staffing, training, and certification requirements that are consistent with state requirements and compensation arrangements that are necessary to attract, train, and retain competent personnel to deliver the services pursuant to the individual service needs addendum; | 67171 67172 67173 67174 67175 |
| (13) Methods to be used to document services provided and procedures for submitting reports the county board requires; | 67176 67177 |
| (14) Methods for authorizing and documenting within seventy-two hours changes to the individual service needs addendum. The methods shall allow for changes to be initially authorized verbally and subsequently in writing. | 67178 67179 67180 67181 |
| (15) Procedures for modifying the individual service needs addendum in accordance with changes to the recipient's individualized service plan; | 67182 67183 67184 |
| (16) Procedures for terminating the individual service needs addendum within thirty days of a request made by the recipient; | 67185 67186 |
| (17) A requirement that all parties to the contract accept the contract's terms and conditions; | 67187 67188 |
| (18) A designated contact person and the method of contacting the designated person to respond to medical or behavioral problems and allegations of major unusual incidents or unusual incidents; | 67189 67190 67191 |
| (19) Procedures for ensuring the health and welfare of the recipient; | 67192 67193 |
| (20) Procedures for ensuring fiscal accountability and the collection and reporting of programmatic data; | 67194 67195 |

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| (21) Procedures for implementing the mediation and arbitration process under section 5126.036 of the Revised Code; | 67196 67197 |
| (22) Procedures for amending or terminating the contract, including as necessary to make the general operating agreement component consistent with any changes made to the individual service needs addendum; | 67198 67199 67200 67201 |
| (23) Anything else allowable under federal and state law that the county board and provider agree to. | 67202 67203 |
| (D) The individual service needs addendum shall be consistent with the general operating agreement component and include all of the following: | 67204 67205 67206 |
| (1) The name of the individual with mental retardation or other developmental disability who is to receive the services from the provider and any information about the recipient that the provider needs to be able to provide the services; | 67207 67208 67209 67210 |
| (2) A clear and complete description of the services that the recipient is to receive as determined using statewide assessment tools; | 67211 67212 67213 |
| (3) A copy of the recipient's assessment and individualized service plan; | 67214 67215 |
| (4) A clear and complete description of the provider's responsibilities to the recipient and county board in providing appropriate services in a coordinated manner with other providers and in a manner that contributes to and ensures the recipient's health, safety, and welfare. | 67216 67217 67218 67219 67220 |
| (E) The director of mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing service contracts. A service contract does not negate the requirement that a provider of home and community-based services, <u>or</u> medicaid case management services, or | 67221 67222 67223 67224 67225 |

~~habilitation center services~~ have a medicaid provider agreement 67226
with the department of job and family services. 67227

Sec. 5126.042. (A) As used in this section, "emergency" means 67228
any situation that creates for an individual with mental 67229
retardation or developmental disabilities a risk of substantial 67230
self-harm or substantial harm to others if action is not taken 67231
within thirty days. An "emergency" may include one or more of the 67232
following situations: 67233

(1) Loss of present residence for any reason, including legal 67234
action; 67235

(2) Loss of present caretaker for any reason, including 67236
serious illness of the caretaker, change in the caretaker's 67237
status, or inability of the caretaker to perform effectively for 67238
the individual; 67239

(3) Abuse, neglect, or exploitation of the individual; 67240

(4) Health and safety conditions that pose a serious risk to 67241
the individual or others of immediate harm or death; 67242

(5) Change in the emotional or physical condition of the 67243
individual that necessitates substantial accommodation that cannot 67244
be reasonably provided by the individual's existing caretaker. 67245

(B) If a county board of mental retardation and developmental 67246
disabilities determines that available resources are not 67247
sufficient to meet the needs of all individuals who request 67248
programs and services and may be offered the programs and 67249
services, it shall establish waiting lists for services. The board 67250
may establish priorities for making placements on its waiting 67251
lists according to an individual's emergency status and shall 67252
establish priorities in accordance with divisions (D) and (E) of 67253
this section. 67254

The individuals who may be placed on a waiting list include 67255

individuals with a need for services on an emergency basis and 67256
individuals who have requested services for which resources are 67257
not available. 67258

Except for an individual who is to receive priority for 67259
services pursuant to division (D)(3) of this section, an 67260
individual who currently receives a service but would like to 67261
change to another service shall not be placed on a waiting list 67262
but shall be placed on a service substitution list. The board 67263
shall work with the individual, service providers, and all 67264
appropriate entities to facilitate the change in service as 67265
expeditiously as possible. The board may establish priorities for 67266
making placements on its service substitution lists according to 67267
an individual's emergency status. 67268

In addition to maintaining waiting lists and service 67269
substitution lists, a board shall maintain a long-term service 67270
planning registry for individuals who wish to record their 67271
intention to request in the future a service they are not 67272
currently receiving. The purpose of the registry is to enable the 67273
board to document requests and to plan appropriately. The board 67274
may not place an individual on the registry who meets the 67275
conditions for receipt of services on an emergency basis. 67276

(C) A county board shall establish a separate waiting list 67277
for each of the following categories of services, and may 67278
establish separate waiting lists within the waiting lists: 67279

(1) Early childhood services; 67280

(2) Educational programs for preschool and school age 67281
children; 67282

(3) Adult services; 67283

(4) Service and support administration; 67284

(5) Residential services and supported living; 67285

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| (6) Transportation services; | 67286 |
| (7) Other services determined necessary and appropriate for persons with mental retardation or a developmental disability according to their individual habilitation or service plans; | 67287 67288 67289 |
| (8) Family support services provided under section 5126.11 of the Revised Code. | 67290 67291 |
| (D) Except as provided in division (G) of this section, a county board shall do, as priorities, all of the following in accordance with the assessment component, approved under section 5123.046 of the Revised Code, of the county board's plan developed under section 5126.054 of the Revised Code: | 67292 67293 67294 67295 67296 |
| (1) For the purpose of obtaining additional federal medicaid funds for home and community-based services, <u>and</u> medicaid case management services, and habilitation center services , do both of the following: | 67297 67298 67299 67300 |
| (a) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include supported living, residential services, or family support services: | 67301 67302 67303 67304 67305 67306 |
| (i) Is twenty-two years of age or older; | 67307 |
| (ii) Receives supported living or family support services. | 67308 |
| (b) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include adult services: | 67309 67310 67311 67312 67313 |
| (i) Resides in the individual's own home or the home of the individual's family and will continue to reside in that home after | 67314 67315 |

enrollment in home and community-based services; 67316

(ii) Receives adult services from the county board. 67317

(2) As federal medicaid funds become available pursuant to 67318
division (D)(1) of this section, give an individual who is 67319
eligible for home and community-based services and meets any of 67320
the following requirements priority for such services over any 67321
other individual on a waiting list established under division (C) 67322
of this section: 67323

(a) Does not receive residential services or supported 67324
living, either needs services in the individual's current living 67325
arrangement or will need services in a new living arrangement, and 67326
has a primary caregiver who is sixty years of age or older; 67327

(b) Is less than twenty-two years of age and has at least one 67328
of the following service needs that are unusual in scope or 67329
intensity: 67330

(i) Severe behavior problems for which a behavior support 67331
plan is needed; 67332

(ii) An emotional disorder for which anti-psychotic 67333
medication is needed; 67334

(iii) A medical condition that leaves the individual 67335
dependent on life-support medical technology; 67336

(iv) A condition affecting multiple body systems for which a 67337
combination of specialized medical, psychological, educational, or 67338
habilitation services are needed; 67339

(v) A condition the county board determines to be comparable 67340
in severity to any condition described in division (D)(2)(b)(i) to 67341
(iv) of this section and places the individual at significant risk 67342
of institutionalization. 67343

(c) Is twenty-two years of age or older, does not receive 67344
residential services or supported living, and is determined by the 67345

county board to have intensive needs for home and community-based 67346
services on an in-home or out-of-home basis. 67347

(3) In fiscal years 2002 and 2003, give an individual who is 67348
eligible for home and community-based services, resides in an 67349
intermediate care facility for the mentally retarded or nursing 67350
facility, chooses to move to another setting with the help of home 67351
and community-based services, and has been determined by the 67352
department of mental retardation and developmental disabilities to 67353
be capable of residing in the other setting, priority over any 67354
other individual on a waiting list established under division (C) 67355
of this section for home and community-based services who does not 67356
meet these criteria. The department of mental retardation and 67357
developmental disabilities shall identify the individuals to 67358
receive priority under division (D)(3) of this section, assess the 67359
needs of the individuals, and notify the county boards that are to 67360
provide the individuals priority under division (D)(3) of this 67361
section of the individuals identified by the department and the 67362
individuals' assessed needs. 67363

(E) Except as provided in division (G) of this section and 67364
for a number of years and beginning on a date specified in rules 67365
adopted under division (K) of this section, a county board shall 67366
give an individual who is eligible for home and community-based 67367
services, resides in a nursing facility, and chooses to move to 67368
another setting with the help of home and community-based 67369
services, priority over any other individual on a waiting list 67370
established under division (C) of this section for home and 67371
community-based services who does not meet these criteria. 67372

(F) If two or more individuals on a waiting list established 67373
under division (C) of this section for home and community-based 67374
services have priority for the services pursuant to division 67375
(D)(1) or (2) or (E) of this section, a county board may use, 67376
until December 31, ~~2005~~ 2007, criteria specified in rules adopted 67377

under division (K)(2) of this section in determining the order in 67378
which the individuals with priority will be offered the services. 67379
Otherwise, the county board shall offer the home and 67380
community-based services to such individuals in the order they are 67381
placed on the waiting list. 67382

(G)(1) No individual may receive priority for services 67383
pursuant to division (D) or (E) of this section over an individual 67384
placed on a waiting list established under division (C) of this 67385
section on an emergency status. 67386

(2) No more than four hundred individuals in the state may 67387
receive priority for services during the ~~2004~~ 2006 and ~~2005~~ 2007 67388
biennium pursuant to division (D)(2)(b) of this section. 67389

(3) No more than a total of seventy-five individuals in the 67390
state may receive priority for services during state fiscal years 67391
2002 and 2003 pursuant to division (D)(3) of this section. 67392

(4) No more than forty individuals in the state may receive 67393
priority for services pursuant to division (E) of this section for 67394
each year that priority category is in effect as specified in 67395
rules adopted under division (K) of this section. 67396

(H) Prior to establishing any waiting list under this 67397
section, a county board shall develop and implement a policy for 67398
waiting lists that complies with this section and rules adopted 67399
under division (K) of this section. 67400

Prior to placing an individual on a waiting list, the county 67401
board shall assess the service needs of the individual in 67402
accordance with all applicable state and federal laws. The county 67403
board shall place the individual on the appropriate waiting list 67404
and may place the individual on more than one waiting list. The 67405
county board shall notify the individual of the individual's 67406
placement and position on each waiting list on which the 67407
individual is placed. 67408

At least annually, the county board shall reassess the 67409
service needs of each individual on a waiting list. If it 67410
determines that an individual no longer needs a program or 67411
service, the county board shall remove the individual from the 67412
waiting list. If it determines that an individual needs a program 67413
or service other than the one for which the individual is on the 67414
waiting list, the county board shall provide the program or 67415
service to the individual or place the individual on a waiting 67416
list for the program or service in accordance with the board's 67417
policy for waiting lists. 67418

When a program or service for which there is a waiting list 67419
becomes available, the county board shall reassess the service 67420
needs of the individual next scheduled on the waiting list to 67421
receive that program or service. If the reassessment demonstrates 67422
that the individual continues to need the program or service, the 67423
board shall offer the program or service to the individual. If it 67424
determines that an individual no longer needs a program or 67425
service, the county board shall remove the individual from the 67426
waiting list. If it determines that an individual needs a program 67427
or service other than the one for which the individual is on the 67428
waiting list, the county board shall provide the program or 67429
service to the individual or place the individual on a waiting 67430
list for the program or service in accordance with the board's 67431
policy for waiting lists. The county board shall notify the 67432
individual of the individual's placement and position on the 67433
waiting list on which the individual is placed. 67434

(I) A child subject to a determination made pursuant to 67435
section 121.38 of the Revised Code who requires the home and 67436
community-based services provided through a medicaid component 67437
that the department of mental retardation and developmental 67438
disabilities administers under section 5111.871 of the Revised 67439
Code shall receive services through that medicaid component. For 67440

all other services, a child subject to a determination made 67441
pursuant to section 121.38 of the Revised Code shall be treated as 67442
an emergency by the county boards and shall not be subject to a 67443
waiting list. 67444

(J) Not later than the fifteenth day of March of each 67445
even-numbered year, each county board shall prepare and submit to 67446
the director of mental retardation and developmental disabilities 67447
its recommendations for the funding of services for individuals 67448
with mental retardation and developmental disabilities and its 67449
proposals for reducing the waiting lists for services. 67450

(K)(1) The department of mental retardation and developmental 67451
disabilities shall adopt rules in accordance with Chapter 119. of 67452
the Revised Code governing waiting lists established under this 67453
section. The rules shall include procedures to be followed to 67454
ensure that the due process rights of individuals placed on 67455
waiting lists are not violated. 67456

(2) As part of the rules adopted under this division, the 67457
department shall adopt rules establishing criteria a county board 67458
may use under division (F) of this section in determining the 67459
order in which individuals with priority for home and 67460
community-based services will be offered the services. The rules 67461
shall also specify conditions under which a county board, when 67462
there is no individual with priority for home and community-based 67463
services pursuant to division (D)(1) or (2) or (E) of this section 67464
available and appropriate for the services, may offer the services 67465
to an individual on a waiting list for the services but not given 67466
such priority for the services. The rules adopted under division 67467
(K)(2) of this section shall cease to have effect December 31, 67468
~~2005~~ 2007. 67469

(3) As part of the rules adopted under this division, the 67470
department shall adopt rules specifying both of the following for 67471
the priority category established under division (E) of this 67472

section: 67473

(a) The number of years, which shall not exceed five, that the priority category will be in effect; 67474
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(b) The date that the priority category is to go into effect. 67476

(L) The following shall take precedence over the applicable provisions of this section: 67477
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(1) Medicaid rules and regulations; 67479

(2) Any specific requirements that may be contained within a medicaid state plan amendment or waiver program that a county board has authority to administer or with respect to which it has authority to provide services, programs, or supports. 67480
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Sec. 5126.054. (A) Each county board of mental retardation and developmental disabilities shall, by resolution, develop a three-calendar year plan that includes the following four components: 67484
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(1) An assessment component that includes all of the following: 67488
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(a) The number of individuals with mental retardation or other developmental disability residing in the county who need the level of care provided by an intermediate care facility for the mentally retarded, may seek home and community-based services, are given priority for the services pursuant to division (D) of section 5126.042 of the Revised Code; the service needs of those individuals; and the projected annualized cost for services; 67490
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(b) The source of funds available to the county board to pay the nonfederal share of medicaid expenditures that the county board is required by division (A) of section 5126.057 of the Revised Code to pay; 67497
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(c) Any other applicable information or conditions that the 67501

department of mental retardation and developmental disabilities 67502
requires as a condition of approving the component under section 67503
5123.046 of the Revised Code. 67504

(2) A component that provides for the recruitment, training, 67505
and retention of existing and new direct care staff necessary to 67506
implement services included in individualized service plans, 67507
including behavior management services and health management 67508
services such as delegated nursing and other habilitation 67509
services, and protect the health and welfare of individuals 67510
receiving services included in the individual's individualized 67511
service plan by complying with safeguards for unusual and major 67512
unusual incidents, day-to-day program management, and other 67513
requirements the department shall identify. A county board shall 67514
develop this component in collaboration with providers of 67515
medicaid-funded services with which the county board contracts. A 67516
county board shall include all of the following in the component: 67517

(a) The source and amount of funds available for the 67518
component; 67519

(b) A plan and timeline for implementing the component with 67520
the medicaid providers under contract with the county board; 67521

(c) The mechanisms the county board shall use to ensure the 67522
financial and program accountability of the medicaid provider's 67523
implementation of the component. 67524

(3) A preliminary implementation component that specifies the 67525
number of individuals to be provided, during the first year that 67526
the plan is in effect, home and community-based services pursuant 67527
to the priority given to them under divisions (D)(1) and (2) of 67528
section 5126.042 of the Revised Code and the types of home and 67529
community-based services the individuals are to receive; 67530

(4) A component that provides for the implementation of 67531
~~habilitation center services,~~ medicaid case management services, 67532

and home and community-based services for individuals who begin to 67533
receive the services on or after the date the plan is approved 67534
under section 5123.046 of the Revised Code. A county board shall 67535
include all of the following in the component: 67536

(a) If the department of mental retardation and developmental 67537
disabilities or department of job and family services requires, an 67538
agreement to pay the nonfederal share of medicaid expenditures 67539
that the county board is required by division (A) of section 67540
5126.057 of the Revised Code to pay; 67541

(b) How the services are to be phased in over the period the 67542
plan covers, including how the county board will serve individuals 67543
on a waiting list established under division (C) of section 67544
5126.042 who are given priority status under division (D)(1) of 67545
that section; 67546

(c) Any agreement or commitment regarding the county board's 67547
funding of home and community-based services that the county board 67548
has with the department at the time the county board develops the 67549
component; 67550

(d) Assurances adequate to the department that the county 67551
board will comply with all of the following requirements: 67552

(i) To provide the types of home and community-based services 67553
specified in the preliminary implementation component required by 67554
division (A)(3) of this section to at least the number of 67555
individuals specified in that component; 67556

(ii) To use any additional funds the county board receives 67557
for the services to improve the county board's resource 67558
capabilities for supporting such services available in the county 67559
at the time the component is developed and to expand the services 67560
to accommodate the unmet need for those services in the county; 67561

(iii) To employ a business manager who is either a new 67562
employee who has earned at least a bachelor's degree in business 67563

administration or a current employee who has the equivalent 67564
experience of a bachelor's degree in business administration. If 67565
the county board will employ a new employee, the county board 67566
shall include in the component a timeline for employing the 67567
employee. 67568

(iv) To employ or contract with a medicaid services manager 67569
who is either a new employee who has earned at least a bachelor's 67570
degree or a current employee who has the equivalent experience of 67571
a bachelor's degree. If the county board will employ a new 67572
employee, the county board shall include in the component a 67573
timeline for employing the employee. Two or three county boards 67574
that have a combined total enrollment in county board services not 67575
exceeding one thousand individuals as determined pursuant to 67576
certifications made under division (B) of section 5126.12 of the 67577
Revised Code may satisfy this requirement by sharing the services 67578
of a medicaid services manager or using the services of a medicaid 67579
services manager employed by or under contract with a regional 67580
council that the county boards establish under section 5126.13 of 67581
the Revised Code. 67582

(e) An agreement to comply with the method, developed by 67583
rules adopted under section 5123.0413 of the Revised Code, of 67584
paying for extraordinary costs, including extraordinary costs for 67585
services to individuals with mental retardation or other 67586
developmental disability, and ensuring the availability of 67587
adequate funds in the event a county property tax levy for 67588
services for individuals with mental retardation or other 67589
developmental disability fails; 67590

(f) Programmatic and financial accountability measures and 67591
projected outcomes expected from the implementation of the plan; 67592

(g) Any other applicable information or conditions that the 67593
department requires as a condition of approving the component 67594
under section 5123.046 of the Revised Code. 67595

(B) For the purpose of obtaining the department's approval 67596
under section 5123.046 of the Revised Code of the plan the county 67597
board develops under division (A) of this section, a county board 67598
shall do all of the following: 67599

(1) Submit the components required by divisions (A)(1) and 67600
(2) of this section to the department not later than August 1, 67601
2001; 67602

(2) Submit the component required by division (A)(3) of this 67603
section to the department not later than January 31, 2002; 67604

(3) Submit the component required by division (A)(4) of this 67605
section to the department not later than July 1, 2002. 67606

(C) A county board whose plan developed under division (A) of 67607
this section is approved by the department under section 5123.046 67608
of the Revised Code shall update and renew the plan in accordance 67609
with a schedule the department shall develop. 67610

Sec. 5126.055. (A) Except as provided in section 5126.056 of 67611
the Revised Code, a county board of mental retardation and 67612
developmental disabilities has medicaid local administrative 67613
authority to, and shall, do all of the following for an individual 67614
with mental retardation or other developmental disability who 67615
resides in the county that the county board serves and seeks or 67616
receives home and community-based services: 67617

(1) Perform assessments and evaluations of the individual. As 67618
part of the assessment and evaluation process, the county board 67619
shall do all of the following: 67620

(a) Make a recommendation to the department of mental 67621
retardation and developmental disabilities on whether the 67622
department should approve or deny the individual's application for 67623
the services, including on the basis of whether the individual 67624
needs the level of care an intermediate care facility for the 67625

mentally retarded provides; 67626

(b) If the individual's application is denied because of the 67627
county board's recommendation and the individual requests a 67628
hearing under section 5101.35 of the Revised Code, present, with 67629
the department of mental retardation and developmental 67630
disabilities or department of job and family services, whichever 67631
denies the application, the reasons for the recommendation and 67632
denial at the hearing; 67633

(c) If the individual's application is approved, recommend to 67634
the departments of mental retardation and developmental 67635
disabilities and job and family services the services that should 67636
be included in the individual's individualized service plan and, 67637
if either department approves, reduces, denies, or terminates a 67638
service included in the individual's individualized service plan 67639
under section 5111.871 of the Revised Code because of the county 67640
board's recommendation, present, with the department that made the 67641
approval, reduction, denial, or termination, the reasons for the 67642
recommendation and approval, reduction, denial, or termination at 67643
a hearing under section 5101.35 of the Revised Code. 67644

(2) If the individual has been identified by the department 67645
of mental retardation and developmental disabilities as an 67646
individual to receive priority for home and community-based 67647
services pursuant to division (D)(3) of section 5126.042 of the 67648
Revised Code, assist the department in expediting the transfer of 67649
the individual from an intermediate care facility for the mentally 67650
retarded or nursing facility to the home and community-based 67651
services; 67652

(3) In accordance with the rules adopted under section 67653
5126.046 of the Revised Code, perform the county board's duties 67654
under that section regarding assisting the individual's right to 67655
choose a qualified and willing provider of the services and, at a 67656
hearing under section 5101.35 of the Revised Code, present 67657

evidence of the process for appropriate assistance in choosing providers; 67658
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(4) Unless the county board provides the services under division (A)(5) of this section, contract with the person or government entity the individual chooses in accordance with section 5126.046 of the Revised Code to provide the services if the person or government entity is qualified and agrees to provide the services. The contract shall contain all the provisions required by section 5126.035 of the Revised Code and require the provider to agree to furnish, in accordance with the provider's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires. 67660
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(5) If the county board is certified under section ~~5123.045~~ 5123.16 of the Revised Code to provide the services and agrees to provide the services to the individual and the individual chooses the county board to provide the services, furnish, in accordance with the county board's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires; 67670
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(6) Monitor the services provided to the individual and ensure the individual's health, safety, and welfare. The monitoring shall include quality assurance activities. If the county board provides the services, the department of mental retardation and developmental disabilities shall also monitor the services. 67677
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(7) Develop, with the individual and the provider of the individual's services, an effective individualized service plan that includes coordination of services, recommend that the departments of mental retardation and developmental disabilities and job and family services approve the plan, and implement the plan unless either department disapproves it; 67683
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(8) Have an investigative agent conduct investigations under section 5126.313 of the Revised Code that concern the individual; 67689
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(9) Have a service and support administrator perform the duties under division (B)(9) of section 5126.15 of the Revised Code that concern the individual. 67691
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~~(B) Except as provided in section 5126.056 of the Revised Code, a county board has medicaid local administrative authority to, and shall, do all of the following for an individual with mental retardation or other developmental disability who resides in the county that the county board serves and seeks or receives medicaid case management services or habilitation center services, other than habilitation center services for which a school district is required by division (E) of section 5111.041 of the Revised Code to pay the nonfederal share:~~ 67694
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~~(1) Perform assessments and evaluations of the individual for the purpose of recommending to the departments of mental retardation and developmental disabilities and job and family services the services that should be included in the individual's individualized service plan;~~ 67703
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~~(2) If the department of mental retardation and developmental disabilities or department of job and family services approves, reduces, denies, or terminates a service included in the individual's individualized service plan under section 5111.041 or 5111.042 of the Revised Code because of the county board's recommendation under division (B)(1) of this section, present, with the department that made the approval, reduction, denial, or termination, the reasons for the recommendation and approval, reduction, denial, or termination at a hearing under section 5101.35 of the Revised Code and inform the individual that the individual may file a complaint with the county board under section 5126.06 of the Revised Code at the same time the individual pursues an appeal under section 5101.35 of the Revised~~ 67708
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Code: 67721

~~(3) In accordance with rules the departments of mental 67722
retardation and developmental disabilities and job and family 67723
services shall adopt in accordance with Chapter 119. of the 67724
Revised Code governing the process for individuals to choose 67725
providers of medicaid case management services and habilitation 67726
center services, assist the individual in choosing the provider of 67727
the services. The rules shall provide for both of the following: 67728~~

~~(a) The county board providing the individual up to date 67729
information about qualified providers that the department of 67730
mental retardation and developmental disabilities shall make 67731
available to the county board; 67732~~

~~(b) If the individual chooses a provider who is qualified and 67733
willing to provide the services but is denied that provider, the 67734
individual receiving timely notice that the individual may request 67735
a hearing under section 5101.35 of the Revised Code and, at the 67736
hearing, the county board presenting evidence of the process for 67737
appropriate assistance in choosing providers. 67738~~

~~(4) Unless the county board provides the services under 67739
division (B)(5) of this section, contract with the person or 67740
government entity that the individual chooses in accordance with 67741
the rules adopted under division (B)(3) of this section to provide 67742
the services if the person or government entity is qualified and 67743
agrees to provide the services. The contract shall contain all the 67744
provisions required by section 5126.035 of the Revised Code and 67745
require the provider to agree to furnish, in accordance with the 67746
provider's medicaid provider agreement and for the authorized 67747
reimbursement rate, the services the individual requires. 67748~~

~~(5) If the county board is certified under section 5123.041 67749
of the Revised Code to provide the services and agrees to provide 67750
the services to the individual and the individual chooses the 67751~~

~~county board to provide the services, furnish, in accordance with 67752
the county board's medicaid provider agreement and for the 67753
authorized reimbursement rate, the services the individual 67754
requires; 67755~~

~~(6) Monitor the services provided to the individual. The 67756
monitoring shall include quality assurance activities. If the 67757
county board provides the services, the department of mental 67758
retardation and developmental disabilities shall also monitor the 67759
services. 67760~~

~~(7) Develop with the individual and the provider of the 67761
individual's services, and with the approval of the departments of 67762
mental retardation and developmental disabilities and job and 67763
family services, implement an effective plan for coordinating the 67764
services in accordance with the individual's approved 67765
individualized service plan; 67766~~

~~(8) Have an investigative agent conduct investigations under 67767
section 5126.313 of the Revised Code that concern the individual; 67768~~

~~(9) Have a service and support administrator perform the 67769
duties under division (B)(9) of section 5126.15 of the Revised 67770
Code that concern the individual. 67771~~

~~(C) A county board shall perform its medicaid local 67772
administrative authority under this section in accordance with all 67773
of the following: 67774~~

~~(1) The county board's plan that the department of mental 67775
retardation and developmental disabilities approves under section 67776
5123.046 of the Revised Code; 67777~~

~~(2) All applicable federal and state laws; 67778~~

~~(3) All applicable policies of the departments of mental 67779
retardation and developmental disabilities and job and family 67780
services and the United States department of health and human 67781~~

services; 67782

(4) The department of job and family services' supervision 67783
under its authority under section 5111.01 of the Revised Code to 67784
act as the single state medicaid agency; 67785

(5) The department of mental retardation and developmental 67786
disabilities' oversight. 67787

~~(D)~~(C) The departments of mental retardation and 67788
developmental disabilities and job and family services shall 67789
communicate with and provide training to county boards regarding 67790
medicaid local administrative authority granted by this section. 67791
The communication and training shall include issues regarding 67792
audit protocols and other standards established by the United 67793
States department of health and human services that the 67794
departments determine appropriate for communication and training. 67795
County boards shall participate in the training. The departments 67796
shall assess the county board's compliance against uniform 67797
standards that the departments shall establish. 67798

~~(E)~~(D) A county board may not delegate its medicaid local 67799
administrative authority granted under this section but may 67800
contract with a person or government entity, including a council 67801
of governments, for assistance with its medicaid local 67802
administrative authority. A county board that enters into such a 67803
contract shall notify the director of mental retardation and 67804
developmental disabilities. The notice shall include the tasks and 67805
responsibilities that the contract gives to the person or 67806
government entity. The person or government entity shall comply in 67807
full with all requirements to which the county board is subject 67808
regarding the person or government entity's tasks and 67809
responsibilities under the contract. The county board remains 67810
ultimately responsible for the tasks and responsibilities. 67811

~~(F)~~(E) A county board that has medicaid local administrative 67812

authority under this section shall, through the departments of 67813
mental retardation and developmental disabilities and job and 67814
family services, reply to, and cooperate in arranging compliance 67815
with, a program or fiscal audit or program violation exception 67816
that a state or federal audit or review discovers. The department 67817
of job and family services shall timely notify the department of 67818
mental retardation and developmental disabilities and the county 67819
board of any adverse findings. After receiving the notice, the 67820
county board, in conjunction with the department of mental 67821
retardation and developmental disabilities, shall cooperate fully 67822
with the department of job and family services and timely prepare 67823
and send to the department a written plan of correction or 67824
response to the adverse findings. The county board is liable for 67825
any adverse findings that result from an action it takes or fails 67826
to take in its implementation of medicaid local administrative 67827
authority. 67828

~~(G)~~(F) If the department of mental retardation and 67829
developmental disabilities or department of job and family 67830
services determines that a county board's implementation of its 67831
medicaid local administrative authority under this section is 67832
deficient, the department that makes the determination shall 67833
require that county board do the following: 67834

(1) If the deficiency affects the health, safety, or welfare 67835
of an individual with mental retardation or other developmental 67836
disability, correct the deficiency within twenty-four hours; 67837

(2) If the deficiency does not affect the health, safety, or 67838
welfare of an individual with mental retardation or other 67839
developmental disability, receive technical assistance from the 67840
department or submit a plan of correction to the department that 67841
is acceptable to the department within sixty days and correct the 67842
deficiency within the time required by the plan of correction. 67843

Sec. 5126.056. (A) The department of mental retardation and developmental disabilities shall take action under division (B) of this section against a county board of mental retardation and developmental disabilities if any of the following are the case:

(1) The county board fails to submit to the department all the components of its three-year plan required by section 5126.054 of the Revised Code within the time required by division (B) of that section.

(2) The department disapproves the county board's three-year plan under section 5123.046 of the Revised Code.

(3) The county board fails, as required by division (C) of section 5126.054 of the Revised Code, to update and renew its three-year plan in accordance with a schedule the department develops under that section.

(4) The county board fails to implement its initial or renewed three-year plan approved by the department.

(5) The county board fails to correct a deficiency within the time required by division ~~(G)~~(F) of section 5126.055 of the Revised Code to the satisfaction of the department.

(6) The county board fails to submit an acceptable plan of correction to the department within the time required by division ~~(G)~~(F)(2) of section 5126.055 of the Revised Code.

(B) If required by division (A) of this section to take action against a county board, the department shall issue an order terminating the county board's medicaid local administrative authority over all or part of home and community-based services, medicaid case management services, ~~habilitation center services,~~ ~~all or part of two of those services,~~ or all or part of ~~all three~~ both of those services. The department shall provide a copy of the order to the board of county commissioners, senior probate judge,

county auditor, and president and superintendent of the county board. The department shall specify in the order the medicaid local administrative authority that the department is terminating, the reason for the termination, and the county board's option and responsibilities under this division.

A county board whose medicaid local administrative authority is terminated may, not later than thirty days after the department issues the termination order, recommend to the department that another county board that has not had any of its medicaid local administrative authority terminated or another entity the department approves administer the services for which the county board's medicaid local administrative authority is terminated. The department may contract with the other county board or entity to administer the services. If the department enters into such a contract, the county board shall adopt a resolution giving the other county board or entity full medicaid local administrative authority over the services that the other county board or entity is to administer. The other county board or entity shall be known as the contracting authority.

If the department rejects the county board's recommendation regarding a contracting authority, the county board may appeal the rejection under section 5123.043 of the Revised Code.

If the county board does not submit a recommendation to the department regarding a contracting authority within the required time or the department rejects the county board's recommendation and the rejection is upheld pursuant to an appeal, if any, under section 5123.043 of the Revised Code, the department shall appoint an administrative receiver to administer the services for which the county board's medicaid local administrative authority is terminated. To the extent necessary for the department to appoint an administrative receiver, the department may utilize employees of the department, management personnel from another county board,

or other individuals who are not employed by or affiliated with in 67906
any manner a person that provides home and community-based 67907
services, or medicaid case management services, ~~or habilitation~~ 67908
~~center services~~ pursuant to a contract with any county board. The 67909
administrative receiver shall assume full administrative 67910
responsibility for the county board's services for which the 67911
county board's medicaid local administrative authority is 67912
terminated. 67913

The contracting authority or administrative receiver shall 67914
develop and submit to the department a plan of correction to 67915
remediate the problems that caused the department to issue the 67916
termination order. If, after reviewing the plan, the department 67917
approves it, the contracting authority or administrative receiver 67918
shall implement the plan. 67919

The county board shall transfer control of state and federal 67920
funds it is otherwise eligible to receive for the services for 67921
which the county board's medicaid local administrative authority 67922
is terminated and funds the county board may use under division 67923
(B) of section 5126.057 of the Revised Code to pay the nonfederal 67924
share of the services that the county board is required by 67925
division (A) of that section to pay. The county board shall 67926
transfer control of the funds to the contracting authority or 67927
administrative receiver administering the services. The amount the 67928
county board shall transfer shall be the amount necessary for the 67929
contracting authority or administrative receiver to fulfill its 67930
duties in administering the services, including its duties to pay 67931
its personnel for time worked, travel, and related matters. If the 67932
county board fails to make the transfer, the department may 67933
withhold the state and federal funds from the county board and 67934
bring a mandamus action against the county board in the court of 67935
common pleas of the county served by the county board or in the 67936
Franklin county court of common pleas. The mandamus action may not 67937

require that the county board transfer any funds other than the 67938
funds the county board is required by division (B) of this section 67939
to transfer. 67940

The contracting authority or administrative receiver has the 67941
right to authorize the payment of bills in the same manner that 67942
the county board may authorize payment of bills under this chapter 67943
and section 319.16 of the Revised Code. 67944

Sec. 5126.057. (A) A county board of mental retardation and 67945
developmental disabilities that has medicaid local administrative 67946
authority under division (A) of section 5126.055 of the Revised 67947
Code for home and community-based services shall pay the 67948
nonfederal share of medicaid expenditures for such services 67949
provided to an individual with mental retardation or other 67950
developmental disability who the county board determines under 67951
section 5126.041 of the Revised Code is eligible for county board 67952
services unless division ~~(C)~~(B)(2) or (3) of section 5123.047 of 67953
the Revised Code requires the department of mental retardation and 67954
developmental disabilities to pay the nonfederal share. 67955

A county board that ~~has medicaid local administrative~~ 67956
~~authority under division (B) of section 5126.055 of the Revised~~ 67957
~~Code for~~ provides medicaid case management services shall pay the 67958
nonfederal share of medicaid expenditures for such services 67959
provided to an individual with mental retardation or other 67960
developmental disability who the county board determines under 67961
section 5126.041 of the Revised Code is eligible for county board 67962
services ~~unless division (B)(2) of section 5123.047 of the Revised~~ 67963
~~Code requires the department of mental retardation and~~ 67964
~~developmental disabilities to pay the nonfederal share.~~ 67965

~~A county board shall pay the nonfederal share of medicaid~~ 67966
~~expenditures for habilitation center services when required to do~~ 67967
~~so by division (D) of section 5111.041 of the Revised Code.~~ 67968

(B) A county board may use the following funds to pay the nonfederal share of the services that the county board is required by division (A) of this section to pay:

(1) To the extent consistent with the levy that generated the taxes, the following taxes:

(a) Taxes levied pursuant to division (L) of section 5705.19 of the Revised Code and section 5705.222 of the Revised Code;

(b) Taxes levied under section 5705.191 of the Revised Code that the board of county commissioners allocates to the county board to pay the nonfederal share of the services.

(2) Funds that the department of mental retardation and developmental disabilities distributes to the county board under sections 5126.11, 5126.12, 5126.15, 5126.18, and 5126.44 of the Revised Code;

~~(3) Funds that the department allocates to the county board for habilitation center services provided under section 5111.041 of the Revised Code;~~

~~(4) Earned federal revenue funds the county board receives for medicaid services the county board provides pursuant to the county board's valid medicaid provider agreement.~~

(C) If by December 31, 2001, the United States secretary of health and human services approves at least five hundred more slots for home and community-based services for calendar year 2002 than were available for calendar year 2001, each county board shall provide, by the last day of calendar year 2001, assurances to the department of mental retardation and developmental disabilities that the county board will have for calendar year 2002 at least one-third of the value of one-half, effective mill levied in the county the preceding year available to pay the nonfederal share of the services that the county board is required by division (A) of this section to pay.

If by December 31, 2002, the United States secretary approves 68000
at least five hundred more slots for home and community-based 68001
services for calendar year 2003 than were available for calendar 68002
year 2002, each county board shall provide, by the last day of 68003
calendar year 2002, assurances to the department that the county 68004
board will have for calendar year 2003 at least two-thirds of the 68005
value of one-half, effective mill levied in the county the 68006
preceding year available to pay the nonfederal share of the 68007
services that the county board is required by division (A) of this 68008
section to pay. 68009

If by December 31, 2003, the United States secretary approves 68010
at least five hundred more slots for home and community-based 68011
services for calendar year 2004 than were available for calendar 68012
year 2003, each county board shall provide, by the last day of 68013
calendar year 2003 and each calendar year thereafter, assurances 68014
to the department that the county board will have for calendar 68015
year 2004 and each calendar year thereafter at least the value of 68016
one-half, effective mill levied in the county the preceding year 68017
available to pay the nonfederal share of the services that the 68018
county board is required by division (A) of this section to pay. 68019

(D) Each year, each county board shall adopt a resolution 68020
specifying the amount of funds it will use in the next year to pay 68021
the nonfederal share of the services that the county board is 68022
required by division (A) of this section to pay. The amount 68023
specified shall be adequate to assure that the services will be 68024
available in the county in a manner that conforms to all 68025
applicable state and federal laws. A county board shall state in 68026
its resolution that the payment of the nonfederal share represents 68027
an ongoing financial commitment of the county board. A county 68028
board shall adopt the resolution in time for the county auditor to 68029
make the determination required by division (E) of this section. 68030

(E) Each year, a county auditor shall determine whether the 68031

amount of funds a county board specifies in the resolution it 68032
adopts under division (D) of this section will be available in the 68033
following year for the county board to pay the nonfederal share of 68034
the services that the county board is required by division (A) of 68035
this section to pay. The county auditor shall make the 68036
determination not later than the last day of the year before the 68037
year in which the funds are to be used. 68038

Sec. 5126.12. (A) As used in this section: 68039

(1) "Approved school age class" means a class operated by a 68040
county board of mental retardation and developmental disabilities 68041
and funded by the department of education under section 3317.20 of 68042
the Revised Code. 68043

(2) "Approved preschool unit" means a class or unit operated 68044
by a county board of mental retardation and developmental 68045
disabilities and approved under division (B) of section 3317.05 of 68046
the Revised Code. 68047

(3) "Active treatment" means a continuous treatment program, 68048
which includes aggressive, consistent implementation of a program 68049
of specialized and generic training, treatment, health services, 68050
and related services, that is directed toward the acquisition of 68051
behaviors necessary for an individual with mental retardation or 68052
other developmental disability to function with as much 68053
self-determination and independence as possible and toward the 68054
prevention of deceleration, regression, or loss of current optimal 68055
functional status. 68056

(4) "Eligible for active treatment" means that an individual 68057
with mental retardation or other developmental disability resides 68058
in an intermediate care facility for the mentally retarded 68059
certified under Title XIX of the "Social Security Act," 79 Stat. 68060
286 (1965), 42 U.S.C. 1396, as amended; resides in a state 68061
institution operated by the department of mental retardation and 68062

developmental disabilities; or is enrolled in home and 68063
community-based services. 68064

~~(5) "Community alternative funding system" means the program 68065
under which habilitation center services are reimbursed under the 68066
medicaid program pursuant to section 5111.041 of the Revised Code 68067
and rules adopted under that section. 68068~~

~~(6) "Traditional adult services" means vocational and 68069
nonvocational activities conducted within a sheltered workshop or 68070
adult activity center or supportive home services. 68071~~

(B) Each county board of mental retardation and developmental 68072
disabilities shall certify to the director of mental retardation 68073
and developmental disabilities all of the following: 68074

(1) On or before the fifteenth day of October, the average 68075
daily membership for the first full week of programs and services 68076
during October receiving: 68077

(a) Early childhood services provided pursuant to section 68078
5126.05 of the Revised Code for children who are less than three 68079
years of age on the thirtieth day of September of the academic 68080
year; 68081

(b) Special education for handicapped children in approved 68082
school age classes; 68083

(c) Adult services for persons sixteen years of age and older 68084
operated pursuant to section 5126.05 and division (B) of section 68085
5126.051 of the Revised Code. Separate counts shall be made for 68086
the following: 68087

(i) Persons enrolled in traditional adult services who are 68088
eligible for but not enrolled in active treatment ~~under the 68089
community alternative funding system;~~ 68090

(ii) Persons enrolled in traditional adult services who are 68091
eligible for and enrolled in active treatment ~~under the community 68092~~

| | |
|--|-------|
| alternative funding system; | 68093 |
| (iii) Persons enrolled in traditional adult services but who | 68094 |
| are not eligible for active treatment under the community | 68095 |
| alternative funding system; | 68096 |
| (iv) Persons participating in community employment services. | 68097 |
| To be counted as participating in community employment services, a | 68098 |
| person must have spent an average of no less than ten hours per | 68099 |
| week in that employment during the preceding six months. | 68100 |
| (d) Other programs in the county for individuals with mental | 68101 |
| retardation and developmental disabilities that have been approved | 68102 |
| for payment of subsidy by the department of mental retardation and | 68103 |
| developmental disabilities. | 68104 |
| The membership in each such program and service in the county | 68105 |
| shall be reported on forms prescribed by the department of mental | 68106 |
| retardation and developmental disabilities. | 68107 |
| The department of mental retardation and developmental | 68108 |
| disabilities shall adopt rules defining full-time equivalent | 68109 |
| enrollees and for determining the average daily membership | 68110 |
| therefrom, except that certification of average daily membership | 68111 |
| in approved school age classes shall be in accordance with rules | 68112 |
| adopted by the state board of education. The average daily | 68113 |
| membership figure shall be determined by dividing the amount | 68114 |
| representing the sum of the number of enrollees in each program or | 68115 |
| service in the week for which the certification is made by the | 68116 |
| number of days the program or service was offered in that week. No | 68117 |
| enrollee may be counted in average daily membership for more than | 68118 |
| one program or service. | 68119 |
| (2) By the fifteenth day of December, the number of children | 68120 |
| enrolled in approved preschool units on the first day of December; | 68121 |
| (3) On or before the thirtieth day of March, an itemized | 68122 |
| report of all income and operating expenditures for the | 68123 |

immediately preceding calendar year, in the format specified by 68124
the department of mental retardation and developmental 68125
disabilities; 68126

(4) By the fifteenth day of February, a report of the total 68127
annual cost per enrollee for operation of programs and services in 68128
the preceding calendar year. The report shall include a grand 68129
total of all programs operated, the cost of the individual 68130
programs, and the sources of funds applied to each program. 68131

(5) That each required certification and report is in 68132
accordance with rules established by the department of mental 68133
retardation and developmental disabilities and the state board of 68134
education for the operation and subsidization of the programs and 68135
services. 68136

(C) To compute payments under this section to the board for 68137
the fiscal year, the department of mental retardation and 68138
developmental disabilities shall use the certification of average 68139
daily membership required by division (B)(1) of this section 68140
exclusive of the average daily membership in any approved school 68141
age class and the number in any approved preschool unit. 68142

(D) The department shall pay each county board for each 68143
fiscal year an amount equal to nine hundred fifty dollars times 68144
the certified number of persons who on the first day of December 68145
of the academic year are under three years of age and are not in 68146
an approved preschool unit. For persons who are at least age 68147
sixteen and are not in an approved school age class, the 68148
department shall pay each county board for each fiscal year the 68149
following amounts: 68150

(1) One thousand dollars times the certified average daily 68151
membership of persons enrolled in traditional adult services who 68152
are eligible for but not enrolled in active treatment ~~under the~~ 68153
~~community alternative funding system;~~ 68154

(2) One thousand two hundred dollars times the certified 68155
average daily membership of persons enrolled in traditional adult 68156
services who are eligible for and enrolled in active treatment 68157
~~under the community alternative funding system;~~ 68158

(3) No less than one thousand five hundred dollars times the 68159
certified average daily membership of persons enrolled in 68160
traditional adult services but who are not eligible for active 68161
treatment ~~under the community alternative funding system;~~ 68162

(4) No less than one thousand five hundred dollars times the 68163
certified average daily membership of persons participating in 68164
community employment services. 68165

(E) The department shall distribute this subsidy to county 68166
boards in quarterly installments of equal amounts. The 68167
installments shall be made not later than the thirtieth day of 68168
September, the thirty-first day of December, the thirty-first day 68169
of March, and the thirtieth day of June. 68170

(F) The director of mental retardation and developmental 68171
disabilities shall make efforts to obtain increases in the 68172
subsidies for early childhood services and adult services so that 68173
the amount of the subsidies is equal to at least fifty per cent of 68174
the statewide average cost of those services minus any applicable 68175
federal reimbursements for those services. The director shall 68176
advise the director of budget and management of the need for any 68177
such increases when submitting the biennial appropriations request 68178
for the department. 68179

(G) In determining the reimbursement of a county board for 68180
the provision of service and support administration, family 68181
support services, and other services required or approved by the 68182
director for which children three through twenty-one years of age 68183
are eligible, the department shall include the average daily 68184
membership in approved school age or preschool units. The 68185

department, in accordance with this section and upon receipt and 68186
approval of the certification required by this section and any 68187
other information it requires to enable it to determine a board's 68188
payments, shall pay the agency providing the specialized training 68189
the amounts payable under this section. 68190

Sec. 5139.01. (A) As used in this chapter: 68191

(1) "Commitment" means the transfer of the physical custody 68192
of a child or youth from the court to the department of youth 68193
services. 68194

(2) "Permanent commitment" means a commitment that vests 68195
legal custody of a child in the department of youth services. 68196

(3) "Legal custody," insofar as it pertains to the status 68197
that is created when a child is permanently committed to the 68198
department of youth services, means a legal status in which the 68199
department has the following rights and responsibilities: the 68200
right to have physical possession of the child; the right and duty 68201
to train, protect, and control the child; the responsibility to 68202
provide the child with food, clothing, shelter, education, and 68203
medical care; and the right to determine where and with whom the 68204
child shall live, subject to the minimum periods of, or periods 68205
of, institutional care prescribed in sections 2152.13 to 2152.18 68206
of the Revised Code; provided, that these rights and 68207
responsibilities are exercised subject to the powers, rights, 68208
duties, and responsibilities of the guardian of the person of the 68209
child, and subject to any residual parental rights and 68210
responsibilities. 68211

(4) Unless the context requires a different meaning, 68212
"institution" means a state facility that is created by the 68213
general assembly and that is under the management and control of 68214
the department of youth services or a private entity with which 68215
the department has contracted for the institutional care and 68216

custody of felony delinquents. 68217

(5) "Full-time care" means care for twenty-four hours a day 68218
for over a period of at least two consecutive weeks. 68219

(6) "Placement" means the conditional release of a child 68220
under the terms and conditions that are specified by the 68221
department of youth services. The department shall retain legal 68222
custody of a child released pursuant to division (C) of section 68223
2152.22 of the Revised Code or division (C) of section 5139.06 of 68224
the Revised Code until the time that it discharges the child or 68225
until the legal custody is terminated as otherwise provided by 68226
law. 68227

(7) "Home placement" means the placement of a child in the 68228
home of the child's parent or parents or in the home of the 68229
guardian of the child's person. 68230

(8) "Discharge" means that the department of youth services' 68231
legal custody of a child is terminated. 68232

(9) "Release" means the termination of a child's stay in an 68233
institution and the subsequent period during which the child 68234
returns to the community under the terms and conditions of 68235
supervised release. 68236

(10) "Delinquent child" has the same meaning as in section 68237
2152.02 of the Revised Code. 68238

(11) "Felony delinquent" means any child who is at least ten 68239
years of age but less than eighteen years of age and who is 68240
adjudicated a delinquent child for having committed an act that if 68241
committed by an adult would be a felony. "Felony delinquent" 68242
includes any adult who is between the ages of eighteen and 68243
twenty-one and who is in the legal custody of the department of 68244
youth services for having committed an act that if committed by an 68245
adult would be a felony. 68246

- (12) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code. 68247
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- (13) "Public safety beds" means all of the following: 68249
- (a) Felony delinquents who have been committed to the department of youth services for the commission of an act, other than a violation of section 2911.01 or 2911.11 of the Revised Code, that is a category one offense or a category two offense and who are in the care and custody of an institution or have been diverted from care and custody in an institution and placed in a community corrections facility; 68250
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- (b) Felony delinquents who, while committed to the department of youth services and in the care and custody of an institution or a community corrections facility, are adjudicated delinquent children for having committed in that institution or community corrections facility an act that if committed by an adult would be a misdemeanor or a felony; 68257
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- (c) Children who satisfy all of the following: 68263
- (i) They are at least ten years of age but less than eighteen years of age. 68264
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- (ii) They are adjudicated delinquent children for having committed acts that if committed by an adult would be a felony. 68266
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- (iii) They are committed to the department of youth services by the juvenile court of a county that has had one-tenth of one per cent or less of the statewide adjudications for felony delinquents as averaged for the past four fiscal years. 68268
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- (iv) They are in the care and custody of an institution or a community corrections facility. 68272
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- (d) Felony delinquents who, while committed to the department of youth services and in the care and custody of an institution are serving disciplinary time for having committed an act 68274
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described in division (A)~~(19)~~(18)(a), (b), or (c) of this section, 68277
and who have been institutionalized or institutionalized in a 68278
secure facility for the minimum period of time specified in 68279
divisions (A)(1)(b) to (e) of section 2152.16 of the Revised Code. 68280

(e) Felony delinquents who are subject to and serving a 68281
three-year period of commitment order imposed by a juvenile court 68282
pursuant to divisions (A) and (B) of section 2152.17 of the 68283
Revised Code for an act, other than a violation of section 2911.11 68284
of the Revised Code, that would be a category one offense or 68285
category two offense if committed by an adult. 68286

(f) Felony delinquents who are described in divisions 68287
(A)(13)(a) to (e) of this section, who have been granted a 68288
judicial release to court supervision under division (B) of 68289
section 2152.22 of the Revised Code or a judicial release to the 68290
department of youth services supervision under division (C) of 68291
that section from the commitment to the department of youth 68292
services for the act described in divisions (A)(13)(a) to (e) of 68293
this section, who have violated the terms and conditions of that 68294
release, and who, pursuant to an order of the court of the county 68295
in which the particular felony delinquent was placed on release 68296
that is issued pursuant to division (D) of section 2152.22 of the 68297
Revised Code, have been returned to the department for 68298
institutionalization or institutionalization in a secure facility. 68299

(g) Felony delinquents who have been committed to the custody 68300
of the department of youth services, who have been granted 68301
supervised release from the commitment pursuant to section 5139.51 68302
of the Revised Code, who have violated the terms and conditions of 68303
that supervised release, and who, pursuant to an order of the 68304
court of the county in which the particular child was placed on 68305
supervised release issued pursuant to division (F) of section 68306
5139.52 of the Revised Code, have had the supervised release 68307
revoked and have been returned to the department for 68308

institutionalization. A felony delinquent described in this 68309
division shall be a public safety bed only for the time during 68310
which the felony delinquent is institutionalized as a result of 68311
the revocation subsequent to the initial thirty-day period of 68312
institutionalization required by division (F) of section 5139.52 68313
of the Revised Code. 68314

(14) Unless the context requires a different meaning, 68315
"community corrections facility" means a county or multicounty 68316
rehabilitation center for felony delinquents who have been 68317
committed to the department of youth services and diverted from 68318
care and custody in an institution and placed in the 68319
rehabilitation center pursuant to division (E) of section 5139.36 68320
of the Revised Code. 68321

(15) "Secure facility" means any facility that is designed 68322
and operated to ensure that all of its entrances and exits are 68323
under the exclusive control of its staff and to ensure that, 68324
because of that exclusive control, no child who has been 68325
institutionalized in the facility may leave the facility without 68326
permission or supervision. 68327

(16) "Community residential program" means a program that 68328
satisfies both of the following: 68329

(a) It is housed in a building or other structure that has no 68330
associated major restraining construction, including, but not 68331
limited to, a security fence. 68332

(b) It provides twenty-four-hour care, supervision, and 68333
programs for felony delinquents who are in residence. 68334

(17) "Category one offense" and "category two offense" have 68335
the same meanings as in section 2151.26 of the Revised Code. 68336

(18) "Disciplinary time" means additional time that the 68337
department of youth services requires a felony delinquent to serve 68338
in an institution, that delays the felony delinquent's planned 68339

release, and that the department imposes upon the felony 68340
delinquent following the conduct of an internal due process 68341
hearing for having committed any of the following acts while 68342
committed to the department and in the care and custody of an 68343
institution: 68344

(a) An act that if committed by an adult would be a felony; 68345

(b) An act that if committed by an adult would be a 68346
misdemeanor; 68347

(c) An act that is not described in division (A)(18)(a) or 68348
(b) of this section and that violates an institutional rule of 68349
conduct of the department. 68350

(19) "Unruly child" has the same meaning as in section 68351
2151.022 of the Revised Code. 68352

(20) "Revocation" means the act of revoking a child's 68353
supervised release for a violation of a term or condition of the 68354
child's supervised release in accordance with section 5139.52 of 68355
the Revised Code. 68356

(21) "Release authority" means the release authority of the 68357
department of youth services that is established by section 68358
5139.50 of the Revised Code. 68359

(22) "Supervised release" means the event of the release of a 68360
child under this chapter from an institution and the period after 68361
that release during which the child is supervised and assisted by 68362
an employee of the department of youth services under specific 68363
terms and conditions for reintegration of the child into the 68364
community. 68365

(23) "Victim" means the person identified in a police report, 68366
complaint, or information as the victim of an act that would have 68367
been a criminal offense if committed by an adult and that provided 68368
the basis for adjudication proceedings resulting in a child's 68369

commitment to the legal custody of the department of youth services. 68370
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(24) "Victim's representative" means a member of the victim's family or another person whom the victim or another authorized person designates in writing, pursuant to section 5139.56 of the Revised Code, to represent the victim with respect to proceedings of the release authority of the department of youth services and with respect to other matters specified in that section. 68372
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(25) "Member of the victim's family" means a spouse, child, stepchild, sibling, parent, stepparent, grandparent, other relative, or legal guardian of a child but does not include a person charged with, convicted of, or adjudicated a delinquent child for committing a criminal or delinquent act against the victim or another criminal or delinquent act arising out of the same conduct, criminal or delinquent episode, or plan as the criminal or delinquent act committed against the victim. 68378
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(26) "Judicial release to court supervision" means a release of a child from institutional care or institutional care in a secure facility that is granted by a court pursuant to division (B) of section 2152.22 of the Revised Code during the period specified in that division. 68386
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(27) "Judicial release to department of youth services supervision" means a release of a child from institutional care or institutional care in a secure facility that is granted by a court pursuant to division (C) of section 2152.22 of the Revised Code during the period specified in that division. 68391
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(28) "Juvenile justice system" includes all of the functions of the juvenile courts, the department of youth services, any public or private agency whose purposes include the prevention of delinquency or the diversion, adjudication, detention, or rehabilitation of delinquent children, and any of the functions of 68396
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the criminal justice system that are applicable to children. 68401

(29) "Metropolitan county criminal justice services agency" 68402
means an agency that is established pursuant to division (A) of 68403
section ~~181.54~~ 5502.64 of the Revised Code. 68404

(30) "Administrative planning district" means a district that 68405
is established pursuant to division (A) or (B) of section ~~181.56~~ 68406
5502.66 of the Revised Code. 68407

(31) "Criminal justice coordinating council" means a criminal 68408
justice services agency that is established pursuant to division 68409
(D) of section ~~181.56~~ 5502.66 of the Revised Code. 68410

(32) "Comprehensive plan" means a document that coordinates, 68411
evaluates, and otherwise assists, on an annual or multi-year 68412
basis, all of the functions of the juvenile justice systems of the 68413
state or a specified area of the state, that conforms to the 68414
priorities of the state with respect to juvenile justice systems, 68415
and that conforms with the requirements of all federal criminal 68416
justice acts. These functions include, but are not limited to, all 68417
of the following: 68418

(a) Delinquency; 68419

(b) Identification, detection, apprehension, and detention of 68420
persons charged with delinquent acts; 68421

(c) Assistance to crime victims or witnesses, except that the 68422
comprehensive plan does not include the functions of the attorney 68423
general pursuant to sections 109.91 and 109.92 of the Revised 68424
Code; 68425

(d) Adjudication or diversion of persons charged with 68426
delinquent acts; 68427

(e) Custodial treatment of delinquent children; 68428

(f) Institutional and noninstitutional rehabilitation of 68429
delinquent children. 68430

(B) There is hereby created the department of youth services. 68431
The governor shall appoint the director of the department with the 68432
advice and consent of the senate. The director shall hold office 68433
during the term of the appointing governor but subject to removal 68434
at the pleasure of the governor. Except as otherwise authorized in 68435
section 108.05 of the Revised Code, the director shall devote the 68436
director's entire time to the duties of the director's office and 68437
shall hold no other office or position of trust or profit during 68438
the director's term of office. 68439

The director is the chief executive and administrative 68440
officer of the department and has all the powers of a department 68441
head set forth in Chapter 121. of the Revised Code. The director 68442
may adopt rules for the government of the department, the conduct 68443
of its officers and employees, the performance of its business, 68444
and the custody, use, and preservation of the department's 68445
records, papers, books, documents, and property. The director 68446
shall be an appointing authority within the meaning of Chapter 68447
124. of the Revised Code. Whenever this or any other chapter or 68448
section of the Revised Code imposes a duty on or requires an 68449
action of the department, the duty or action shall be performed by 68450
the director or, upon the director's order, in the name of the 68451
department. 68452

Sec. 5139.36. (A) In accordance with this section and the 68453
rules adopted under it and from funds appropriated to the 68454
department of youth services for the purposes of this section, the 68455
department shall make grants that provide financial resources to 68456
operate community corrections facilities for felony delinquents. 68457

(B)(1) Each community corrections facility that intends to 68458
seek a grant under this section shall file an application with the 68459
department of youth services at the time and in accordance with 68460
the procedures that the department shall establish by rules 68461

adopted in accordance with Chapter 119. of the Revised Code. In 68462
addition to other items required to be included in the 68463
application, a plan that satisfies both of the following shall be 68464
included: 68465

(a) It reduces the number of felony delinquents committed to 68466
the department from the county or counties associated with the 68467
community corrections facility. 68468

(b) It ensures equal access for minority felony delinquents 68469
to the programs and services for which a potential grant would be 68470
used. 68471

(2) The department of youth services shall review each 68472
application submitted pursuant to division (B)(1) of this section 68473
to determine whether the plan described in that division, the 68474
community corrections facility, and the application comply with 68475
this section and the rules adopted under it. 68476

(C) To be eligible for a grant under this section and for 68477
continued receipt of moneys comprising a grant under this section, 68478
a community corrections facility shall satisfy at least all of the 68479
following requirements: 68480

(1) Be constructed, reconstructed, improved, or financed by 68481
the Ohio building authority pursuant to section 307.021 of the 68482
Revised Code and Chapter 152. of the Revised Code for the use of 68483
the department of youth services and be designated as a community 68484
corrections facility; 68485

(2) Have written standardized criteria governing the types of 68486
felony delinquents that are eligible for the programs and services 68487
provided by the facility; 68488

(3) Have a written standardized intake screening process and 68489
an intake committee that at least performs both of the following 68490
tasks: 68491

(a) Screens all eligible felony delinquents who are being 68492
considered for admission to the facility in lieu of commitment to 68493
the department; 68494

(b) Notifies, within ten days after the date of the referral 68495
of a felony delinquent to the facility, the committing court 68496
whether the felony delinquent will be admitted to the facility. 68497

(4) Comply with all applicable fiscal and program rules that 68498
the department adopts in accordance with Chapter 119. of the 68499
Revised Code and demonstrate that felony delinquents served by the 68500
facility have been or will be diverted from a commitment to the 68501
department. 68502

(D) The department of youth services shall determine the 68503
method of distribution of the funds appropriated for grants under 68504
this section to community corrections facilities. 68505

(E)(1) The department of youth services shall adopt rules in 68506
accordance with Chapter 119. of the Revised Code to establish the 68507
minimum occupancy threshold of community corrections facilities. 68508

(2) The department may make referrals for the placement of 68509
children in its custody to a community corrections facility ~~if the~~ 68510
~~community corrections facility is not meeting the minimum~~ 68511
~~occupancy threshold established by the department.~~ At least 68512
forty-five days prior to the referral of a child or within any 68513
shorter period prior to the referral of the child that the 68514
committing court may allow, the department shall notify the 68515
committing court of its intent to place the child in a community 68516
corrections facility. The court shall have thirty days after the 68517
receipt of the notice to approve or disapprove the placement. If 68518
the court does not respond to the notice of the placement within 68519
that thirty-day period, the department shall proceed with the 68520
placement and debit the county in accordance with sections 5139.41 68521
to 5139.43 of the Revised Code. A child placed in a community 68522

corrections facility pursuant to this division shall remain in the 68523
legal custody of the department of youth services during the 68524
period in which the child is in the community corrections 68525
facility. 68526

(3) Counties that are not associated with a community 68527
corrections facility may refer children to a community corrections 68528
facility with the consent of the facility. The department of youth 68529
services shall debit the county that makes the referral in 68530
accordance with sections 5139.41 to 5139.43 of the Revised Code. 68531

(F) If the board or other governing body of a community 68532
corrections facility establishes an advisory board, the board or 68533
other governing authority of the community corrections facility 68534
shall reimburse the members of the advisory board for their actual 68535
and necessary expenses incurred in the performance of their 68536
official duties on the advisory board. The members of advisory 68537
boards shall serve without compensation. 68538

Sec. 5153.16. (A) Except as provided in section 2151.422 of 68539
the Revised Code, in accordance with rules of the department of 68540
job and family services, and on behalf of children in the county 68541
whom the public children services agency considers to be in need 68542
of public care or protective services, the public children 68543
services agency shall do all of the following: 68544

(1) Make an investigation concerning any child alleged to be 68545
an abused, neglected, or dependent child; 68546

(2) Enter into agreements with the parent, guardian, or other 68547
person having legal custody of any child, or with the department 68548
of job and family services, department of mental health, 68549
department of mental retardation and developmental disabilities, 68550
other department, any certified organization within or outside the 68551
county, or any agency or institution outside the state, having 68552
legal custody of any child, with respect to the custody, care, or 68553

placement of any child, or with respect to any matter, in the 68554
interests of the child, provided the permanent custody of a child 68555
shall not be transferred by a parent to the public children 68556
services agency without the consent of the juvenile court; 68557

(3) Accept custody of children committed to the public 68558
children services agency by a court exercising juvenile 68559
jurisdiction; 68560

(4) Provide such care as the public children services agency 68561
considers to be in the best interests of any child adjudicated to 68562
be an abused, neglected, or dependent child the agency finds to be 68563
in need of public care or service; 68564

(5) Provide social services to any unmarried girl adjudicated 68565
to be an abused, neglected, or dependent child who is pregnant 68566
with or has been delivered of a child; 68567

(6) Make available to the bureau for children with medical 68568
handicaps of the department of health at its request any 68569
information concerning a crippled child found to be in need of 68570
treatment under sections 3701.021 to 3701.028 of the Revised Code 68571
who is receiving services from the public children services 68572
agency; 68573

(7) Provide temporary emergency care for any child considered 68574
by the public children services agency to be in need of such care, 68575
without agreement or commitment; 68576

(8) Find certified foster homes, within or outside the 68577
county, for the care of children, including handicapped children 68578
from other counties attending special schools in the county; 68579

(9) Subject to the approval of the board of county 68580
commissioners and the state department of job and family services, 68581
establish and operate a training school or enter into an agreement 68582
with any municipal corporation or other political subdivision of 68583
the county respecting the operation, acquisition, or maintenance 68584

of any children's home, training school, or other institution for 68585
the care of children maintained by such municipal corporation or 68586
political subdivision; 68587

(10) Acquire and operate a county children's home, establish, 68588
maintain, and operate a receiving home for the temporary care of 68589
children, or procure certified foster homes for this purpose; 68590

(11) Enter into an agreement with the trustees of any 68591
district children's home, respecting the operation of the district 68592
children's home in cooperation with the other county boards in the 68593
district; 68594

(12) Cooperate with, make its services available to, and act 68595
as the agent of persons, courts, the department of job and family 68596
services, the department of health, and other organizations within 68597
and outside the state, in matters relating to the welfare of 68598
children, except that the public children services agency shall 68599
not be required to provide supervision of or other services 68600
related to the exercise of parenting time rights granted pursuant 68601
to section 3109.051 or 3109.12 of the Revised Code or 68602
companionship or visitation rights granted pursuant to section 68603
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 68604
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 68605
a common pleas court, pursuant to division (E)(6) of section 68606
3113.31 of the Revised Code, requires the provision of supervision 68607
or other services related to the exercise of the parenting time 68608
rights or companionship or visitation rights; 68609

(13) Make investigations at the request of any superintendent 68610
of schools in the county or the principal of any school concerning 68611
the application of any child adjudicated to be an abused, 68612
neglected, or dependent child for release from school, where such 68613
service is not provided through a school attendance department; 68614

(14) Administer funds provided under Title IV-E of the 68615

"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 68616
amended, in accordance with rules adopted under section 5101.141 68617
of the Revised Code; 68618

(15) In addition to administering Title IV-E adoption 68619
assistance funds, enter into agreements to make adoption 68620
assistance payments under section 5153.163 of the Revised Code; 68621

(16) Implement a system of risk assessment, in accordance 68622
with rules adopted by the director of job and family services, to 68623
assist the public children services agency in determining the risk 68624
of abuse or neglect to a child; 68625

(17) Enter into a plan of cooperation with the board of 68626
county commissioners under section 307.983 of the Revised Code and 68627
comply with each fiscal agreement the board enters into under 68628
section 307.98 of the Revised Code that include family services 68629
duties of public children services agencies and contracts the 68630
board enters into under sections 307.981 and 307.982 of the 68631
Revised Code that affect the public children services agency; 68632

(18) Make reasonable efforts to prevent the removal of an 68633
alleged or adjudicated abused, neglected, or dependent child from 68634
the child's home, eliminate the continued removal of the child 68635
from the child's home, or make it possible for the child to return 68636
home safely, except that reasonable efforts of that nature are not 68637
required when a court has made a determination under division 68638
(A)(2) of section 2151.419 of the Revised Code; 68639

(19) Make reasonable efforts to place the child in a timely 68640
manner in accordance with the permanency plan approved under 68641
division (E) of section 2151.417 of the Revised Code and to 68642
complete whatever steps are necessary to finalize the permanent 68643
placement of the child; 68644

(20) Administer a Title IV-A program identified under 68645
division (A)~~(3)~~(4)(c) or ~~(d)~~(f) of section 5101.80 of the Revised 68646

Code that the department of job and family services provides for 68647
the public children services agency to administer under the 68648
department's supervision pursuant to section 5101.801 of the 68649
Revised Code; 68650

(21) Administer the kinship permanency incentive program 68651
created under section 5101.802 of the Revised Code under the 68652
supervision of the director of job and family services; 68653

(22) Provide independent living services pursuant to sections 68654
2151.81 to 2151.84 of the Revised Code. 68655

(B) The public children services agency shall use the system 68656
implemented pursuant to division (B)(16) of this section in 68657
connection with an investigation undertaken pursuant to division 68658
(F)(1) of section 2151.421 of the Revised Code and may use the 68659
system at any other time the agency is involved with any child 68660
when the agency determines that risk assessment is necessary. 68661

(C) Except as provided in section 2151.422 of the Revised 68662
Code, in accordance with rules of the director of job and family 68663
services, and on behalf of children in the county whom the public 68664
children services agency considers to be in need of public care or 68665
protective services, the public children services agency may do 68666
the following: 68667

(1) Provide or find, with other child serving systems, 68668
specialized foster care for the care of children in a specialized 68669
foster home, as defined in section 5103.02 of the Revised Code, 68670
certified under section 5103.03 of the Revised Code; 68671

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of 68672
this section, contract with the following for the purpose of 68673
assisting the agency with its duties: 68674

(i) County departments of job and family services; 68675

(ii) Boards of alcohol, drug addiction, and mental health 68676

| | |
|--|--|
| services; | 68677 |
| (iii) County boards of mental retardation and developmental disabilities; | 68678 68679 |
| (iv) Regional councils of political subdivisions established under Chapter 167. of the Revised Code; | 68680 68681 |
| (v) Private and government providers of services; | 68682 |
| (vi) Managed care organizations and prepaid health plans. | 68683 |
| (b) A public children services agency contract under division (C)(2)(a) of this section regarding the agency's duties under section 2151.421 of the Revised Code may not provide for the entity under contract with the agency to perform any service not authorized by the department's rules. | 68684 68685 68686 68687 68688 |
| (c) Only a county children services board appointed under section 5153.03 of the Revised Code that is a public children services agency may contract under division (C)(2)(a) of this section. If an entity specified in division (B) or (C) of section 5153.02 of the Revised Code is the public children services agency for a county, the board of county commissioners may enter into contracts pursuant to section 307.982 of the Revised Code regarding the agency's duties. | 68689 68690 68691 68692 68693 68694 68695 68696 |
| Sec. 5502.01. (A) The department of public safety shall administer and enforce the laws relating to the registration, licensing, sale, and operation of motor vehicles and the laws pertaining to the licensing of drivers of motor vehicles. | 68697 68698 68699 68700 |
| The department shall compile, analyze, and publish statistics relative to motor vehicle accidents and the causes of them, prepare and conduct educational programs for the purpose of promoting safety in the operation of motor vehicles on the highways, and conduct research and studies for the purpose of promoting safety on the highways of this state. | 68701 68702 68703 68704 68705 68706 |

(B) The department shall administer the laws and rules 68707
relative to trauma and emergency medical services specified in 68708
Chapter 4765. of the Revised Code. 68709

(C) The department shall administer and enforce the laws 68710
contained in Chapters 4301. and 4303. of the Revised Code and 68711
enforce the rules and orders of the liquor control commission 68712
pertaining to retail liquor permit holders. 68713

(D) The department shall administer the laws governing the 68714
state emergency management agency and shall enforce all additional 68715
duties and responsibilities as prescribed in the Revised Code 68716
related to emergency management services. 68717

(E) The department shall conduct investigations pursuant to 68718
Chapter 5101. of the Revised Code in support of the duty of the 68719
department of job and family services to administer food stamp 68720
programs throughout this state. The department of public safety 68721
shall conduct investigations necessary to protect the state's 68722
property rights and interests in the food stamp program. 68723

(F) The department of public safety shall enforce compliance 68724
with orders and rules of the public utilities commission and 68725
applicable laws in accordance with Chapters 4919., 4921., and 68726
4923. of the Revised Code regarding commercial motor vehicle 68727
transportation safety, economic, and hazardous materials 68728
requirements. 68729

(G) Notwithstanding Chapter 4117. of the Revised Code, the 68730
department of public safety may establish requirements for its 68731
enforcement personnel, including its enforcement agents described 68732
in section 5502.14 of the Revised Code, that include standards of 68733
conduct, work rules and procedures, and criteria for eligibility 68734
as law enforcement personnel. 68735

(H) The department shall administer, maintain, and operate 68736
the Ohio criminal justice network. The Ohio criminal justice 68737

network shall be a computer network that supports state and local 68738
criminal justice activities. The network shall be an electronic 68739
repository for various data, which may include arrest warrants, 68740
notices of persons wanted by law enforcement agencies, criminal 68741
records, prison inmate records, stolen vehicle records, vehicle 68742
operator's licenses, and vehicle registrations and titles. 68743

(I) The department shall coordinate all homeland security 68744
activities of all state agencies and shall be a liaison between 68745
state agencies and local entities for those activities and related 68746
purposes. 68747

(J) Beginning July 1, 2004, the department shall administer 68748
and enforce the laws relative to private investigators and 68749
security service providers specified in Chapter 4749. of the 68750
Revised Code. 68751

(K) The department shall administer criminal justice services 68752
in accordance with sections 5502.61 to 5502.66 of the Revised 68753
Code. 68754

Sec. 5502.03. (A) There is hereby created in the department 68755
of public safety a division of homeland security. It is the intent 68756
of the general assembly that the creation of the division of 68757
homeland security of the department of public safety by this 68758
amendment does not result in an increase of funding appropriated 68759
to the department. 68760

(B)(1) The division shall coordinate all homeland security 68761
activities of all state agencies and shall be the liaison between 68762
state agencies and local entities for the purposes of 68763
communicating homeland security funding and policy initiatives. 68764

(2) The division and the department shall distribute any 68765
homeland security funds on a county basis and shall not distribute 68766
those funds on a regional basis unless federal law requires 68767

distribution on a regional basis. 68768

(C) The director of public safety shall appoint an executive 68769
director, who shall be head of the division of homeland security 68770
and who regularly shall advise the governor and the director on 68771
matters pertaining to homeland security. The executive director 68772
shall serve at the pleasure of the director of public safety. To 68773
carry out the duties assigned under this section, the executive 68774
director, subject to the direction and control of the director of 68775
public safety, may appoint and maintain necessary staff and may 68776
enter into any necessary agreements. 68777

(D) Except as otherwise provided by law, nothing in this 68778
section shall be construed to give the director of public safety 68779
or the executive director of the division of homeland security 68780
authority over the incident management structure or 68781
responsibilities of local emergency response personnel. 68782

Sec. ~~181.51~~ 5502.61. As used in sections ~~181.51~~ 5502.61 to 68783
~~181.56~~ 5502.66 of the Revised Code: 68784

(A) "Federal criminal justice acts" means any federal law 68785
that authorizes financial assistance and other forms of assistance 68786
to be given by the federal government to the states to be used for 68787
the improvement of the criminal and juvenile justice systems of 68788
the states. 68789

(B)(1) "Criminal justice system" includes all of the 68790
functions of the following: 68791

(a) The state highway patrol, county sheriff offices, 68792
municipal and township police departments, and all other law 68793
enforcement agencies; 68794

(b) The courts of appeals, courts of common pleas, municipal 68795
courts, county courts, and mayor's courts, when dealing with 68796
criminal cases; 68797

(c) The prosecuting attorneys, city directors of law, village solicitors, and other prosecuting authorities when prosecuting or otherwise handling criminal cases and the county and joint county public defenders and other public defender agencies or offices;

(d) The department of rehabilitation and correction, probation departments, county and municipal jails and workhouses, and any other department, agency, or facility that is concerned with the rehabilitation or correction of criminal offenders;

(e) Any public or private agency whose purposes include the prevention of crime or the diversion, adjudication, detention, or rehabilitation of criminal offenders;

(f) Any public or private agency, the purposes of which include assistance to crime victims or witnesses.

(2) The inclusion of any public or private agency, the purposes of which include assistance to crime victims or witnesses, as part of the criminal justice system pursuant to division (B)(1) of this section does not limit, and shall not be construed as limiting, the discretion or authority of the attorney general with respect to crime victim assistance and criminal justice programs.

(C) "Juvenile justice system" includes all of the functions of the juvenile courts, the department of youth services, any public or private agency whose purposes include the prevention of delinquency or the diversion, adjudication, detention, or rehabilitation of delinquent children, and any of the functions of the criminal justice system that are applicable to children.

(D) "Comprehensive plan" means a document that coordinates, evaluates, and otherwise assists, on an annual or multi-year basis, any of the functions of the criminal and juvenile justice systems of the state or a specified area of the state, that conforms to the priorities of the state with respect to criminal

and juvenile justice systems, and that conforms with the 68829
requirements of all federal criminal justice acts. These functions 68830
may include, but are not limited to, any of the following: 68831

(1) Crime and delinquency prevention; 68832

(2) Identification, detection, apprehension, and detention of 68833
persons charged with criminal offenses or delinquent acts; 68834

(3) Assistance to crime victims or witnesses, except that the 68835
comprehensive plan does not include the functions of the attorney 68836
general pursuant to sections 109.91 and 109.92 of the Revised 68837
Code; 68838

(4) Adjudication or diversion of persons charged with 68839
criminal offenses or delinquent acts; 68840

(5) Custodial treatment of criminal offenders, delinquent 68841
children, or both; 68842

(6) Institutional and noninstitutional rehabilitation of 68843
criminal offenders, delinquent children, or both. 68844

(E) "Metropolitan county criminal justice services agency" 68845
means an agency that is established pursuant to division (A) of 68846
section ~~181.54~~ 5502.64 of the Revised Code. 68847

(F) "Administrative planning district" means a district that 68848
is established pursuant to division (A) or (B) of section ~~181.56~~ 68849
5502.66 of the Revised Code. 68850

(G) "Criminal justice coordinating council" means a criminal 68851
justice services agency that is established pursuant to division 68852
(D) of section ~~181.56~~ 5502.66 of the Revised Code. 68853

(H) "Local elected official" means any person who is a member 68854
of a board of county commissioners or township trustees or of a 68855
city or village council, judge of the court of common pleas, a 68856
municipal court, or a county court, sheriff, county coroner, 68857
prosecuting attorney, city director of law, village solicitor, or 68858

mayor. 68859

(I) "Juvenile justice coordinating council" means a juvenile 68860
justice services agency that is established pursuant to division 68861
(D) of section ~~181.56~~ 5502.66 of the Revised Code. 68862

Sec. ~~181.52~~ 5502.62. (A) There is hereby created ~~an office in~~ 68863
the department of public safety a division of criminal justice 68864
services. The ~~governor~~ director of public safety, with the 68865
concurrence of the governor, shall appoint a an executive director 68866
of the ~~office,~~ and ~~the director may appoint, within the office,~~ 68867
~~any professional and technical personnel and other employees that~~ 68868
~~are necessary to enable the office to comply with sections 181.51~~ 68869
~~to 181.56 of the Revised Code~~ division of criminal justice 68870
services. The executive director shall be the head of the 68871
division. The executive director shall serve at the pleasure of 68872
the director of public safety. To carry out the duties assigned 68873
under this section and to comply with sections 5502.63 to 5502.66 68874
of the Revised Code, the executive director, subject to the 68875
direction and control of the director of public safety, may 68876
appoint and maintain any necessary staff and may enter into any 68877
necessary contracts and other agreements. The executive director 68878
~~and the assistant director~~ of the ~~office~~ division, and all 68879
professional and technical personnel employed within the ~~office~~ 68880
division who are not public employees as defined in section 68881
4117.01 of the Revised Code, shall be in the unclassified civil 68882
service, and all other persons employed within the ~~office~~ division 68883
shall be in the classified civil service. ~~The director may enter~~ 68884
~~into any contracts, except contracts governed by Chapter 4117. of~~ 68885
~~the Revised Code, that are necessary for the operation of the~~ 68886
~~office.~~ 68887

(B) Subject to division (E) of this section and subject to 68888
divisions (D) to (F) of section 5120.09 of the Revised Code 68889

insofar as those divisions relate to federal criminal justice acts 68890
that the governor requires the department of rehabilitation and 68891
correction to administer, the ~~office~~ division of criminal justice 68892
services shall do all of the following: 68893

(1) Serve as the state criminal justice services agency and 68894
perform criminal justice system planning in the state, including 68895
any planning that is required by any federal law; 68896

(2) Collect, analyze, and correlate information and data 68897
concerning the criminal justice system in the state; 68898

(3) Cooperate with and provide technical assistance to state 68899
departments, administrative planning districts, metropolitan 68900
county criminal justice services agencies, criminal justice 68901
coordinating councils, agencies, offices, and departments of the 68902
criminal justice system in the state, and other appropriate 68903
organizations and persons; 68904

(4) Encourage and assist agencies, offices, and departments 68905
of the criminal justice system in the state and other appropriate 68906
organizations and persons to solve problems that relate to the 68907
duties of the ~~office~~ division; 68908

(5) Administer within the state any federal criminal justice 68909
acts that the governor requires it to administer; 68910

(6) Administer funds received under the "Family Violence 68911
Prevention and Services Act," 98 Stat. 1757 (1984), 42 U.S.C.A. 68912
10401, as amended, with all powers necessary for the adequate 68913
administration of those funds, including the authority to 68914
establish a family violence prevention and services program. 68915

(7) Implement the state comprehensive plans; 68916

(8) Audit grant activities of agencies, offices, 68917
organizations, and persons that are financed in whole or in part 68918
by funds granted through the ~~office~~ division; 68919

(9) Monitor or evaluate the performance of criminal justice system projects and programs in the state that are financed in whole or in part by funds granted through the ~~office~~ division;

(10) Apply for, allocate, disburse, and account for grants that are made available pursuant to federal criminal justice acts, or made available from other federal, state, or private sources, to improve the criminal justice system in the state. ~~All~~ Except as otherwise provided in this division, all money from such federal grants shall, if the terms under which the money is received require that the money be deposited into an interest-bearing fund or account, be deposited in the state treasury to the credit of the federal program purposes fund, which is hereby created. All investment earnings of the federal program purposes fund shall be credited to the fund. All money from such federal grants that require that the money be deposited into an interest-bearing fund or account, that are intended to provide funding to local criminal justice programs, and that require that investment earnings be distributed for program purposes shall be deposited in the state treasury to the credit of the federal justice programs fund, which is hereby created. All investment earnings of the federal justice programs fund shall be credited to the fund and distributed in accordance with the terms of the grant under which the money is received.

(11) Contract with federal, state, and local agencies, foundations, corporations, businesses, and persons when necessary to carry out the duties of the ~~office~~ division;

(12) Oversee the activities of metropolitan county criminal justice services agencies, administrative planning districts, and criminal justice coordinating councils in the state;

(13) Advise the director of public safety, general assembly, and governor on legislation and other significant matters that pertain to the improvement and reform of criminal and juvenile

justice systems in the state; 68952

(14) Prepare and recommend legislation to the director of public safety, general assembly, and governor for the improvement of the criminal and juvenile justice systems in the state; 68953
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(15) Assist, advise, and make any reports that are requested or required by the governor, director of public safety, attorney general, or general assembly; 68956
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(16) ~~Adopt~~ Subject to the approval of the director of public safety, adopt rules pursuant to Chapter 119. of the Revised Code. 68959
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(C) Upon the request of the director of public safety or governor, the ~~office~~ division of criminal justice services may do any of the following: 68961
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(1) Collect, analyze, or correlate information and data concerning the juvenile justice system in the state; 68964
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(2) Cooperate with and provide technical assistance to state departments, administrative planning districts, metropolitan county criminal justice service agencies, criminal justice coordinating councils, agency offices, and the departments of the juvenile justice system in the state and other appropriate organizations and persons; 68966
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(3) Encourage and assist agencies, offices, and departments of the juvenile justice system in the state and other appropriate organizations and persons to solve problems that relate to the duties of the ~~office~~ division. 68972
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(D) Divisions (B) and (C) of this section do not limit the discretion or authority of the attorney general with respect to crime victim assistance and criminal justice programs. 68976
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(E) Nothing in this section is intended to diminish or alter the status of the office of the attorney general as a criminal justice services agency. 68979
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Sec. ~~181.251~~ 5502.63. The ~~office~~ division of criminal justice services in the department of public safety shall prepare a poster and a brochure that describe safe firearms practices. The poster and brochure shall contain typeface that is at least one-quarter inch tall. The ~~office~~ division shall furnish copies of the poster and brochure free of charge to each federally licensed firearms dealer in this state.

As used in this section, "federally licensed firearms dealer" means an importer, manufacturer, or dealer having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the federal "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923 et seq., and any amendments or additions to that act or reenactments of that act.

Sec. ~~181.54~~ 5502.64. (A) A county may enter into an agreement with the largest city within the county to establish a metropolitan county criminal justice services agency, if the population of the county exceeds five hundred thousand or the population of the city exceeds two hundred fifty thousand.

(B) A metropolitan county criminal justice services agency shall do all of the following:

(1) Accomplish criminal and juvenile justice systems planning within its services area;

(2) Collect, analyze, and correlate information and data concerning the criminal and juvenile justice systems within its services area;

(3) Cooperate with and provide technical assistance to all criminal and juvenile justice agencies and systems and other appropriate organizations and persons within its services area;

(4) Encourage and assist agencies of the criminal and juvenile justice systems and other appropriate organizations and

persons to solve problems that relate to its duties; 69012

(5) Administer within its services area any federal criminal 69013
justice acts or juvenile justice acts that the ~~office~~ division of 69014
criminal justice services pursuant to section 5139.11 of the 69015
Revised Code or the department of youth services administers 69016
within the state; 69017

(6) Implement the comprehensive plans for its services area; 69018

(7) Monitor or evaluate, within its services area, the 69019
performance of the criminal and juvenile justice systems projects 69020
and programs that are financed in whole or in part by funds 69021
granted through it; 69022

(8) Apply for, allocate, and disburse grants that are made 69023
available pursuant to any federal criminal justice acts, or 69024
pursuant to any other federal, state, or private sources for the 69025
purpose of improving the criminal and juvenile justice systems; 69026

(9) Contract with federal, state, and local agencies, 69027
foundations, corporations, and other businesses or persons to 69028
carry out the duties of the agency. 69029

Sec. ~~181.55~~ 5502.65. (A)(1) When funds are available for 69030
criminal justice purposes pursuant to section ~~181.54~~ 5502.64 of 69031
the Revised Code, the ~~office~~ division of criminal justice services 69032
shall provide funds to metropolitan county criminal justice 69033
services agencies for the purpose of developing, coordinating, 69034
evaluating, and implementing comprehensive plans within their 69035
respective counties. The ~~office~~ division of criminal justice 69036
services shall provide funds to an agency only if it complies with 69037
the conditions of division (B) of this section. 69038

(2) When funds are available for juvenile justice purposes 69039
pursuant to section ~~181.54~~ 5502.64 of the Revised Code, the 69040
department of youth services shall provide funds to metropolitan 69041

county criminal justice services agencies for the purpose of 69042
developing, coordinating, evaluating, and implementing 69043
comprehensive plans within their respective counties. The 69044
department shall provide funds to an agency only if it complies 69045
with the conditions of division (B) of this section. 69046

(B) A metropolitan county criminal justice services agency 69047
shall do all of the following: 69048

(1) Submit, in a form that is acceptable to the ~~office~~ 69049
division of criminal justice services or the department of youth 69050
services pursuant to section 5139.01 of the Revised Code, a 69051
comprehensive plan for the county; 69052

(2) Establish a metropolitan county criminal justice services 69053
supervisory board whose members shall include a majority of the 69054
local elected officials in the county and representatives from law 69055
enforcement agencies, courts, prosecuting authorities, public 69056
defender agencies, rehabilitation and correction agencies, 69057
community organizations, juvenile justice services agencies, 69058
professionals, and private citizens in the county, and that shall 69059
have the authority set forth in division (C) of this section; 69060

(3) Organize in the manner provided in sections 167.01 to 69061
167.03, 302.21 to 302.24, or 713.21 to 713.27 of the Revised Code, 69062
unless the board created pursuant to division (B)(2) of this 69063
section organizes pursuant to these sections. 69064

(C) A metropolitan county criminal justice services 69065
supervisory board shall do all of the following: 69066

(1) Exercise leadership in improving the quality of the 69067
criminal and juvenile justice systems in the county; 69068

(2) Review, approve, and maintain general oversight of the 69069
comprehensive plans for the county and the implementation of the 69070
plans; 69071

(3) Review and comment on the overall needs and 69072
accomplishments of the criminal and juvenile justice systems in 69073
the county; 69074

(4) Establish, as required to comply with this division, task 69075
forces, ad hoc committees, and other committees, whose members 69076
shall be appointed by the chairperson of the board; 69077

(5) Establish any rules that the board considers necessary 69078
and that are consistent with the federal criminal justice acts and 69079
section ~~181.52~~ 5502.62 of the Revised Code. 69080

Sec. ~~181.56~~ 5502.66. (A) In counties in which a metropolitan 69081
county criminal justice services agency does not exist, the ~~office~~ 69082
division of criminal justice services shall discharge the ~~office's~~ 69083
division's duties that the ~~governor~~ director of public safety 69084
requires it to administer by establishing administrative planning 69085
districts for criminal justice programs. An administrative 69086
planning district shall contain a group of contiguous counties in 69087
which no county has a metropolitan county criminal justice 69088
services agency. 69089

(B) In counties in which a metropolitan county criminal 69090
justice services agency does not exist, the department of youth 69091
services shall discharge pursuant to section 5139.11 of the 69092
Revised Code the department's duty by establishing administrative 69093
planning districts for juvenile justice programs. 69094

(C) All administrative planning districts shall contain a 69095
group of contiguous counties in which no county has a metropolitan 69096
county criminal justice services agency. 69097

(D) Any county or any combination of contiguous counties 69098
within an administrative planning district may form a criminal 69099
justice coordinating council or a juvenile justice coordinating 69100
council for its respective programs, if the county or the group of 69101

counties has a total population in excess of two hundred fifty 69102
thousand. The council shall comply with the conditions set forth 69103
in divisions (B) and (C) of section ~~181.55~~ 5502.65 of the Revised 69104
Code, and exercise within its jurisdiction the powers and duties 69105
set forth in division (B) of section ~~181.54~~ 5502.64 of the Revised 69106
Code. 69107

Sec. 5531.10. (A) As used in this chapter: 69108

(1) "Bond proceedings" means the resolution, order, trust 69109
agreement, indenture, lease, lease-purchase agreements, and other 69110
agreements, amendments and supplements to the foregoing, or any 69111
one or more or combination thereof, authorizing or providing for 69112
the terms and conditions applicable to, or providing for the 69113
security or liquidity of, obligations issued pursuant to this 69114
section, and the provisions contained in such obligations. 69115

(2) "Bond service charges" means principal, including 69116
mandatory sinking fund requirements for retirement of obligations, 69117
and interest, and redemption premium, if any, required to be paid 69118
by the state on obligations. 69119

(3) "Bond service fund" means the applicable fund and 69120
accounts therein created for and pledged to the payment of bond 69121
service charges, which may be, or may be part of, the state 69122
infrastructure bank revenue bond service fund created by division 69123
(R) of this section including all moneys and investments, and 69124
earnings from investments, credited and to be credited thereto. 69125

(4) "Issuing authority" means the treasurer of state, or the 69126
officer who by law performs the functions of the treasurer of 69127
state. 69128

(5) "Obligations" means bonds, notes, or other evidence of 69129
obligation including interest coupons pertaining thereto, issued 69130
pursuant to this section. 69131

(6) "Pledged receipts" means moneys accruing to the state 69132
from the lease, lease-purchase, sale, or other disposition, or 69133
use, of qualified projects, and from the repayment, including 69134
interest, of loans made from proceeds received from the sale of 69135
obligations; accrued interest received from the sale of 69136
obligations; income from the investment of the special funds; any 69137
gifts, grants, donations, and pledges, and receipts therefrom, 69138
available for the payment of bond service charges; and any amounts 69139
in the state infrastructure bank pledged to the payment of such 69140
charges. If the amounts in the state infrastructure bank are 69141
insufficient for the payment of such charges, "pledged receipts" 69142
also means moneys that are apportioned by the United States 69143
secretary of transportation under United States Code, Title XXIII, 69144
as amended, or any successor legislation, or under any other 69145
federal law relating to aid for highways, and that are to be 69146
received as a grant by the state, to the extent the state is not 69147
prohibited by state or federal law from using such moneys and the 69148
moneys are pledged to the payment of such bond service charges. 69149

(7) "Special funds" or "funds" means, except where the 69150
context does not permit, the bond service fund, and any other 69151
funds, including reserve funds, created under the bond 69152
proceedings, and the state infrastructure bank revenue bond 69153
service fund created by division (R) of this section to the extent 69154
provided in the bond proceedings, including all moneys and 69155
investments, and earnings from investment, credited and to be 69156
credited thereto. 69157

(8) "State infrastructure project" means any public 69158
transportation project undertaken by the state, including, but not 69159
limited to, all components of any such project, as described in 69160
division (D) of section ~~5131.09~~ 5531.09 of the Revised Code. 69161

(9) "District obligations" means bonds, notes, or other 69162
evidence of obligation including interest coupons pertaining 69163

thereto, issued to finance a qualified project by a transportation 69164
improvement district created pursuant to section 5540.02 of the 69165
Revised Code, of which the principal, including mandatory sinking 69166
fund requirements for retirement of such obligations, and interest 69167
and redemption premium, if any, are payable by the department of 69168
transportation. 69169

(B) The issuing authority, after giving written notice to the 69170
director of budget and management and upon the certification by 69171
the director of transportation to the issuing authority of the 69172
amount of moneys or additional moneys needed either for state 69173
infrastructure projects or to provide financial assistance for any 69174
of the purposes for which the state infrastructure bank may be 69175
used under section 5531.09 of the Revised Code, or needed for 69176
capitalized interest, funding reserves, and paying costs and 69177
expenses incurred in connection with the issuance, carrying, 69178
securing, paying, redeeming, or retirement of the obligations or 69179
any obligations refunded thereby, including payment of costs and 69180
expenses relating to letters of credit, lines of credit, 69181
insurance, put agreements, standby purchase agreements, indexing, 69182
marketing, remarketing and administrative arrangements, interest 69183
swap or hedging agreements, and any other credit enhancement, 69184
liquidity, remarketing, renewal, or refunding arrangements, all of 69185
which are authorized by this section, shall issue obligations of 69186
the state under this section in the required amount. The proceeds 69187
of such obligations, except for the portion to be deposited in 69188
special funds, including reserve funds, as may be provided in the 69189
bond proceedings, shall as provided in the bond proceedings be 69190
credited to the infrastructure bank obligations fund of the state 69191
infrastructure bank created by section 5531.09 of the Revised Code 69192
and disbursed as provided in the bond proceedings for such 69193
obligations. The issuing authority may appoint trustees, paying 69194
agents, transfer agents, and authenticating agents, and may retain 69195
the services of financial advisors, accounting experts, and 69196

attorneys, and retain or contract for the services of marketing, 69197
remarketing, indexing, and administrative agents, other 69198
consultants, and independent contractors, including printing 69199
services, as are necessary in the issuing authority's judgment to 69200
carry out this section. The costs of such services are payable 69201
from funds of the state infrastructure bank. 69202

(C) Except as otherwise provided in this division, the 69203
holders or owners of such obligations shall have no right to have 69204
moneys raised by taxation by the state of Ohio obligated or 69205
pledged, and moneys so raised shall not be obligated or pledged, 69206
for the payment of bond service charges. The municipal 69207
corporations and counties may pledge and obligate moneys received 69208
pursuant to sections 4501.04, 5709.42, 5709.79, 5735.23, 5735.27, 69209
and 5735.291 of the Revised Code to the payment of amounts payable 69210
by those municipal corporations and counties to the state 69211
infrastructure bank pursuant to section 5531.09 of the Revised 69212
Code, and the bond proceedings for obligations may provide that 69213
such payments shall constitute pledged receipts, provided such 69214
moneys are obligated, pledged, and paid only with respect to 69215
obligations issued exclusively for public transportation projects. 69216
The right of such holders and owners to the payment of bond 69217
service charges is limited to all or that portion of the pledged 69218
receipts and those special funds pledged thereto pursuant to the 69219
bond proceedings for such obligations in accordance with this 69220
section, and each such obligation shall bear on its face a 69221
statement to that effect. 69222

(D) Obligations shall be authorized by order of the issuing 69223
authority and the bond proceedings shall provide for the purpose 69224
thereof and the principal amount or amounts, and shall provide for 69225
or authorize the manner or agency for determining the principal 69226
maturity or maturities, not exceeding twenty-five years from the 69227
date of issuance, the interest rate or rates or the maximum 69228

interest rate, the date of the obligations and the dates of 69229
payment of interest thereon, their denomination, and the 69230
establishment within or without the state of a place or places of 69231
payment of bond service charges. Sections 9.98 to 9.983 of the 69232
Revised Code are applicable to obligations issued under this 69233
section. The purpose of such obligations may be stated in the bond 69234
proceedings in terms describing the general purpose or purposes to 69235
be served. The bond proceedings also shall provide, subject to the 69236
provisions of any other applicable bond proceedings, for the 69237
pledge of all, or such part as the issuing authority may 69238
determine, of the pledged receipts and the applicable special fund 69239
or funds to the payment of bond service charges, which pledges may 69240
be made either prior or subordinate to other expenses, claims, or 69241
payments, and may be made to secure the obligations on a parity 69242
with obligations theretofore or thereafter issued, if and to the 69243
extent provided in the bond proceedings. The pledged receipts and 69244
special funds so pledged and thereafter received by the state 69245
immediately are subject to the lien of such pledge without any 69246
physical delivery thereof or further act, and the lien of any such 69247
pledges is valid and binding against all parties having claims of 69248
any kind against the state or any governmental agency of the 69249
state, irrespective of whether such parties have notice thereof, 69250
and shall create a perfected security interest for all purposes of 69251
Chapter 1309. of the Revised Code, without the necessity for 69252
separation or delivery of funds or for the filing or recording of 69253
the bond proceedings by which such pledge is created or any 69254
certificate, statement, or other document with respect thereto; 69255
and the pledge of such pledged receipts and special funds is 69256
effective and the money therefrom and thereof may be applied to 69257
the purposes for which pledged without necessity for any act of 69258
appropriation. Every pledge, and every covenant and agreement made 69259
with respect thereto, made in the bond proceedings may therein be 69260
extended to the benefit of the owners and holders of obligations 69261

authorized by this section, and to any trustee therefor, for the 69262
further security of the payment of the bond service charges. 69263

(E) The bond proceedings may contain additional provisions as 69264
to: 69265

(1) The redemption of obligations prior to maturity at the 69266
option of the issuing authority at such price or prices and under 69267
such terms and conditions as are provided in the bond proceedings; 69268

(2) Other terms of the obligations; 69269

(3) Limitations on the issuance of additional obligations; 69270

(4) The terms of any trust agreement or indenture securing 69271
the obligations or under which the same may be issued; 69272

(5) The deposit, investment, and application of special 69273
funds, and the safeguarding of moneys on hand or on deposit, 69274
without regard to Chapter 131. or 135. of the Revised Code, but 69275
subject to any special provisions of this section with respect to 69276
particular funds or moneys, provided that any bank or trust 69277
company which acts as depository of any moneys in the special 69278
funds may furnish such indemnifying bonds or may pledge such 69279
securities as required by the issuing authority; 69280

(6) Any or every provision of the bond proceedings being 69281
binding upon such officer, board, commission, authority, agency, 69282
department, or other person or body as may from time to time have 69283
the authority under law to take such actions as may be necessary 69284
to perform all or any part of the duty required by such provision; 69285

(7) Any provision that may be made in a trust agreement or 69286
indenture; 69287

(8) Any other or additional agreements with the holders of 69288
the obligations, or the trustee therefor, relating to the 69289
obligations or the security therefor, including the assignment of 69290
mortgages or other security relating to financial assistance for 69291

qualified projects under section 5531.09 of the Revised Code. 69292

(F) The obligations may have the great seal of the state or a 69293
facsimile thereof affixed thereto or printed thereon. The 69294
obligations and any coupons pertaining to obligations shall be 69295
signed or bear the facsimile signature of the issuing authority. 69296
Any obligations or coupons may be executed by the person who, on 69297
the date of execution, is the proper issuing authority although on 69298
the date of such bonds or coupons such person was not the issuing 69299
authority. In case the issuing authority whose signature or a 69300
facsimile of whose signature appears on any such obligation or 69301
coupon ceases to be the issuing authority before delivery thereof, 69302
such signature or facsimile nevertheless is valid and sufficient 69303
for all purposes as if the former issuing authority had remained 69304
the issuing authority until such delivery; and in case the seal to 69305
be affixed to obligations has been changed after a facsimile of 69306
the seal has been imprinted on such obligations, such facsimile 69307
seal shall continue to be sufficient as to such obligations and 69308
obligations issued in substitution or exchange therefor. 69309

(G) All obligations are negotiable instruments and securities 69310
under Chapter 1308. of the Revised Code, subject to the provisions 69311
of the bond proceedings as to registration. The obligations may be 69312
issued in coupon or in registered form, or both, as the issuing 69313
authority determines. Provision may be made for the registration 69314
of any obligations with coupons attached thereto as to principal 69315
alone or as to both principal and interest, their exchange for 69316
obligations so registered, and for the conversion or reconversion 69317
into obligations with coupons attached thereto of any obligations 69318
registered as to both principal and interest, and for reasonable 69319
charges for such registration, exchange, conversion, and 69320
reconversion. 69321

(H) Obligations may be sold at public sale or at private 69322
sale, as determined in the bond proceedings. 69323

(I) Pending preparation of definitive obligations, the 69324
issuing authority may issue interim receipts or certificates which 69325
shall be exchanged for such definitive obligations. 69326

(J) In the discretion of the issuing authority, obligations 69327
may be secured additionally by a trust agreement or indenture 69328
between the issuing authority and a corporate trustee which may be 69329
any trust company or bank having its principal place of business 69330
within the state. Any such agreement or indenture may contain the 69331
order authorizing the issuance of the obligations, any provisions 69332
that may be contained in any bond proceedings, and other 69333
provisions which are customary or appropriate in an agreement or 69334
indenture of such type, including, but not limited to: 69335

(1) Maintenance of each pledge, trust agreement, indenture, 69336
or other instrument comprising part of the bond proceedings until 69337
the state has fully paid the bond service charges on the 69338
obligations secured thereby, or provision therefor has been made; 69339

(2) In the event of default in any payments required to be 69340
made by the bond proceedings, or any other agreement of the 69341
issuing authority made as a part of the contract under which the 69342
obligations were issued, enforcement of such payments or agreement 69343
by mandamus, the appointment of a receiver, suit in equity, action 69344
at law, or any combination of the foregoing; 69345

(3) The rights and remedies of the holders of obligations and 69346
of the trustee, and provisions for protecting and enforcing them, 69347
including limitations on the rights of individual holders of 69348
obligations; 69349

(4) The replacement of any obligations that become mutilated 69350
or are destroyed, lost, or stolen; 69351

(5) Such other provisions as the trustee and the issuing 69352
authority agree upon, including limitations, conditions, or 69353
qualifications relating to any of the foregoing. 69354

(K) Any holder of obligations or a trustee under the bond 69355
proceedings, except to the extent that the holder's or trustee's 69356
rights are restricted by the bond proceedings, may by any suitable 69357
form of legal proceedings, protect and enforce any rights under 69358
the laws of this state or granted by such bond proceedings. Such 69359
rights include the right to compel the performance of all duties 69360
of the issuing authority and the director of transportation 69361
required by the bond proceedings or sections 5531.09 and 5531.10 69362
of the Revised Code; to enjoin unlawful activities; and in the 69363
event of default with respect to the payment of any bond service 69364
charges on any obligations or in the performance of any covenant 69365
or agreement on the part of the issuing authority or the director 69366
of transportation in the bond proceedings, to apply to a court 69367
having jurisdiction of the cause to appoint a receiver to receive 69368
and administer the pledged receipts and special funds, other than 69369
those in the custody of the treasurer of state, which are pledged 69370
to the payment of the bond service charges on such obligations or 69371
which are the subject of the covenant or agreement, with full 69372
power to pay, and to provide for payment of bond service charges 69373
on, such obligations, and with such powers, subject to the 69374
direction of the court, as are accorded receivers in general 69375
equity cases, excluding any power to pledge additional revenues or 69376
receipts or other income or moneys of the state or local 69377
governmental entities, or agencies thereof, to the payment of such 69378
principal and interest and excluding the power to take possession 69379
of, mortgage, or cause the sale or otherwise dispose of any 69380
project facilities. 69381

Each duty of the issuing authority and the issuing 69382
authority's officers and employees, and of each state or local 69383
governmental agency and its officers, members, or employees, 69384
undertaken pursuant to the bond proceedings or any loan, loan 69385
guarantee, lease, lease-purchase agreement, or other agreement 69386
made under authority of section 5531.09 of the Revised Code, and 69387

in every agreement by or with the issuing authority, is hereby 69388
established as a duty of the issuing authority, and of each such 69389
officer, member, or employee having authority to perform such 69390
duty, specifically enjoined by the law resulting from an office, 69391
trust, or station within the meaning of section 2731.01 of the 69392
Revised Code. 69393

The person who is at the time the issuing authority, or the 69394
issuing authority's officers or employees, are not liable in their 69395
personal capacities on any obligations issued by the issuing 69396
authority or any agreements of or with the issuing authority. 69397

(L) The issuing authority may authorize and issue obligations 69398
for the refunding, including funding and retirement, and advance 69399
refunding with or without payment or redemption prior to maturity, 69400
of any obligations previously issued by the issuing authority or 69401
district obligations. Such refunding obligations may be issued in 69402
amounts sufficient for payment of the principal amount of the 69403
prior obligations or district obligations, any redemption premiums 69404
thereon, principal maturities of any such obligations or district 69405
obligations maturing prior to the redemption of the remaining 69406
obligations or district obligations on a parity therewith, 69407
interest accrued or to accrue to the maturity dates or dates of 69408
redemption of such obligations or district obligations, and any 69409
expenses incurred or to be incurred in connection with such 69410
issuance and such refunding, funding, and retirement. Subject to 69411
the bond proceedings therefor, the portion of proceeds of the sale 69412
of refunding obligations issued under this division to be applied 69413
to bond service charges on the prior obligations or district 69414
obligations shall be credited to an appropriate account held by 69415
the trustee for such prior or new obligations or to the 69416
appropriate account in the bond service fund for such obligations 69417
or district obligations. Obligations authorized under this 69418
division shall be deemed to be issued for those purposes for which 69419

such prior obligations or district obligations were issued and are 69420
subject to the provisions of this section pertaining to other 69421
obligations, except as otherwise provided in this section. The 69422
last maturity of obligations authorized under this division shall 69423
not be later than twenty-five years from the date of issuance of 69424
the original securities issued for the original purpose. 69425

(M) The authority to issue obligations under this section 69426
includes authority to issue obligations in the form of bond 69427
anticipation notes and to renew the same from time to time by the 69428
issuance of new notes. The holders of such notes or interest 69429
coupons pertaining thereto shall have a right to be paid solely 69430
from the pledged receipts and special funds that may be pledged to 69431
the payment of the bonds anticipated, or from the proceeds of such 69432
bonds or renewal notes, or both, as the issuing authority provides 69433
in the order authorizing such notes. Such notes may be 69434
additionally secured by covenants of the issuing authority to the 69435
effect that the issuing authority and the state will do such or 69436
all things necessary for the issuance of such bonds or renewal 69437
notes in the appropriate amount, and apply the proceeds thereof to 69438
the extent necessary, to make full payment of the principal of and 69439
interest on such notes at the time or times contemplated, as 69440
provided in such order. For such purpose, the issuing authority 69441
may issue bonds or renewal notes in such principal amount and upon 69442
such terms as may be necessary to provide funds to pay when 69443
required the principal of and interest on such notes, 69444
notwithstanding any limitations prescribed by or for purposes of 69445
this section. Subject to this division, all provisions for and 69446
references to obligations in this section are applicable to notes 69447
authorized under this division. 69448

The issuing authority in the bond proceedings authorizing the 69449
issuance of bond anticipation notes shall set forth for such bonds 69450
an estimated interest rate and a schedule of principal payments 69451

for such bonds and the annual maturity dates thereof. 69452

(N) Obligations issued under this section are lawful 69453
investments for banks, societies for savings, savings and loan 69454
associations, deposit guarantee associations, trust companies, 69455
trustees, fiduciaries, insurance companies, including domestic for 69456
life and domestic not for life, trustees or other officers having 69457
charge of sinking and bond retirement or other special funds of 69458
political subdivisions and taxing districts of this state, the 69459
commissioners of the sinking fund of the state, the administrator 69460
of workers' compensation, the state teachers retirement system, 69461
the public employees retirement system, the school employees 69462
retirement system, and the Ohio police and fire pension fund, 69463
notwithstanding any other provisions of the Revised Code or rules 69464
adopted pursuant thereto by any agency of the state with respect 69465
to investments by them, and are also acceptable as security for 69466
the deposit of public moneys. 69467

(O) Unless otherwise provided in any applicable bond 69468
proceedings, moneys to the credit of or in the special funds 69469
established by or pursuant to this section may be invested by or 69470
on behalf of the issuing authority only in notes, bonds, or other 69471
obligations of the United States, or of any agency or 69472
instrumentality of the United States, obligations guaranteed as to 69473
principal and interest by the United States, obligations of this 69474
state or any political subdivision of this state, and certificates 69475
of deposit of any national bank located in this state and any 69476
bank, as defined in section 1101.01 of the Revised Code, subject 69477
to inspection by the superintendent of financial institutions. If 69478
the law or the instrument creating a trust pursuant to division 69479
(J) of this section expressly permits investment in direct 69480
obligations of the United States or an agency of the United 69481
States, unless expressly prohibited by the instrument, such moneys 69482
also may be invested in no-front-end-load money market mutual 69483

funds consisting exclusively of obligations of the United States 69484
or an agency of the United States and in repurchase agreements, 69485
including those issued by the fiduciary itself, secured by 69486
obligations of the United States or an agency of the United 69487
States; and in collective investment funds as defined in division 69488
(A) of section 1111.01 of the Revised Code and consisting 69489
exclusively of any such securities. The income from such 69490
investments shall be credited to such funds as the issuing 69491
authority determines, and such investments may be sold at such 69492
times as the issuing authority determines or authorizes. 69493

(P) Provision may be made in the applicable bond proceedings 69494
for the establishment of separate accounts in the bond service 69495
fund and for the application of such accounts only to the 69496
specified bond service charges on obligations pertinent to such 69497
accounts and bond service fund and for other accounts therein 69498
within the general purposes of such fund. Unless otherwise 69499
provided in any applicable bond proceedings, moneys to the credit 69500
of or in the several special funds established pursuant to this 69501
section shall be disbursed on the order of the treasurer of state, 69502
provided that no such order is required for the payment from the 69503
bond service fund when due of bond service charges on obligations. 69504

(Q)(1) The issuing authority may pledge all, or such portion 69505
as the issuing authority determines, of the pledged receipts to 69506
the payment of bond service charges on obligations issued under 69507
this section, and for the establishment and maintenance of any 69508
reserves, as provided in the bond proceedings, and make other 69509
provisions therein with respect to pledged receipts as authorized 69510
by this chapter, which provisions are controlling notwithstanding 69511
any other provisions of law pertaining thereto. 69512

(2) An action taken under division (Q)(2) of this section 69513
does not limit the generality of division (Q)(1) of this section, 69514
and is subject to division (C) of this section and, if and to the 69515

extent otherwise applicable, Section 13 of Article VIII, Ohio 69516
Constitution. The bond proceedings may contain a covenant that, in 69517
the event the pledged receipts primarily pledged and required to 69518
be used for the payment of bond service charges on obligations 69519
issued under this section, and for the establishment and 69520
maintenance of any reserves, as provided in the bond proceedings, 69521
are insufficient to make any such payment in full when due, or to 69522
maintain any such reserve, the director of transportation shall so 69523
notify the governor, and shall determine to what extent, if any, 69524
the payment may be made or moneys may be restored to the reserves 69525
from lawfully available moneys previously appropriated for that 69526
purpose to the department of transportation. The covenant also may 69527
provide that if the payments are not made or the moneys are not 69528
immediately and fully restored to the reserves from such moneys, 69529
the director shall promptly submit to the governor and to the 69530
director of budget and management a written request for either or 69531
both of the following: 69532

(a) That the next biennial budget submitted by the governor 69533
to the general assembly include an amount to be appropriated from 69534
lawfully available moneys to the department for the purpose of and 69535
sufficient for the payment in full of bond service charges 69536
previously due and for the full replenishment of the reserves; 69537

(b) That the general assembly be requested to increase 69538
appropriations from lawfully available moneys for the department 69539
in the current biennium sufficient for the purpose of and for the 69540
payment in full of bond service charges previously due and to come 69541
due in the biennium and for the full replenishment of the 69542
reserves. 69543

The director of transportation shall include with such 69544
requests a recommendation that the payment of the bond service 69545
charges and the replenishment of the reserves be made in the 69546
interest of maximizing the benefits of the state infrastructure 69547

bank. Any such covenant shall not obligate or purport to obligate 69548
the state to pay the bond service charges on such bonds or notes 69549
or to deposit moneys in a reserve established for such payments 69550
other than from moneys that may be lawfully available and 69551
appropriated for that purpose during the then-current biennium. 69552

(R) There is hereby created the state infrastructure bank 69553
revenue bond service fund, which shall be in the custody of the 69554
treasurer of state but shall not be a part of the state treasury. 69555
All moneys received by or on account of the issuing authority or 69556
state agencies and required by the applicable bond proceedings, 69557
consistent with this section, to be deposited, transferred, or 69558
credited to the bond service fund, and all other moneys 69559
transferred or allocated to or received for the purposes of the 69560
fund, shall be deposited and credited to such fund and to any 69561
separate accounts therein, subject to applicable provisions of the 69562
bond proceedings, but without necessity for any act of 69563
appropriation. The state infrastructure bank revenue bond service 69564
fund is a trust fund and is hereby pledged to the payment of bond 69565
service charges to the extent provided in the applicable bond 69566
proceedings, and payment thereof from such fund shall be made or 69567
provided for by the treasurer of state in accordance with such 69568
bond proceedings without necessity for any act of appropriation. 69569

(S) The obligations issued pursuant to this section, the 69570
transfer thereof, and the income therefrom, including any profit 69571
made on the sale thereof, shall at all times be free from taxation 69572
within this state. 69573

Sec. 5540.01. As used in this chapter: 69574

(A) "Transportation improvement district" or "district" means 69575
a transportation improvement district designated pursuant to 69576
section 5540.02 of the Revised Code. 69577

(B) "Governmental agency" means a department, division, or 69578

other unit of state government; a county, township, or municipal 69579
corporation or other political subdivision; a regional transit 69580
authority or regional transit commission created pursuant to 69581
Chapter 306. of the Revised Code; a port authority created 69582
pursuant to Chapter 4582. of the Revised Code; and the United 69583
States or any agency thereof. 69584

(C) "Project" means a street, highway, or other 69585
transportation project constructed or improved under this chapter 69586
and includes all bridges, tunnels, overpasses, underpasses, 69587
interchanges, approaches, those portions of connecting streets or 69588
highways that serve interchanges and are determined by the 69589
district to be necessary for the safe merging of traffic between 69590
the project and those streets or highways, service facilities, and 69591
administration, storage, and other buildings, property, and 69592
facilities, that the district considers necessary for the 69593
operation of the project, together with all property and rights 69594
that must be acquired by the district for the construction, 69595
maintenance, or operation of the project. 69596

(D) "Cost," as applied to the construction of a project, 69597
includes the cost of construction, including bridges over or under 69598
existing highways and railroads, acquisition of all property 69599
acquired by the district for such construction, demolishing or 69600
removing any buildings or structures on land so acquired, 69601
including the cost of acquiring any lands to which such buildings 69602
or structures may be moved, site clearance, improvement, and 69603
preparation, diverting streets or highways, interchanges with 69604
streets or highways, access roads to private property, including 69605
the cost of land or easements therefor, all machinery, 69606
furnishings, and equipment, communications facilities, financing 69607
expenses, interest prior to and during construction and for one 69608
year after completion of construction, traffic estimates, 69609
indemnity and surety bonds and premiums on insurance, and 69610

guarantees, engineering, feasibility studies, and legal expenses, 69611
plans, specifications, surveys, estimates of cost and revenues, 69612
other expenses necessary or incidental to determining the 69613
feasibility or practicability of constructing a project, and such 69614
other expense as may be necessary or incident to the construction 69615
of the project and the financing of such construction. Any 69616
obligation or expense incurred by any governmental agency or 69617
person for surveys, borings, preparation of plans and 69618
specifications, and other engineering services, or any other cost 69619
described above, in connection with the construction of a project 69620
may be regarded as part of the cost of the project and reimbursed 69621
from revenues, taxes, or the proceeds of bonds as authorized by 69622
this chapter. 69623

(E) "Owner" includes any person having any title or interest 69624
in any property authorized to be acquired by a district under this 69625
chapter. 69626

(F) "Revenues" means all moneys received by a district with 69627
respect to the lease, sublease, or sale, including installment 69628
sale, conditional sale, or sale under a lease-purchase agreement, 69629
of a project, all moneys received by a district under an agreement 69630
pursuant to Section 515.03 of H.B. 66 of the 126th General 69631
Assembly, any gift or grant received with respect to a project, 69632
tolls, special assessments levied by the district, proceeds of 69633
bonds to the extent the use thereof for payment of principal or of 69634
premium, if any, or interest on the bonds is authorized by the 69635
district, proceeds from any insurance, condemnation, or guaranty 69636
pertaining to a project or property mortgaged to secure bonds or 69637
pertaining to the financing of a project, and income and profit 69638
from the investment of the proceeds of bonds or of any revenues. 69639

(G) "Street or highway" has the same meaning as in section 69640
4511.01 of the Revised Code. 69641

(H) "Financing expenses" means all costs and expenses 69642

relating to the authorization, issuance, sale, delivery, 69643
authentication, deposit, custody, clearing, registration, 69644
transfer, exchange, fractionalization, replacement, payment, and 69645
servicing of bonds including, without limitation, costs and 69646
expenses for or relating to publication and printing, postage, 69647
delivery, preliminary and final official statements, offering 69648
circulars, and informational statements, travel and 69649
transportation, underwriters, placement agents, investment 69650
bankers, paying agents, registrars, authenticating agents, 69651
remarketing agents, custodians, clearing agencies or corporations, 69652
securities depositories, financial advisory services, 69653
certifications, audits, federal or state regulatory agencies, 69654
accounting and computation services, legal services and obtaining 69655
approving legal opinions and other legal opinions, credit ratings, 69656
redemption premiums, and credit enhancement facilities. 69657

(I) "Bond proceedings" means the resolutions, trust 69658
agreements, certifications, notices, sale proceedings, leases, 69659
lease-purchase agreements, assignments, credit enhancement 69660
facility agreements, and other agreements, instruments, and 69661
documents, as amended and supplemented, or any one or more of 69662
combination thereof, authorizing, or authorizing or providing for 69663
the terms and conditions applicable to, or providing for the 69664
security or sale or award or liquidity of, bonds, and includes the 69665
provisions set forth or incorporated in those bonds and bond 69666
proceedings. 69667

(J) "Bond service charges" means principal, including any 69668
mandatory sinking fund or mandatory redemption requirements for 69669
retirement of bonds, and interest and any redemption premium 69670
payable on bonds, as those payments come due and are payable to 69671
the bondholder or to a person making payment under a credit 69672
enhancement facility of those bond service charges to a 69673
bondholder. 69674

(K) "Bond service fund" means the applicable fund created by 69675
the bond proceedings for and pledged to the payment of bond 69676
service charges on bonds provided for by those proceedings, 69677
including all moneys and investments, and earnings from 69678
investments, credited and to be credited to that fund as provided 69679
in the bond proceedings. 69680

(L) "Bonds" means bonds, notes, including notes anticipating 69681
bonds or other notes, commercial paper, certificates of 69682
participation, or other evidences of obligation, including any 69683
interest coupons pertaining thereto, issued pursuant to this 69684
chapter. 69685

(M) "Net revenues" means revenues lawfully available to pay 69686
both current operating expenses of a district and bond service 69687
charges in any fiscal year or other specified period, less current 69688
operating expenses of the district and any amount necessary to 69689
maintain a working capital reserve for that period. 69690

(N) "Pledged revenues" means net revenues, moneys and 69691
investments, and earnings on those investments, in the applicable 69692
bond service fund and any other special funds, and the proceeds of 69693
any bonds issued for the purpose of refunding prior bonds, all as 69694
lawfully available and by resolution of the district committed for 69695
application as pledged revenues to the payment of bond service 69696
charges on particular issues of bonds. 69697

(O) "Special funds" means the applicable bond service fund 69698
and any accounts and subaccounts in that fund, any other funds or 69699
accounts permitted by and established under, and identified as a 69700
special fund or special account in, the bond proceedings, 69701
including any special fund or account established for purposes of 69702
rebate or other requirements under federal income tax laws. 69703

(P) "Credit enhancement facilities" means letters of credit, 69704
lines of credit, standby, contingent, or firm securities purchase 69705

agreements, insurance, or surety arrangements, guarantees, and 69706
other arrangements that provide for direct or contingent payment 69707
of bond service charges, for security or additional security in 69708
the event of nonpayment or default in respect of bonds, or for 69709
making payment of bond service charges and at the option and on 69710
demand of bondholders or at the option of the district or upon 69711
certain conditions occurring under put or similar arrangements, or 69712
for otherwise supporting the credit or liquidity of the bonds, and 69713
includes credit, reimbursement, marketing, remarketing, indexing, 69714
carrying, interest rate hedge, and subrogation agreements, and 69715
other agreements and arrangements for payment and reimbursement of 69716
the person providing the credit enhancement facility and the 69717
security for that payment and reimbursement. 69718

(Q) "Refund" means to fund and retire outstanding bonds, 69719
including advance refunding with or without payment or redemption 69720
prior to stated maturity. 69721

(R) "Property" includes interests in property. 69722

(S) "Administrative agent," "agent," "commercial paper," 69723
"floating rate interest structure," "indexing agent," "interest 69724
rate hedge," "interest rate period," "put arrangement," and 69725
"remarketing agent" have the same meanings as in section 9.98 of 69726
the Revised Code. 69727

(T) "Outstanding" as applied to bonds means outstanding in 69728
accordance with the terms of the bonds and the applicable bond 69729
proceedings. 69730

(U) "Interstate system" has the same meaning as in section 69731
5516.01 of the Revised Code. 69732

Sec. 5540.09. (A) The bonds do not constitute a debt, or a 69733
pledge of the faith and credit, of the state or of any political 69734
subdivision of the state. Bond service charges on outstanding 69735

bonds are payable solely from the pledged revenues pledged for 69736
their payment as authorized by this chapter and as provided in the 69737
bond proceedings. All bonds shall contain on their face a 69738
statement to that effect. 69739

(B) All expenses incurred in carrying out this chapter shall 69740
be payable solely from revenues provided under this chapter. ~~This~~ 69741
Except as provided in Section 515.03 of H.B. 66 of the 126th 69742
General Assembly, this chapter does not authorize the board of 69743
trustees of a district to incur indebtedness or liability on 69744
behalf of or payable by the state or any political subdivision of 69745
the state. 69746

Sec. 5549.01. The board of county commissioners may purchase 69747
such machinery, tools, or other equipment, including special 69748
wearing apparel, for the construction, improvement, maintenance, 69749
or repair of the highways, bridges, and culverts under its 69750
jurisdiction as it deems necessary. The board may also purchase, 69751
hire, or lease automobiles, motorcycles, or other conveyances and 69752
maintain them for the use of the county engineer and ~~his~~ the 69753
engineer's assistants when on official business. All such 69754
machinery, tools, and equipment, including special wearing 69755
apparel, and conveyances belonging to the county shall be under 69756
the care and custody of the engineer, and shall be plainly and 69757
conspicuously marked as the property of the county. 69758

The engineer ~~shall annually, on the fifteenth day of~~ 69759
~~November, make a written inventory of all such items, indicating~~ 69760
~~each article, stating the value thereof, and the estimated cost of~~ 69761
~~all necessary repairs thereto, and deliver such inventory to the~~ 69762
~~board, which shall cause it to be placed on file. At the same time~~ 69763
he shall file with the board ~~his~~ written recommendations as to 69764
what machinery, tools, and equipment, including special wearing 69765
apparel, and conveyances should be purchased for the use of the 69766

county during the ensuing year and the probable cost thereof. 69767

The board shall provide a suitable place for housing and 69768
storing machinery, tools, and equipment, including special wearing 69769
apparel, materials, and conveyances owned by the county, and may 69770
purchase the necessary material and construct, or enter into an 69771
agreement with a railroad company to construct, one switch or spur 69772
track from the right of way of such railroad company to land or 69773
storage house owned by the county. All expenditures authorized by 69774
this section shall be paid out of any available road funds of the 69775
county. 69776

Purchases, hiring, or leasing made by the board pursuant to 69777
this section shall be governed by sections 307.86 to 307.92~~7~~ 69778
~~inclusive~~, of the Revised Code. 69779

Sec. 5552.01. As used in this chapter: 69780

(A) "Metropolitan planning organization" ~~has the same meaning~~ 69781
~~as in division (A)(7) of section 3704.14 of the Revised Code~~ means 69782
a metropolitan planning organization designated under section 9(a) 69783
of the "Federal-Aid Highway Act of 1962," 76 Stat. 1148, 23 U.S.C. 69784
134, as amended. 69785

(B) "Urban township" means a township that has a population 69786
in the unincorporated area of the township of fifteen thousand or 69787
more and that has adopted a limited home rule government under 69788
section 504.02 of the Revised Code. 69789

Sec. 5573.13. The proportion of the compensation, damages, 69790
and costs of any road improvement to be paid by the township shall 69791
be paid out of any road improvement fund available therefor. For 69792
the purpose of providing by taxation a fund for the payment of the 69793
township's proportion of the compensation, damages, and costs of 69794
constructing, reconstructing, resurfacing, or improving roads 69795
under sections 5571.01, 5571.06, 5571.07, 5571.15, 5573.01 to 69796

5573.15, ~~inclusive~~, and 5575.02 to 5575.09, ~~inclusive~~, of the 69797
Revised Code, and for the purpose of maintaining, repairing, or 69798
dragging any public road or part thereof under their jurisdiction, 69799
in the manner provided in sections 5571.02 to 5571.05, ~~inclusive~~, 69800
5571.08, 5571.12, ~~5571.13~~, and 5575.01 of the Revised Code, the 69801
board of trustees may levy, annually, a tax not exceeding three 69802
mills upon each dollar of the taxable property of said township. 69803
Such levy shall be in addition to all other levies authorized for 69804
township purposes, and subject only to the limitation on the 69805
combined maximum rate for all taxes now in force. The taxes so 69806
authorized shall be placed by the county auditor upon the tax 69807
duplicate, against the taxable property of the township, and 69808
collected by the county treasurer as other taxes. When collected, 69809
such taxes shall be paid to the township clerk of the township 69810
from which they are collected, and the money so received shall be 69811
under the control of the board for the purposes for which the 69812
taxes were levied. 69813

Sec. 5703.052. (A) There is hereby created in the state 69814
treasury the tax refund fund, from which refunds shall be paid for 69815
taxes illegally or erroneously assessed or collected, or for any 69816
other reason overpaid, that are levied by Chapter 4301., 4305., 69817
5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 5748., 69818
5749., or ~~5753~~ 5751., and sections 3737.71, 3905.35, 3905.36, 69819
4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 5727.811 69820
of the Revised Code. Refunds for fees illegally or erroneously 69821
assessed or collected, or for any other reason overpaid, that are 69822
levied by sections 3734.90 to 3734.9014 of the Revised Code also 69823
shall be paid from the fund. However, refunds for taxes levied 69824
under section 5739.101 of the Revised Code shall not be paid from 69825
the tax refund fund, but shall be paid as provided in section 69826
5739.104 of the Revised Code. 69827

(B)(1) Upon certification by the tax commissioner to the 69828

treasurer of state of a tax refund or fee refund, or by the 69829
superintendent of insurance of a domestic or foreign insurance tax 69830
refund, the treasurer of state shall place the amount certified to 69831
the credit of the fund. The certified amount transferred shall be 69832
derived from current receipts of the same tax or the fee from 69833
which the refund arose. If current receipts from the tax or fee 69834
from which the refund arose are inadequate to make the transfer of 69835
the amount so certified, the treasurer of state shall transfer 69836
such certified amount from current receipts of the sales tax 69837
levied by section 5739.02 of the Revised Code. 69838

(2) When the treasurer of state provides for the payment of a 69839
refund of a tax or fee from the current receipts of the sales tax, 69840
and the refund is for a tax or fee that is not levied by the 69841
state, the tax commissioner shall recover the amount of that 69842
refund from the next distribution of that tax or fee that 69843
otherwise would be made to the taxing jurisdiction. If the amount 69844
to be recovered would exceed twenty-five per cent of the next 69845
distribution of that tax or fee, the commissioner may spread the 69846
recovery over more than one future distribution, taking into 69847
account the amount to be recovered and the amount of the 69848
anticipated future distributions. In no event may the commissioner 69849
spread the recovery over a period to exceed twenty-four months. 69850

Sec. 5703.053. As used in this section, "postal service" 69851
means the United States postal service. 69852

An application to the tax commissioner for a tax refund under 69853
section 4307.05, 4307.07, 5727.28, 5727.91, 5728.061, 5735.122, 69854
5735.13, 5735.14, 5735.141, 5735.142, 5739.07, 5741.10, 5743.05, 69855
5743.53, 5745.11, 5749.08, or ~~5753.06~~ 5751.08 of the Revised Code 69856
or division (B) of section 5703.05 of the Revised Code, or a fee 69857
refunded under section 3734.905 of the Revised Code, that is 69858
received after the last day for filing under such section shall be 69859

considered to have been filed in a timely manner if: 69860

(A) The application is delivered by the postal service and 69861
the earliest postal service postmark on the cover in which the 69862
application is enclosed is not later than the last day for filing 69863
the application; 69864

(B) The application is delivered by the postal service, the 69865
only postmark on the cover in which the application is enclosed 69866
was affixed by a private postal meter, the date of that postmark 69867
is not later than the last day for filing the application, and the 69868
application is received within seven days of such last day; or 69869

(C) The application is delivered by the postal service, no 69870
postmark date was affixed to the cover in which the application is 69871
enclosed or the date of the postmark so affixed is not legible, 69872
and the application is received within seven days of the last day 69873
for making the application. 69874

Sec. 5703.057. (A) For the efficient administration of the 69875
taxes and fees administered by the tax commissioner, the 69876
commissioner may require that any person filing a tax document 69877
with the department of taxation provide identifying information, 69878
which may include the person's social security number, federal 69879
employer identification number, or other identification number 69880
requested by the commissioner. A person required by the 69881
commissioner to provide identifying information who has 69882
experienced any change with respect to that information shall 69883
notify the commissioner of the change prior to, or upon, filing 69884
the next tax document requiring such identifying information. 69885

(B) When transmitting or otherwise making use of a tax 69886
document that contains a person's social security number, the 69887
commissioner shall take all reasonable measures necessary to 69888
ensure that the number is not capable of being viewed by the 69889
general public, including, when necessary, masking the number so 69890

that it is not readily discernible by the general public. 69891

(C)(1) If the commissioner makes a request for identifying information and the commissioner does not receive valid identifying information within thirty days of making the request, the commissioner may impose a penalty upon the person to whom the request was directed of up to one hundred dollars. If, after the expiration of this thirty day period, the commissioner makes one or more subsequent requests for identifying information and the person to whom the subsequent request is directed fails to provide valid identifying information within thirty days of the commissioner's subsequent request, the commissioner may impose an additional penalty of up to two hundred dollars for each subsequent request not complied with in a timely fashion. 69892
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(2) If a person required by the commissioner to provide identifying information does not notify the commissioner of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, the commissioner may impose a penalty of up to fifty dollars. 69904
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(3) The penalties provided for under divisions (C)(1) and (2) of this section may be billed and assessed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in division (D) of this section and any other penalties that may be imposed by the commissioner by law. 69910
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(D) Section 5703.26 of the Revised Code applies with respect to false or fraudulent identifying information provided by a person to the commissioner under this section. 69916
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Sec. 5703.47. (A) As used in this section, "federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with 69919
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remaining periods to maturity of three years or less, as 69922
determined under section 1274 of the "Internal Revenue Code of 69923
1986," 100 Stat. 2085, 26 U.S.C.A. 1274, for July of the current 69924
year. 69925

(B) On the fifteenth day of October of each year, the tax 69926
commissioner shall determine the federal short-term rate. For 69927
purposes of any section of the Revised Code requiring interest to 69928
be computed at the rate per annum required by this section, the 69929
rate determined by the commissioner under this section, rounded to 69930
the nearest whole number per cent, plus three per cent, shall be 69931
the interest rate per annum used in making the computation for 69932
interest that accrues during the following calendar year. For the 69933
purposes of sections 5719.041 and 5731.23 of the Revised Code, 69934
references to the "federal short-term rate" are references to the 69935
federal short-term rate as determined by the tax commissioner 69936
under this section rounded to the nearest whole number per cent. 69937

(C) Within ten days after the interest rate per annum is 69938
determined under this section, the tax commissioner shall notify 69939
the auditor of each county in writing of that rate of interest. 69940

Sec. 5703.50. As used in sections 5703.50 to 5703.53 of the 69941
Revised Code: 69942

(A) "Tax" includes only those taxes imposed on tangible 69943
personal property listed in accordance with Chapter 5711. of the 69944
Revised Code and taxes imposed under Chapters 5733., 5739., 5741., 69945
~~and~~ 5747., and 5751. of the Revised Code. 69946

(B) "Taxpayer" means a person subject to or potentially 69947
subject to a tax including an employer required to deduct and 69948
withhold any amount under section 5747.06 of the Revised Code. 69949

(C) "Audit" means the examination of a taxpayer or the 69950
inspection of the books, records, memoranda, or accounts of a 69951

taxpayer for the purpose of determining liability for a tax. 69952

(D) "Assessment" means a notice of underpayment or nonpayment 69953
of a tax issued pursuant to section 5711.26, 5711.32, 5733.11, 69954
5739.13, 5741.11, 5741.13, ~~or~~ 5747.13, or 5751.09 of the Revised 69955
Code. 69956

(E) "County auditor" means the auditor of the county in which 69957
the tangible personal property subject to a tax is located. 69958

Sec. 5703.70. (A) On the filing of an application for refund 69959
under section 3734.905, 4307.05, 4307.07, 5727.28, 5727.91, 69960
5728.061, 5733.12, 5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 69961
5735.18, 5739.07, 5739.071, 5739.104, 5741.10, 5743.05, 5743.53, 69962
~~or~~ 5749.08, or 5751.08 of the Revised Code, or an application for 69963
compensation under section 5739.123 of the Revised Code, if the 69964
tax commissioner determines that the amount of the refund or 69965
compensation to which the applicant is entitled is less than the 69966
amount claimed in the application, the commissioner shall give the 69967
applicant written notice by ordinary mail of the amount. The 69968
notice shall be sent to the address shown on the application 69969
unless the applicant notifies the commissioner of a different 69970
address. The applicant shall have sixty days from the date the 69971
commissioner mails the notice to provide additional information to 69972
the commissioner or request a hearing, or both. 69973

(B) If the applicant neither requests a hearing nor provides 69974
additional information to the tax commissioner within the time 69975
prescribed by division (A) of this section, the commissioner shall 69976
take no further action, and the refund amount or compensation 69977
amount denied becomes final. 69978

(C)(1) If the applicant requests a hearing within the time 69979
prescribed by division (A) of this section, the tax commissioner 69980
shall assign a time and place for the hearing and notify the 69981
applicant of such time and place, but the commissioner may 69982

continue the hearing from time to time as necessary. After the 69983
hearing, the commissioner may make such adjustments to the refund 69984
or compensation as the commissioner finds proper, and shall issue 69985
a final determination thereon. 69986

(2) If the applicant does not request a hearing, but provides 69987
additional information, within the time prescribed by division (A) 69988
of this section, the commissioner shall review the information, 69989
make such adjustments to the refund or compensation as the 69990
commissioner finds proper, and issue a final determination 69991
thereon. 69992

(3) The commissioner shall serve a copy of the final 69993
determination made under division (C)(1) or (2) of this section on 69994
the applicant in the manner provided in section 5703.37 of the 69995
Revised Code, and the decision is final, subject to appeal under 69996
section 5717.02 of the Revised Code. 69997

(D) The tax commissioner shall certify to the director of 69998
budget and management and treasurer of state for payment from the 69999
tax refund fund created by section 5703.052 of the Revised Code, 70000
the amount of the refund to be refunded under division (B) or (C) 70001
of this section. The commissioner also shall certify to the 70002
director and treasurer of state for payment from the general 70003
revenue fund the amount of compensation to be paid under division 70004
(B) or (C) of this section. 70005

Sec. 5703.80. There is hereby created in the state treasury 70006
the property tax administration fund. All money to the credit of 70007
the fund shall be used to defray the costs incurred by the 70008
department of taxation in administering the taxation of property 70009
and the equalization of real property valuation. 70010

Each fiscal year between the first and fifteenth days of 70011
July, the tax commissioner shall compute the following amounts for 70012
the property in each taxing district in each county, and certify 70013

to the director of budget and management the sum of those amounts 70014
for all taxing districts in all counties: 70015

(A) ~~Three-tenths~~ For fiscal year 2006, thirty-three 70016
hundredths of one per cent of the total amount by which taxes 70017
charged against real property on the general tax list of real and 70018
public utility property were reduced under section 319.302 of the 70019
Revised Code for the preceding tax year; 70020

(B) ~~Fifteen-hundredths~~ For fiscal year 2007 and thereafter, 70021
thirty-five hundredths of one per cent of the total amount by 70022
which taxes charged against real property on the general tax list 70023
of real and public utility property were reduced under section 70024
319.302 of the Revised Code for the preceding tax year; 70025

(C) For fiscal year 2006, one-half of one per cent of the 70026
total amount of taxes charged and payable against public utility 70027
personal property on the general tax list of real and public 70028
utility property for the preceding tax year and of the total 70029
amount of taxes charged and payable against tangible personal 70030
property on the general tax list of personal property of the 70031
preceding tax year and for which returns were filed with the tax 70032
commissioner under section 5711.13 of the Revised Code; 70033

~~(C) Seventy-five~~ (D) For fiscal year 2007, fifty-six 70034
hundredths of one per cent of the total amount of taxes charged 70035
and payable against public utility personal property on the 70036
general tax list of real and public utility property for the 70037
preceding tax year and of the total amount of taxes charged and 70038
payable against tangible personal property on the general tax list 70039
of personal property of the preceding tax year and for which 70040
returns were filed with the tax commissioner under section 5711.13 70041
of the Revised Code; 70042

(E) For fiscal year 2008 and thereafter, six-tenths of one 70043
per cent of the total amount of taxes charged and payable against 70044

public utility personal property on the general tax list of real 70045
and public utility property for the preceding tax year and of the 70046
total amount of taxes charged and payable against tangible 70047
personal property on the general tax list of personal property of 70048
the preceding tax year and for which returns were filed with the 70049
tax commissioner under section 5711.13 of the Revised Code. 70050

After receiving the tax commissioner's certification, the 70051
director of budget and management shall transfer from the general 70052
revenue fund to the property tax administration fund one-fourth of 70053
the amount certified on or before each of the following days: the 70054
first days of August, November, February, and May. 70055

On or before the thirtieth day of June of the fiscal year, 70056
the tax commissioner shall certify to the director of budget and 70057
management the sum of the amounts by which the amounts computed 70058
for a taxing district under ~~divisions (A), (B), and (C)~~ of this 70059
section exceeded the distributions to the taxing district under 70060
division (F) of section 321.24 of the Revised Code, and the 70061
director shall transfer that sum from the property tax 70062
administration fund to the general revenue fund. 70063

Sec. 5705.091. The board of county commissioners of each 70064
county shall establish a county mental retardation and 70065
developmental disabilities general fund. Notwithstanding sections 70066
5705.09 and 5705.10 of the Revised Code, proceeds from levies 70067
under section 5705.222 and division (L) of section 5705.19 of the 70068
Revised Code shall be deposited to the credit of the county mental 70069
retardation and developmental disabilities general fund. Accounts 70070
shall be established within the county mental retardation and 70071
developmental disabilities general fund for each of the several 70072
particular purposes of the levies as specified in the resolutions 70073
under which the levies were approved, and proceeds from different 70074
levies that were approved for the same particular purpose shall be 70075

credited to accounts for that purpose. Other money received by the 70076
county for the purposes of Chapters 3323. and 5126. of the Revised 70077
Code and not required by state or federal law to be deposited to 70078
the credit of a different fund shall also be deposited to the 70079
credit of the county mental retardation and developmental 70080
disabilities general fund, in an account appropriate to the 70081
particular purpose for which the money was received. Unless 70082
otherwise provided by law, an unexpended balance at the end of a 70083
fiscal year in any account in the county mental retardation and 70084
developmental disabilities general fund shall be appropriated the 70085
next fiscal year to the same fund. 70086

A county board of mental retardation and developmental 70087
disabilities may request, by resolution, that the board of county 70088
commissioners establish a county mental retardation and 70089
developmental disabilities capital fund for money to be used for 70090
acquisition, construction, or improvement of capital facilities or 70091
acquisition of capital equipment used in providing services to 70092
mentally retarded and developmentally disabled persons. The county 70093
board of mental retardation and developmental disabilities shall 70094
transmit a certified copy of the resolution to the board of county 70095
commissioners. Upon receiving the resolution, the board of county 70096
commissioners shall establish a county mental retardation and 70097
developmental disabilities capital fund. 70098

A county board shall request, by resolution, that the board 70099
of county commissioners establish a county MR/DD medicaid reserve 70100
fund. On receipt of the resolution, the board of county 70101
commissioners shall establish a county MR/DD medicaid reserve 70102
fund. The portion of federal revenue funds that the county board 70103
earns for providing ~~habilitation center services~~, medicaid case 70104
management services, and home and community-based services that is 70105
needed for the county board to pay for extraordinary costs, 70106
including extraordinary costs for services to individuals with 70107

mental retardation or other developmental disability, and ensure 70108
the availability of adequate funds in the event a county property 70109
tax levy for services for individuals with mental retardation or 70110
other developmental disability fails shall be deposited into the 70111
fund. The county board shall use money in the fund for those 70112
purposes in accordance with rules adopted under section 5123.0413 70113
of the Revised Code. 70114

Sec. 5705.211. (A) As used in this section: 70115

(1) "Adjusted charge-off amount" for a fiscal year means two 70116
and three-tenths per cent of a school district's recognized 70117
valuation, as defined in section 3317.02 of the Revised Code, for 70118
the fiscal year. 70119

(2) "Charge-off increase" for a tax year means the dollar 70120
amount, if any, by which the adjusted charge-off amount for the 70121
fiscal year ending in the preceding tax year exceeds the adjusted 70122
charge-off amount for the fiscal year ending in the current tax 70123
year. 70124

(3) "Levies for current expenses" means any tax levied in 70125
excess of the ten-mill limitation for the current operating 70126
expenses of the district and any tax levied under sections 70127
5705.194 to 5709.197 of the Revised Code. 70128

(4) "Taxes charged and payable" means the taxes charged and 70129
payable from a tax levy extended on the real and public utility 70130
property tax list and the general list of personal property after 70131
any reduction under section 319.301 of the Revised Code but before 70132
any reduction under section 319.302, 323.152, or 323.158 of the 70133
Revised Code. 70134

(B) The board of education of a city, local, or exempted 70135
village school district may adopt a resolution proposing the levy 70136
of a tax in excess of the ten-mill limitation for the purpose of 70137

paying the current operating expenses of the district. If the 70138
resolution is approved as provided in division (D) of this 70139
section, the tax may be levied at such a rate each year that the 70140
total taxes charged and payable from the levy equals the 70141
charge-off increase for the fiscal year or equals a lesser amount 70142
as prescribed under division (C) of this section. The tax may be 70143
levied for a continuing period of time or for a specific number of 70144
years, but not fewer than five years, as provided in the 70145
resolution. The tax may not be placed on the tax list for a tax 70146
year beginning before the first day of January following adoption 70147
of the resolution. A board of education may not adopt a resolution 70148
under this section proposing to levy a tax under this section 70149
concurrently with any other tax levied by the board under this 70150
section. 70151

(C) After the first year a tax is levied under this section, 70152
the rate of the tax in any year shall not exceed the rate, 70153
estimated by the county auditor, that would cause the total taxes 70154
charged and payable from all the school district's property tax 70155
levies for current expenses, including the tax levied under this 70156
section, to exceed, if levied upon the total taxable value of real 70157
and personal property listed and assessed for taxation in the 70158
preceding year, one hundred four per cent of the taxes charged and 70159
payable from the same levies imposed in the preceding year. A 70160
board of education imposing a tax under this section may specify 70161
in the resolution imposing the tax that the percentage shall be 70162
less than one hundred four per cent, but the percentage shall not 70163
be less than one hundred per cent. At any time after a resolution 70164
adopted under this section is approved by a majority of electors 70165
as provided in division (D) of this section, the board of 70166
education, by resolution, may decrease the percentage specified in 70167
the resolution levying the tax. 70168

For the purposes of this division, a renewal of a levy that 70169

was imposed in the preceding year is the same as the levy being 70170
renewed to the extent the rate of the renewal levy does not exceed 70171
the rate of the levy being renewed. A replacement of a levy that 70172
was imposed in the preceding year is the same as the replaced levy 70173
to the extent the effective rate of the replacement levy does not 70174
exceed the effective rate of the replaced levy in the last year 70175
the replaced levy was imposed. For the purposes of this division, 70176
"effective rate" of a levy equals the total of the taxes charged 70177
and payable from the levy divided by the taxable value of all real 70178
and tangible personal property subject to the levy. 70179

(D) A resolution adopted under this section shall state that 70180
the purpose of the tax is to pay current operating expenses of the 70181
district, and shall specify the first year in which the tax is to 70182
be levied, the number of years the tax will be levied or that it 70183
will be levied for a continuing period of time, and the election 70184
at which the question of the tax is to appear on the ballot, which 70185
shall be a general or special election consistent with the 70186
requirements of section 3501.01 of the Revised Code. If the board 70187
of education specifies a percentage less than one hundred four per 70188
cent pursuant to division (C) of this section, the percentage 70189
shall be specified in the resolution. 70190

Upon adoption of the resolution, the board of education may 70191
certify a copy of the resolution to the proper county board of 70192
elections. The copy of the resolution shall be certified to the 70193
board of elections not later than seventy-five days before the day 70194
of the election at which the question of the tax is to appear on 70195
the ballot. Upon receiving a timely certified copy of such a 70196
resolution, the board of elections shall make the necessary 70197
arrangements for the submission of the question to the electors of 70198
the school district, and the election shall be conducted, 70199
canvassed, and certified in the same manner as regular elections 70200
in the school district for the election of members of the board of 70201

education. Notice of the election shall be published in one or 70202
more newspapers of general circulation in the school district once 70203
per week for four consecutive weeks. The notice shall state that 70204
the purpose of the tax is for the current operating expenses of 70205
the school district, the first year the tax is to be levied, the 70206
number of years the tax is to be levied or that it is to be levied 70207
for a continuing period of time, that the tax is to be levied each 70208
year in an amount estimated to offset decreases in state base cost 70209
funding caused by increases in the district's taxable property 70210
valuation, and that the estimated additional tax in any year of 70211
the levy shall not cause the taxes charged and payable for school 70212
operating expenses to exceed the previous year's by more than one 70213
hundred four per cent, or a lesser percentage specified in the 70214
resolution levying the tax, except for increases caused by the 70215
addition of new taxable property. 70216

The question shall be submitted as a separate proposition but 70217
may be printed on the same ballot with any other proposition 70218
submitted at the same election other than the election of 70219
officers. 70220

The form of the ballot shall be substantially as follows: 70221

"An additional tax for the benefit of (name of school 70222
district) for the purpose of paying the current operating expenses 70223
of the district, for (number of years or for continuing 70224
period of time), at a rate sufficient to offset any reduction in 70225
basic state funding caused by increases in the district's taxable 70226
property valuation, but limited to prevent total revenue for the 70227
district's operating expenses from increasing by more than 70228
per cent per year? 70229

| | | |
|--|----------------------|---|
| | For the tax levy | |
| | Against the tax levy | " |

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If a majority of the electors of the school district voting on the question vote in favor of the question, the board of elections shall certify the results of the election to the board of education and to the tax commissioner immediately after the canvass.

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(E) When preparing any estimate of the contemplated receipts from a tax levied pursuant to this section for the purposes of sections 5705.28 to 5705.40 of the Revised Code, and in preparing to certify the tax under section 5705.34 of the Revised Code, a board of education authorized to levy such a tax shall use information supplied by the department of education to determine the charge-off increase for the tax year for which that certification is made. If the board levied a tax under this section in the preceding tax year, the sum to be certified for collection from the tax shall not exceed the sum that would exceed the limitation imposed under division (C) of this section. At the request of the board of education or the treasurer of the school district, the county auditor shall assist the board of education in determining the rate or sum that may be levied under this section.

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The board of education shall certify the sum authorized to be levied to the county auditor, and, for the purpose of the county auditor determining the rate at which the tax is to be levied in the tax year, the sum so certified shall be the sum to be raised by the tax unless the sum exceeds the limitation imposed by division (C) of this section. A tax levied pursuant to this section shall not be levied at a rate in excess of the rate estimated by the county auditor to produce the sum certified by the board of education after the reduction required under section 319.301 of the Revised Code but before the reductions under sections 319.302, 323.152, and 323.158 of the Revised Code.

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Notwithstanding section 5705.34 of the Revised Code, a board of education authorized to levy a tax under this section shall certify the tax to the county auditor before the first day of October of the tax year in which the tax is to be levied, or at a later date as approved by the tax commissioner.

~~Sec. 5705.391. (A) A board of education shall adopt as part of its annual appropriation measure a spending plan or in the case of an amendment or supplement to an appropriation measure, an amended spending plan, setting forth a schedule of expenses and expenditures of all appropriated funds by the school district for the fiscal year. A copy of the annual appropriation measure and any amendment or supplement to it and the spending plan or amended plan shall be submitted to the superintendent of public instruction and shall set forth all revenues available for appropriation by the district during the fiscal year and their sources; the nature and amount of expenses to be incurred by the district during such year, the outstanding and unpaid expenses on the date the appropriation measure, amendment, or supplement is adopted; the date or dates by which such expenses must be paid; and such other information as the superintendent requires to enable the superintendent to determine whether during such year the district will incur any expenses that will impair its ability to operate its schools with the revenue available to it from existing revenue sources. The plan or amended plan shall be presented in such detail and form as the superintendent prescribes.~~

~~(B)(A)~~ No later than July 1, 1998, the department of education and the auditor of state shall jointly adopt rules requiring school districts to include boards of education to submit five-year projections of operational revenues and expenditures in the spending plan required by this section. The rules shall provide for the auditor of state or the department to

examine the five-year projections and to determine whether any 70297
further fiscal analysis is needed to ascertain whether a district 70298
has the potential to incur a deficit during the first three years 70299
of the five-year period. 70300

The auditor of state or the department may conduct any 70301
further audits or analyses necessary to assess any district's 70302
fiscal condition. If further audits or analyses are conducted by 70303
the auditor of state, the auditor of state shall notify the 70304
department of the district's fiscal condition, and the department 70305
shall immediately notify the district of any potential to incur a 70306
deficit in the current fiscal year or of any strong indications 70307
that a deficit will be incurred in either of the ensuing two 70308
years. If such audits or analyses are conducted by the department, 70309
the department shall immediately notify the district and the 70310
auditor of state of such potential deficit or strong indications 70311
thereof. 70312

A district notified under this section shall take immediate 70313
steps to eliminate any deficit in the current fiscal year and 70314
shall begin to plan to avoid the projected future deficits. 70315

~~(C)~~(B) The state board of education, in accordance with 70316
sections 3319.31 and 3319.311 of the Revised Code, may limit, 70317
suspend, or revoke a license as defined under section 3319.31 of 70318
the Revised Code that has been issued to any school employee found 70319
to have willfully contributed erroneous, inaccurate, or incomplete 70320
data required for the submission of the ~~appropriation measure and~~ 70321
~~spending plan~~ five-year projection required by this section. 70322

Sec. 5705.40. Any appropriation ordinance or measure may be 70323
amended or supplemented, provided that such amendment or 70324
supplement shall comply with all provisions of law governing the 70325
taxing authority in making an original appropriation and that no 70326
appropriation for any purpose shall be reduced below an amount 70327

sufficient to cover all unliquidated and outstanding contracts or obligations certified from or against the appropriation. Transfers may be made by resolution or ordinance from one appropriation item to another, except that a board of county commissioners shall, at the request of the county board of elections, adopt a resolution to transfer funds from one appropriation item of the board of elections to another appropriation item of the board of elections unless the board of county commissioners determines that the transfer is sought for the purpose of providing employee bonuses or salary increases other than increases necessary to reimburse employees for overtime worked. At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the respective fund from which it was appropriated and shall be subject to future appropriations, provided that funds unexpended at the end of such fiscal year previously appropriated for the payment of obligations unliquidated and outstanding, or previously appropriated pursuant to section 321.261 of the Revised Code for the collection of delinquent taxes, need not be reappropriated, but such unexpended funds shall not be included by any budget-making body or board or any county budget commission in estimating the balance available for the purposes of the next or any succeeding fiscal year.

The annual appropriation measure, or an amendment or supplement thereto, may contain an appropriation for contingencies not to exceed the amount authorized by section 5705.29 of the Revised Code and in the case of a school district may also include a voluntary contingency reserve balance in the amount authorized by such section. By a two-thirds vote of all members of the taxing authority of a subdivision or taxing unit, expenditures may be authorized in pursuance of such contingency appropriation or voluntary contingency reserve balance for any lawful purpose for which public funds may be expended, if such purpose could not have reasonably been foreseen at the time of the adoption of the

appropriation measure or, in the case of a voluntary contingency 70361
reserve balance, if the board of education requests payment of any 70362
portion of such balance. 70363

Sec. 5707.031. (A) As used in this section: 70364

(1) "Qualifying dealer in intangibles" has the same meaning 70365
as "qualifying dealer" in section 5725.24 of the Revised Code; 70366

(2) "Tax otherwise due" means the tax imposed on a qualifying 70367
dealer in intangibles under section 5707.03 and Chapter 5725. of 70368
the Revised Code reduced by the total amount of all other 70369
nonrefundable credits, if any, that the qualifying dealer in 70370
intangibles is entitled to claim. 70371

(B) Upon the issuance of a tax credit certificate by the Ohio 70372
venture capital authority under section 150.07 of the Revised 70373
Code, a credit may be claimed against the tax imposed on a 70374
qualifying dealer in intangibles under section 5707.03 and Chapter 70375
5725. of the Revised Code. The credit shall be claimed on a return 70376
due under section 5725.14 of the Revised Code after the 70377
certificate is issued by the authority. 70378

(C) If the qualifying dealer in intangibles elected a 70379
refundable credit under section 150.07 of the Revised Code and if 70380
the amount of the credit shown on the certificate does not exceed 70381
the tax otherwise due, then for the calendar year the qualifying 70382
dealer in intangibles shall claim a refundable credit equal to the 70383
amount of the credit shown on the certificate. 70384

(D) If the qualifying dealer in intangibles elected a 70385
refundable credit under section 150.07 of the Revised Code, and if 70386
the amount of the refundable credit shown on the certificate 70387
exceeds the tax otherwise due, then for the calendar year the 70388
qualifying dealer in intangibles shall claim a refundable credit 70389
equal to the sum of the following: 70390

(1) The amount, if any, of the tax otherwise due; 70391

(2) Seventy-five per cent of the difference between the 70392
amount of the refundable credit shown on the certificate and the 70393
tax otherwise due. 70394

(E) If the qualifying dealer in intangibles elected a 70395
nonrefundable credit under section 150.07 of the Revised Code and 70396
if the nonrefundable credit to which the qualifying dealer in 70397
intangibles would otherwise be entitled under this section for any 70398
calendar year is greater than the tax otherwise due, the excess 70399
shall be allowed as a nonrefundable credit in each of the ensuing 70400
ten calendar years, but the amount of any excess nonrefundable 70401
credit allowed in the ensuing calendar year shall be deducted from 70402
the balance carried forward to the next calendar year. 70403

Sec. 5709.07. (A) The following property shall be exempt from 70404
taxation: 70405

(1) Public schoolhouses, the books and furniture in them, and 70406
the ground attached to them necessary for the proper occupancy, 70407
use, and enjoyment of the schoolhouses, and not leased or 70408
otherwise used with a view to profit; 70409

(2) Houses used exclusively for public worship, the books and 70410
furniture in them, and the ground attached to them that is not 70411
leased or otherwise used with a view to profit and that is 70412
necessary for their proper occupancy, use, and enjoyment; 70413

(3) Real property owned and operated by a church that is used 70414
primarily for church retreats or church camping, and that is not 70415
used as a permanent residence. Real property exempted under 70416
division (A)(3) of this section may be made available by the 70417
church on a limited basis to charitable and educational 70418
institutions if the property is not leased or otherwise made 70419
available with a view to profit. 70420

(4) Public colleges and academies and all buildings connected with them, and all lands connected with public institutions of learning, not used with a view to profit, including those buildings and lands that satisfy all of the following:

(a) The buildings are used for housing for full-time students or housing-related facilities for students, faculty, or employees of a state university, or for other purposes related to the state university's educational purpose, and the lands are underneath the buildings or are used for common space, walkways, and green spaces for the state university's students, faculty, or employees. As used in this division, "housing-related facilities" includes both parking facilities related to the buildings and common buildings made available to students, faculty, or employees of a state university. The leasing of space in housing-related facilities shall not be considered an activity with a view to profit for purposes of division (A)(4) of this section.

(b) The buildings and lands are supervised or otherwise under the control, directly or indirectly, of an organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended, and the state university has entered into a qualifying joint use agreement with the organization that entitles the students, faculty, or employees of the state university to use the lands or buildings;

(c) The state university has agreed, under the terms of the qualifying joint use agreement with the organization described in division (A)(4)(b) of this section, that the state university, to the extent applicable under the agreement, will make payments to the organization in amounts sufficient to maintain agreed-upon debt service coverage ratios on bonds related to the lands or buildings.

(B) This section shall not extend to leasehold estates or

real property held under the authority of a college or university 70453
of learning in this state; but leaseholds, or other estates or 70454
property, real or personal, the rents, issues, profits, and income 70455
of which is given to a municipal corporation, school district, or 70456
subdistrict in this state exclusively for the use, endowment, or 70457
support of schools for the free education of youth without charge 70458
shall be exempt from taxation as long as such property, or the 70459
rents, issues, profits, or income of the property is used and 70460
exclusively applied for the support of free education by such 70461
municipal corporation, district, or subdistrict. Division (B) of 70462
this section shall not apply with respect to buildings and lands 70463
that satisfy all of the requirements specified in divisions 70464
(A)(4)(a) to (c) of this section. 70465

(C) For purposes of this section, if the requirements 70466
specified in divisions (A)(4)(a) to (c) of this section are 70467
satisfied, the buildings and lands with respect to which exemption 70468
is claimed under division (A)(4) of this section shall be deemed 70469
to be used with reasonable certainty in furthering or carrying out 70470
the necessary objects and purposes of a state university. 70471

(D) As used in this section, ~~"church":~~ 70472

(1) "Church" means a fellowship of believers, congregation, 70473
society, corporation, convention, or association that is formed 70474
primarily or exclusively for religious purposes and that is not 70475
formed for the private profit of any person. 70476

(2) "State university" has the same meaning as in section 70477
3345.011 of the Revised Code. 70478

(3) "Qualifying joint use agreement" means an agreement that 70479
satisfies all of the following: 70480

(a) The agreement was entered into before June 30, 2004; 70481

(b) The agreement is between a state university and an 70482
organization that is exempt from federal income taxation under 70483

section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 70484
2085, 26 U.S.C. 1, as amended; and 70485

(c) The state university that is a party to the agreement 70486
reported to the Ohio board of regents that the university 70487
maintained a headcount of at least twenty-five thousand students 70488
on its main campus during the academic school year that began in 70489
calendar year 2003 and ended in calendar year 2004. 70490

Sec. 5709.112. For tax year 2006 and each tax year 70491
thereafter, all tangible personal property used in the recovery of 70492
oil or gas, when installed and located on the premises or leased 70493
premises of the owner, shall be exempt from taxation. Such 70494
tangible personal property shall be subject to taxation if it is 70495
not installed on the premises or leased premises of the owner, or 70496
if it is used for the transmission, transportation, or 70497
distribution of oil or gas, as provided in section 5711.22 of the 70498
Revised Code. The tax commissioner may adopt rules governing the 70499
administration of the exemption provided by this section. 70500

This section does not apply to any taxpayer that is required 70501
to file a report under section 5727.08 of the Revised Code. 70502

Sec. 5709.12. (A) As used in this section, "independent 70503
living facilities" means any residential housing facilities and 70504
related property that are not a nursing home, residential care 70505
facility, or adult care facility as defined in division (A) of 70506
section 5701.13 of the Revised Code. 70507

(B) Lands, houses, and other buildings belonging to a county, 70508
township, or municipal corporation and used exclusively for the 70509
accommodation or support of the poor, or leased to the state or 70510
any political subdivision for public purposes shall be exempt from 70511
taxation. Real and tangible personal property belonging to 70512
institutions that is used exclusively for charitable purposes 70513

shall be exempt from taxation, including real property belonging 70514
to an institution that is a nonprofit corporation that receives a 70515
grant under the Thomas Alva Edison grant program authorized by 70516
division (C) of section 122.33 of the Revised Code at any time 70517
during the tax year and being held for leasing or resale to 70518
others. If, at any time during a tax year for which such property 70519
is exempted from taxation, the corporation ceases to qualify for 70520
such a grant, the director of development shall notify the tax 70521
commissioner, and the tax commissioner shall cause the property to 70522
be restored to the tax list beginning with the following tax year. 70523
All property owned and used by a nonprofit organization 70524
exclusively for a home for the aged, as defined in section 5701.13 70525
of the Revised Code, also shall be exempt from taxation. 70526

(C)(1) If a home for the aged described in division (B)(1) of 70527
section 5701.13 of the Revised Code is operated in conjunction 70528
with or at the same site as independent living facilities, the 70529
exemption granted in division (B) of this section shall include 70530
kitchen, dining room, clinic, entry ways, maintenance and storage 70531
areas, and land necessary for access commonly used by both 70532
residents of the home for the aged and residents of the 70533
independent living facilities. Other facilities commonly used by 70534
both residents of the home for the aged and residents of 70535
independent living units shall be exempt from taxation only if the 70536
other facilities are used primarily by the residents of the home 70537
for the aged. Vacant land currently unused by the home, and 70538
independent living facilities and the lands connected with them 70539
are not exempt from taxation. Except as provided in division 70540
(A)(1) of section 5709.121 of the Revised Code, property of a home 70541
leased for nonresidential purposes is not exempt from taxation. 70542

(2) Independent living facilities are exempt from taxation if 70543
they are operated in conjunction with or at the same site as a 70544
home for the aged described in division (B)(2) of section 5701.13 70545

of the Revised Code; operated by a corporation, association, or 70546
trust described in division (B)(1)(b) of that section; operated 70547
exclusively for the benefit of members of the corporation, 70548
association, or trust who are retired, aged, or infirm; and 70549
provided to those members without charge in consideration of their 70550
service, without compensation, to a charitable, religious, 70551
fraternal, or educational institution. For the purposes of 70552
division (C)(2) of this section, "compensation" does not include 70553
furnishing room and board, clothing, health care, or other 70554
necessities, or stipends or other de minimis payments to defray 70555
the cost thereof. 70556

(D)(1) A private corporation established under federal law, 70557
defined in 36 U.S.C. 1101, Pub. L. No. 102-199, 105 Stat. 1629, as 70558
amended, the objects of which include encouraging the advancement 70559
of science generally, or of a particular branch of science, the 70560
promotion of scientific research, the improvement of the 70561
qualifications and usefulness of scientists, or the increase and 70562
diffusion of scientific knowledge is conclusively presumed to be a 70563
charitable or educational institution. A private corporation 70564
established as a nonprofit corporation under the laws of a state, 70565
that is exempt from federal income taxation under section 70566
501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 70567
U.S.C.A. 1, as amended, and has as its principal purpose one or 70568
more of the foregoing objects, also is conclusively presumed to be 70569
a charitable or educational institution. 70570

The fact that an organization described in this division 70571
operates in a manner that results in an excess of revenues over 70572
expenses shall not be used to deny the exemption granted by this 70573
section, provided such excess is used, or is held for use, for 70574
exempt purposes or to establish a reserve against future 70575
contingencies; and, provided further, that such excess may not be 70576
distributed to individual persons or to entities that would not be 70577

entitled to the tax exemptions provided by this chapter. Nor shall 70578
the fact that any scientific information diffused by the 70579
organization is of particular interest or benefit to any of its 70580
individual members be used to deny the exemption granted by this 70581
section, provided that such scientific information is available to 70582
the public for purchase or otherwise. 70583

(2) Division (D)(2) of this section does not apply to real 70584
property exempted from taxation under this section and division 70585
~~(C)~~(A)(3) of section 5709.121 of the Revised Code and belonging to 70586
a nonprofit corporation described in division (D)(1) of this 70587
section that has received a grant under the Thomas Alva Edison 70588
grant program authorized by division (C) of section 122.33 of the 70589
Revised Code during any of the tax years the property was exempted 70590
from taxation. 70591

When a private corporation described in division (D)(1) of 70592
this section sells all or any portion of a tract, lot, or parcel 70593
of real estate that has been exempt from taxation under this 70594
section and section 5709.121 of the Revised Code, the portion sold 70595
shall be restored to the tax list for the year following the year 70596
of the sale and a charge shall be levied against the sold property 70597
in an amount equal to the tax savings on such property during the 70598
four tax years preceding the year the property is placed on the 70599
tax list. The tax savings equals the amount of the additional 70600
taxes that would have been levied if such property had not been 70601
exempt from taxation. 70602

The charge constitutes a lien of the state upon such property 70603
as of the first day of January of the tax year in which the charge 70604
is levied and continues until discharged as provided by law. The 70605
charge may also be remitted for all or any portion of such 70606
property that the tax commissioner determines is entitled to 70607
exemption from real property taxation for the year such property 70608
is restored to the tax list under any provision of the Revised 70609

Code, other than sections 725.02, 1728.10, 3735.67, 5709.40, 70610
5709.41, 5709.62, 5709.63, 5709.71, 5709.73, 5709.78, and 5709.84, 70611
upon an application for exemption covering the year such property 70612
is restored to the tax list filed under section 5715.27 of the 70613
Revised Code. 70614

(E) Real property held by an organization organized and 70615
operated exclusively for charitable purposes as described under 70616
section 501(c)(3) of the Internal Revenue Code and exempt from 70617
federal taxation under section 501(a) of the Internal Revenue 70618
Code, 26 U.S.C.A. 501(a) and (c)(3), as amended, for the purpose 70619
of constructing or rehabilitating residences for eventual transfer 70620
to qualified low-income families through sale, lease, or land 70621
installment contract, shall be exempt from taxation. 70622

The exemption shall commence on the day title to the property 70623
is transferred to the organization and shall continue to the end 70624
of the tax year in which the organization transfers title to the 70625
property to a qualified low-income family. In no case shall the 70626
exemption extend beyond the second succeeding tax year following 70627
the year in which the title was transferred to the organization. 70628
If the title is transferred to the organization and from the 70629
organization to a qualified low-income family in the same tax 70630
year, the exemption shall continue to the end of that tax year. 70631
The proportionate amount of taxes that are a lien but not yet 70632
determined, assessed, and levied for the tax year in which title 70633
is transferred to the organization shall be remitted by the county 70634
auditor for each day of the year that title is held by the 70635
organization. 70636

Upon transferring the title to another person, the 70637
organization shall file with the county auditor an affidavit 70638
affirming that the title was transferred to a qualified low-income 70639
family or that the title was not transferred to a qualified 70640
low-income family, as the case may be; if the title was 70641

transferred to a qualified low-income family, the affidavit shall 70642
identify the transferee by name. If the organization transfers 70643
title to the property to anyone other than a qualified low-income 70644
family, the exemption, if it has not previously expired, shall 70645
terminate, and the property shall be restored to the tax list for 70646
the year following the year of the transfer and a charge shall be 70647
levied against the property in an amount equal to the amount of 70648
additional taxes that would have been levied if such property had 70649
not been exempt from taxation. The charge constitutes a lien of 70650
the state upon such property as of the first day of January of the 70651
tax year in which the charge is levied and continues until 70652
discharged as provided by law. 70653

The application for exemption shall be filed as otherwise 70654
required under section 5715.27 of the Revised Code, except that 70655
the organization holding the property shall file with its 70656
application documentation substantiating its status as an 70657
organization organized and operated exclusively for charitable 70658
purposes under section 501(c)(3) of the Internal Revenue Code and 70659
its qualification for exemption from federal taxation under 70660
section 501(a) of the Internal Revenue Code, and affirming its 70661
intention to construct or rehabilitate the property for the 70662
eventual transfer to qualified low-income families. 70663

As used in this division, "qualified low-income family" means 70664
a family whose income does not exceed two hundred per cent of the 70665
official federal poverty guidelines as revised annually in 70666
accordance with section 673(2) of the "Omnibus Budget 70667
Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as 70668
amended, for a family size equal to the size of the family whose 70669
income is being determined. 70670

Sec. 5709.121. (A) Real property and tangible personal 70671
property belonging to a charitable or educational institution or 70672

to the state or a political subdivision, shall be considered as 70673
used exclusively for charitable or public purposes by such 70674
institution, the state, or political subdivision, if it meets one 70675
of the following requirements: 70676

~~(A)(1)~~ It is used by such institution, the state, or 70677
political subdivision, or by one or more other such institutions, 70678
the state, or political subdivisions under a lease, sublease, or 70679
other contractual arrangement: 70680

~~(1)(a)~~ As a community or area center in which presentations 70681
in music, dramatics, the arts, and related fields are made in 70682
order to foster public interest and education therein; 70683

~~(2)(b)~~ For other charitable, educational, or public 70684
purposes; 70685

~~(B)(2)~~ It is made available under the direction or control of 70686
such institution, the state, or political subdivision for use in 70687
furtherance of or incidental to its charitable, educational, or 70688
public purposes and not with the view to profit. 70689

~~(C)(3)~~ It is used by an organization described in division 70690
(D) of section 5709.12 of the Revised Code. If the organization is 70691
a corporation that receives a grant under the Thomas Alva Edison 70692
grant program authorized by division (C) of section 122.33 of the 70693
Revised Code at any time during the tax year, "used," for the 70694
purposes of this division, includes holding property for lease or 70695
resale to others. 70696

(B)(1) Property described in division (A)(1)(a) of this 70697
section shall continue to be considered as used exclusively for 70698
charitable or public purposes even if the property is conveyed 70699
through one conveyance or a series of conveyances to an entity 70700
that is not a charitable or educational institution and is not the 70701
state or a political subdivision, provided that all of the 70702
following conditions apply with respect to that property: 70703

(a) The property has been listed as exempt on the county auditor's tax list and duplicate for the county in which it is located for the ten tax years immediately preceding the year in which the property is conveyed through one conveyance or a series of conveyances; 70704
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(b) The owner to which the property is conveyed through one conveyance or a series of conveyances leases the property through one lease or a series of leases to the entity that owned or occupied the property for the ten tax years immediately preceding the year in which the property is conveyed or an affiliate of such prior owner or occupant; 70709
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(c) The property includes improvements that are at least fifty years old; 70715
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(d) The property is being renovated in connection with a claim for historic preservation tax credits available under federal law; 70717
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(e) The property continues to be used for the purposes described in division (A)(1)(a) of this section after its conveyance; and 70720
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(f) The property is certified by the United States secretary of the interior as a "certified historic structure" or certified as part of a certified historic structure. 70723
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(2) Notwithstanding section 5715.27 of the Revised Code, an application for exemption from taxation of property described in division (B)(1) of this section may be filed by either the owner of the property or its occupant. 70726
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Sec. 5709.40. (A) As used in this section: 70730

(1) "Blighted area" and "impacted city" have the same meanings as in section 1728.01 of the Revised Code. 70731
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(2) "Business day" means a day of the week excluding 70733

Saturday, Sunday, and a legal holiday as defined under section 70734
1.14 of the Revised Code. 70735

(3) "Housing renovation" means a project carried out for 70736
residential purposes. 70737

(4) "Improvement" means the increase in the assessed value of 70738
any real property that would first appear on the tax list and 70739
duplicate of real and public utility property after the effective 70740
date of an ordinance adopted under this section were it not for 70741
the exemption granted by that ordinance. ~~"Improvement" does not~~ 70742
~~include a public infrastructure improvement.~~ 70743

(5) "Incentive district" means an area not more than three 70744
hundred acres in size enclosed by a continuous boundary in which a 70745
project is being, or will be, undertaken and having one or more of 70746
the following distress characteristics: 70747

(a) At least fifty-one per cent of the residents of the 70748
district have incomes of less than eighty per cent of the median 70749
income of residents of the political subdivision in which the 70750
district is located, as determined in the same manner specified 70751
under section 119(b) of the "Housing and Community Development Act 70752
of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended; 70753

(b) The average rate of unemployment in the district during 70754
the most recent twelve-month period for which data are available 70755
is equal to at least one hundred fifty per cent of the average 70756
rate of unemployment for this state for the same period. 70757

(c) At least twenty per cent of the people residing in the 70758
district live at or below the poverty level as defined in the 70759
federal Housing and Community Development Act of 1974, 42 U.S.C. 70760
5301, as amended, and regulations adopted pursuant to that act. 70761

(d) The district is a blighted area. 70762

(e) The district is in a situational distress area as 70763

designated by the director of development under division (F) of 70764
section 122.23 of the Revised Code. 70765

(f) As certified by the engineer for the political 70766
subdivision, the public infrastructure serving the district is 70767
inadequate to meet the development needs of the district as 70768
evidenced by a written economic development plan or urban renewal 70769
plan for the district that has been adopted by the legislative 70770
authority of the subdivision. 70771

(g) The district is comprised entirely of unimproved land 70772
that is located in a distressed area as defined in section 122.23 70773
of the Revised Code. 70774

(6) "Project" means development activities undertaken on one 70775
or more parcels, including, but not limited to, construction, 70776
expansion, and alteration of buildings or structures, demolition, 70777
remediation, and site development, and any building or structure 70778
that results from those activities. 70779

(7) "Public infrastructure improvement" includes, but is not 70780
limited to, public roads and highways; water and sewer lines; 70781
environmental remediation; land acquisition, including acquisition 70782
in aid of industry, commerce, distribution, or research; 70783
demolition, including demolition on private property when 70784
determined to be necessary for economic development purposes; 70785
stormwater and flood remediation projects, including such projects 70786
on private property when determined to be necessary for public 70787
health, safety, and welfare; the provision of gas, electric, and 70788
communications service facilities; and the enhancement of public 70789
waterways through improvements that allow for greater public 70790
access. "Public infrastructure improvement" does not include 70791
police or fire equipment. 70792

(B) The legislative authority of a municipal corporation, by 70793
ordinance, may declare improvements to certain parcels of real 70794

property located in the municipal corporation to be a public 70795
purpose. Improvements with respect to a parcel that is used or to 70796
be used for residential purposes may be declared a public purpose 70797
under this division only if the parcel is located in a blighted 70798
area of an impacted city. Except as otherwise provided in division 70799
(D) of this section, not more than seventy-five per cent of an 70800
improvement thus declared to be a public purpose may be exempted 70801
from real property taxation; ~~the percentage exempted shall not,~~ 70802
~~except as otherwise provided in that division, exceed the~~ 70803
~~estimated percentage of the incremental demand placed on the~~ 70804
~~public infrastructure improvements that is directly attributable~~ 70805
~~to the exempted improvement.~~ The ordinance shall specify the 70806
percentage of the improvement to be exempted from taxation. 70807

An ordinance adopted or amended under this division shall 70808
designate the specific public infrastructure improvements made, to 70809
be made, or in the process of being made by the municipal 70810
corporation that directly benefit, or that once made will directly 70811
benefit, the parcels for which improvements are declared to be a 70812
public purpose. ~~For the purposes of this division, a public~~ 70813
~~infrastructure improvement directly benefits such a parcel only if~~ 70814
~~a project on the parcel places direct, additional demand on the~~ 70815
~~public infrastructure improvement or, if the public infrastructure~~ 70816
~~improvement has not yet been completed, will place direct,~~ 70817
~~additional demand on the public infrastructure improvement once it~~ 70818
~~is completed.~~ The service payments provided for in section 5709.42 70819
of the Revised Code shall be used to finance the public 70820
infrastructure improvements designated in the ordinance or for the 70821
purpose described in division (D)(1) of this section. 70822

(C)(1) The legislative authority of a municipal corporation 70823
may adopt an ordinance creating an incentive district and 70824
declaring improvements to parcels within the district to be a 70825
public purpose and, except as provided in division (F) of this 70826

section, exempt from taxation as provided in this section, but no 70827
legislative authority of a municipal corporation that has a 70828
population that exceeds twenty-five thousand, as shown by the most 70829
recent federal decennial census, shall adopt an ordinance that 70830
creates an incentive district if, as a result of adopting the 70831
ordinance, more than twenty-five per cent of the municipal 70832
corporation's taxable value, as of the first day of January of the 70833
year in which the ordinance takes effect, is subject to an 70834
exemption because of an incentive district. The twenty-five per 70835
cent limitation does not apply to an incentive district that was 70836
created by an ordinance adopted prior to January 1, 2006, unless 70837
the legislative authority creates an additional incentive district 70838
after that date. The ordinance shall delineate the boundary of the 70839
district and specifically identify each parcel within the 70840
district. A district may not include any parcel that is or has 70841
been exempted from taxation under division (B) of this section or 70842
that is or has been within another district created under this 70843
division. An ordinance may create more than one such district, and 70844
more than one ordinance may be adopted under ~~this~~ division (C)(1) 70845
of this section. 70846

(2) Not later than thirty days prior to adopting an ordinance 70847
under ~~this~~ division (C)(1) of this section, if the municipal 70848
corporation intends to apply for exemptions from taxation under 70849
section 5709.911 of the Revised Code on behalf of owners of real 70850
property located within the proposed incentive district, the 70851
legislative authority of a municipal corporation shall conduct a 70852
public hearing on the proposed ordinance. Not later than thirty 70853
days prior to the public hearing, the legislative authority shall 70854
give notice of the public hearing and the proposed ordinance by 70855
first class mail to every real property owner whose property is 70856
located within the boundaries of the proposed incentive district 70857
that is the subject of the proposed ordinance. 70858

(3)(a) An ordinance adopted under ~~this~~ division (C)(1) of this section shall specify the life of the district and the percentage of the improvements to be exempted ~~and~~, shall designate the public infrastructure improvements made ~~or~~, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The ordinance also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the ordinance. The project identified may, but need not be, the project under division (C)(3)(b) of this section that places real property in use for commercial or industrial purposes. Except as otherwise permitted under that division, the service payments provided for in section 5709.42 of the Revised Code shall be used to finance the designated public infrastructure improvements or for the purpose described in division (D)(1) of this section.

(b) An ordinance adopted under ~~this~~ division (C)(1) of this section may authorize the use of service payments provided for in section 5709.42 of the Revised Code for the purpose of housing renovations within the district, provided that the ordinance also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The ordinance shall designate the parcels within the district that are eligible for housing renovation. The ordinance shall state separately the amounts or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the general purpose of housing renovations.

(4) Except with the approval of the board of education of

each city, local, or exempted village school district within the 70891
territory of which the district is or will be located, and subject 70892
to division (E) of this section, the life of a an incentive 70893
district shall not exceed ten years, and the percentage of 70894
improvements to be exempted shall not exceed seventy-five per 70895
cent. With ~~such~~ approval of the board of education, the life of a 70896
district may be not more than thirty years, and the percentage of 70897
improvements to be exempted may be not more than one hundred per 70898
cent. 70899

(5) Approval of a board of education shall be obtained in the 70900
manner provided in division (D) of this section for exemptions 70901
under division (B) of this section, except that the notice to the 70902
board of education shall delineate the boundaries of the district, 70903
specifically identify each parcel within the district, identify 70904
each anticipated improvement in the district, provide an estimate 70905
of the true value in money of each such improvement, specify the 70906
life of the district and the percentage of improvements that would 70907
be exempted, and indicate the date on which the legislative 70908
authority intends to adopt the ordinance. 70909

~~A municipal corporation shall not adopt an ordinance under 70910
this division after June 30, 2007.~~ 70911

(D)(1) If the ordinance declaring improvements to a parcel to 70912
be a public purpose or creating an incentive district specifies 70913
that payments in lieu of taxes provided for in section 5709.42 of 70914
the Revised Code shall be paid to the city, local, or exempted 70915
village school district in which the parcel is located in the 70916
amount of the taxes that would have been payable to the school 70917
district if the improvements had not been exempted from taxation, 70918
the percentage of the improvement that may be exempted from 70919
taxation may exceed seventy-five per cent, and the exemption may 70920
be granted for up to thirty years, without the approval of the 70921
board of education as otherwise required under division (D)(2) of 70922

this section. 70923

(2) Improvements with respect to a parcel may be exempted 70924
from taxation under division (B) of this section for up to ten 70925
years or, with the approval under this paragraph of the board of 70926
education of the city, local, or exempted village school district 70927
within which the parcel is located, for up to thirty years. The 70928
percentage of the improvement exempted from taxation may, with 70929
such approval, exceed seventy-five per cent, but shall not exceed 70930
one hundred per cent. Not later than forty-five business days 70931
prior to adopting an ordinance under this section declaring 70932
improvements to be a public purpose that is subject to approval by 70933
a board of education under this division, the legislative 70934
authority shall deliver to the board of education a notice stating 70935
its intent to adopt an ordinance making that declaration. The 70936
notice shall identify the parcels for which improvements are to be 70937
exempted from taxation, provide an estimate of the true value in 70938
money of the improvements, specify the period for which the 70939
improvements would be exempted from taxation and the percentage of 70940
the improvement that would be exempted, and indicate the date on 70941
which the legislative authority intends to adopt the ordinance. 70942
The board of education, by resolution adopted by a majority of the 70943
board, may approve the exemption for the period or for the 70944
exemption percentage specified in the notice, may disapprove the 70945
exemption for the number of years in excess of ten, may disapprove 70946
the exemption for the percentage of the improvement to be exempted 70947
in excess of seventy-five per cent, or both, or may approve the 70948
exemption on the condition that the legislative authority and the 70949
board negotiate an agreement providing for compensation to the 70950
school district equal in value to a percentage of the amount of 70951
taxes exempted in the eleventh and subsequent years of the 70952
exemption period or, in the case of exemption percentages in 70953
excess of seventy-five per cent, compensation equal in value to a 70954
percentage of the taxes that would be payable on the portion of 70955

the improvement in excess of seventy-five per cent were that 70956
portion to be subject to taxation, or other mutually agreeable 70957
compensation. The board of education shall certify its resolution 70958
to the legislative authority not later than fourteen days prior to 70959
the date the legislative authority intends to adopt the ordinance 70960
as indicated in the notice. ~~If the board of education approves the~~ 70961
~~exemption on the condition that a compensation agreement be~~ 70962
~~negotiated, the board in its resolution shall propose a~~ 70963
~~compensation percentage.~~ If the board of education and the 70964
legislative authority negotiate a mutually acceptable compensation 70965
agreement, the ordinance may declare the improvements a public 70966
purpose for the number of years specified in the ordinance or, in 70967
the case of exemption percentages in excess of seventy-five per 70968
cent, for the exemption percentage specified in the ordinance. In 70969
either case, if the board and the legislative authority fail to 70970
negotiate a mutually acceptable compensation agreement, the 70971
ordinance may declare the improvements a public purpose for not 70972
more than ten years, but shall not exempt more than seventy-five 70973
per cent of the improvements from taxation, ~~or, in the case of an~~ 70974
~~ordinance adopted under division (B) of this section, not more~~ 70975
~~than the estimated percentage of the incremental demand as~~ 70976
~~otherwise prescribed by division (B) of this section if that~~ 70977
~~percentage is less than seventy five per cent.~~ If the board fails 70978
to certify a resolution to the legislative authority within the 70979
time prescribed by this division, the legislative authority 70980
thereupon may adopt the ordinance and may declare the improvements 70981
a public purpose for up to thirty years, or, in the case of 70982
exemption percentages proposed in excess of seventy-five per cent, 70983
for the exemption percentage specified in the ordinance. The 70984
legislative authority may adopt the ordinance at any time after 70985
the board of education certifies its resolution approving the 70986
exemption to the legislative authority, or, if the board approves 70987
the exemption on the condition that a mutually acceptable 70988

compensation agreement be negotiated, at any time after the 70989
compensation agreement is agreed to by the board and the 70990
legislative authority. 70991

(3) If a board of education has adopted a resolution waiving 70992
its right to approve exemptions from taxation and the resolution 70993
remains in effect, approval of exemptions by the board is not 70994
required under this division. If a board of education has adopted 70995
a resolution allowing a legislative authority to deliver the 70996
notice required under ~~this~~ division (D)(2) of this section fewer 70997
than forty-five business days prior to the legislative authority's 70998
adoption of the ordinance, the legislative authority shall deliver 70999
the notice to the board not later than the number of days prior to 71000
such adoption as prescribed by the board in its resolution. If a 71001
board of education adopts a resolution waiving its right to 71002
approve agreements or shortening the notification period, the 71003
board shall certify a copy of the resolution to the legislative 71004
authority. If the board of education rescinds such a resolution, 71005
it shall certify notice of the rescission to the legislative 71006
authority. 71007

(4) If the legislative authority is not required by division 71008
(D)(1), (2), or (3) of this section to notify the board of 71009
education of the legislative authority's intent to declare 71010
improvements to be a public purpose, the legislative authority 71011
shall comply with the notice requirements imposed under section 71012
5709.83 of the Revised Code, unless the board has adopted a 71013
resolution under that section waiving its right to receive such a 71014
notice. 71015

(E)(1) If a proposed ordinance under division (C)(1) of this 71016
section exempts improvements with respect to a parcel for more 71017
than ten years, or the percentage of the improvement exempted from 71018
taxation exceeds seventy-five per cent, not later than forty-five 71019
business days prior to adopting the ordinance the legislative 71020

authority of the municipal corporation shall deliver to the board 71021
of county commissioners of the county within which the incentive 71022
district is or will be located a notice that states its intent to 71023
adopt an ordinance creating an incentive district. The notice 71024
shall include a copy of the proposed ordinance. 71025

(2) The board of county commissioners, by resolution adopted 71026
by a majority of the board, may object to the exemption for the 71027
number of years in excess of ten, may object to the exemption for 71028
the percentage of the improvement to be exempted in excess of 71029
seventy-five per cent, or both, or may accept either or both 71030
exemptions. If the board of county commissioners objects, the 71031
board may negotiate an agreement with the legislative authority 71032
that provides to the board in the eleventh and subsequent years of 71033
the exemption period compensation equal in value to not more than 71034
fifty per cent of the taxes that would be payable to the county on 71035
the portion of the improvement in excess of seventy-five per cent, 71036
were that portion to be subject to taxation. The board of county 71037
commissioners shall certify its resolution to the legislative 71038
authority not later than thirty days after receipt of the notice. 71039

(3) If the board of county commissioners does not object or 71040
fails to certify its resolution objecting to an exemption within 71041
thirty days after receipt of the notice, the legislative authority 71042
may adopt the ordinance, and no compensation shall be provided to 71043
the board of county commissioners. If the board timely certifies 71044
its resolution objecting to the ordinance, the legislative 71045
authority may adopt the ordinance at any time after the 71046
compensation agreement is agreed to by the board and the 71047
legislative authority, or, if no compensation agreement is 71048
negotiated, at any time after the legislative authority agrees to 71049
provide compensation to the board of fifty per cent of the taxes 71050
that would be payable to the county in the eleventh and subsequent 71051
years of the exemption period on the portion of the improvement in 71052

excess of seventy-five per cent, were that portion to be subject 71053
to taxation. 71054

(F) Any of the following property tax levies that are enacted 71055
on or after January 1, 2006, and after the date an ordinance 71056
creating an incentive district is adopted on or after January 1, 71057
2006, under division (C)(1) of this section shall be levied on 71058
property that was exempted from taxation under division (C) of 71059
this section, and revenues collected from such levies shall not be 71060
used to provide service payments under this section: 71061

(1) A tax levied under division (L) of section 5705.19 of the 71062
Revised Code for community mental retardation and developmental 71063
disabilities programs and services pursuant to Chapter 5126. of 71064
the Revised Code; 71065

(2) A tax levied under division (Y) of section 5705.19 of the 71066
Revised Code for providing or maintaining senior citizens services 71067
or facilities; 71068

(3) A tax levied under section 5705.22 of the Revised Code 71069
for county hospitals; 71070

(4) A tax levied under section 5705.221 of the Revised Code 71071
for alcohol, drug addiction, and mental health services; 71072

(5) A tax levied under section 5705.23 of the Revised Code 71073
for library purposes; 71074

(6) A tax levied under section 5705.24 of the Revised Code 71075
for the support of children services and the placement and care of 71076
children. 71077

(G) An exemption from taxation granted under this section 71078
commences with the tax year in which an improvement first appears 71079
on the tax list and duplicate of real and public utility property 71080
and that begins after the effective date of specified in the 71081
ordinance. Except as otherwise provided in this division, the 71082

exemption ends on the date specified in the ordinance as the date 71083
the improvement ceases to be a public purpose or the incentive 71084
district expires, or ends on the date on which the public 71085
infrastructure improvements and housing renovations are paid in 71086
full from the municipal public improvement tax increment 71087
equivalent fund established under division (A) of section 5709.43 71088
of the Revised Code, whichever occurs first. The exemption of an 71089
improvement with respect to a parcel may end on a later date, as 71090
specified in the ordinance, if the legislative authority and the 71091
board of education of the city, local, or exempted village school 71092
district within which the parcel is located have entered into a 71093
compensation agreement under section 5709.82 of the Revised Code 71094
with respect to the improvement or district and the board of 71095
education has approved the term of the exemption under division 71096
(D)(2) of this section, but in no case shall the improvement be 71097
exempted from taxation for more than thirty years. Exemptions 71098
shall be claimed and allowed in the same manner as in the case of 71099
other real property exemptions. If an exemption status changes 71100
during a year, the procedure for the apportionment of the taxes 71101
for that year is the same as in the case of other changes in tax 71102
exemption status during the year. 71103

~~(F)~~(H) Additional municipal financing of public 71104
infrastructure improvements and housing renovations may be 71105
provided by any methods that the municipal corporation may 71106
otherwise use for financing such improvements. If the municipal 71107
corporation issues bonds or notes to finance the public 71108
infrastructure improvements and housing renovations and pledges 71109
money from the municipal public improvement tax increment 71110
equivalent fund to pay the interest on and principal of the bonds 71111
or notes, the bonds or notes are not subject to Chapter 133. of 71112
the Revised Code. 71113

~~(G)~~(I) The municipal corporation, not later than fifteen days 71114

after the adoption of an ordinance under this section, shall 71115
submit to the director of development a copy of the ordinance. On 71116
or before the thirty-first day of March of each year, the 71117
municipal corporation shall submit a status report to the director 71118
of development. The report shall indicate, in the manner 71119
prescribed by the director, the progress of the project during 71120
each year that an exemption remains in effect, including a summary 71121
of the receipts from service payments in lieu of taxes; 71122
expenditures of money from the funds created under section 5709.43 71123
of the Revised Code; a description of the public infrastructure 71124
improvements and housing renovations financed with such 71125
expenditures; and a quantitative summary of changes in employment 71126
and private investment resulting from each project. 71127

~~(H)~~(J) Nothing in this section shall be construed to prohibit 71128
a legislative authority from declaring to be a public purpose 71129
improvements with respect to more than one parcel. 71130

Sec. 5709.73. (A) As used in this section and section 5709.74 71131
of the Revised Code: 71132

(1) "Business day" means a day of the week excluding 71133
Saturday, Sunday, and a legal holiday as defined in section 1.14 71134
of the Revised Code. 71135

(2) "Further improvements" or "improvements" means the 71136
increase in the ~~true~~ assessed value of real property that would 71137
first appear on the tax list and duplicate of real and public 71138
utility property after the effective date of a resolution adopted 71139
under this section were it not for the exemption granted by that 71140
resolution. For purposes of division (B) of this section, 71141
"improvements" do not include any property used or to be used for 71142
residential purposes. 71143

(3) "Housing renovation" means a project carried out for 71144
residential purposes. 71145

(4) "Incentive district" has the same meaning as in section 71146
5709.40 of the Revised Code, except that a blighted area is in the 71147
unincorporated area of a township. 71148

(5) "Project" and "public infrastructure improvement" have 71149
the same meanings as in section 5709.40 of the Revised Code. 71150

(B) A board of township trustees may, by unanimous vote, 71151
adopt a resolution that declares to be a public purpose any public 71152
infrastructure improvements made that are necessary for the 71153
development of certain parcels of land located in the 71154
unincorporated area of the township. Except as otherwise provided 71155
in division (D) of this section, the resolution may exempt from 71156
real property taxation not more than seventy-five per cent of 71157
further improvements to a parcel of land ~~which~~ that directly 71158
benefits from such public infrastructure improvements; ~~the~~ 71159
~~percentage exempted shall not, except as otherwise provided in~~ 71160
~~division (D) of this section, exceed the estimated percentage of~~ 71161
~~the incremental demand placed on the public infrastructure~~ 71162
~~improvements that is directly attributable to the exempted~~ 71163
~~improvement. For the purposes of this division, a public~~ 71164
~~infrastructure improvement directly benefits a parcel of land only~~ 71165
~~if a project on the parcel places direct, additional demand on the~~ 71166
~~public infrastructure improvement, or, if the public~~ 71167
~~infrastructure improvement has not yet been constructed, will~~ 71168
~~place direct, additional demand on the public infrastructure~~ 71169
~~improvement when completed. The resolution shall specify the~~ 71170
percentage of the further improvements to be exempted. 71171

(C)(1) A board of township trustees may adopt, by unanimous 71172
vote, a resolution creating an incentive district and declaring 71173
improvements to parcels within the district to be a public purpose 71174
and, except as provided in division (F) of this section, exempt 71175
from taxation as provided in this section, but no board of 71176
township trustees of a township that has a population that exceeds 71177

twenty-five thousand, as shown by the most recent federal 71178
decennial census, shall adopt a resolution that creates an 71179
incentive district if, as a result of adopting the resolution, 71180
more than twenty-five per cent of the township's taxable value, as 71181
of the first day of January of the year in which the resolution 71182
takes effect, is subject to exemption because of an incentive 71183
district. The twenty-five per cent limitation does not apply to an 71184
incentive district that was created by a resolution adopted prior 71185
to January 1, 2006, unless the board creates an additional 71186
incentive district after that date. The district shall be located 71187
within the unincorporated area of the township and shall not 71188
include any territory that is included within a district created 71189
under division (B) of section 5709.78 of the Revised Code. The 71190
resolution shall delineate the boundary of the district and 71191
specifically identify each parcel within the district. A district 71192
may not include any parcel that is or has been exempted from 71193
taxation under division (B) of this section or that is or has been 71194
within another district created under this division. A resolution 71195
may create more than one such district, and more than one 71196
resolution may be adopted under ~~this~~ division (C)(1) of this 71197
section. 71198

(2) Not later than thirty days prior to adopting a resolution 71199
under ~~this~~ division (C)(1) of this section, if the township 71200
intends to apply for exemptions from taxation under section 71201
5709.911 of the Revised Code on behalf of owners of real property 71202
located within the proposed incentive district, the board shall 71203
conduct a public hearing on the proposed resolution. Not later 71204
than thirty days prior to the public hearing, the board shall give 71205
notice of the public hearing and the proposed resolution by first 71206
class mail to every real property owner whose property is located 71207
within the boundaries of the proposed incentive district that is 71208
the subject of the proposed resolution. 71209

(3)(a) A resolution under ~~this~~ division (C)(1) of this section shall specify the life of the district and the percentage of the improvements to be exempted ~~and~~, shall designate the public infrastructure improvements made ~~or~~, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The resolution also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the resolution. The project identified may, but need not be, the project under division (C)(3)(b) of this section that places real property in use for commercial or industrial purposes.

(b) A resolution adopted under ~~this~~ division (C)(1) of this section may authorize the use of service payments provided for in section 5709.74 of the Revised Code for the purpose of housing renovations within the district, provided that the resolution also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The resolution shall designate the parcels within the district that are eligible for housing renovations. The resolution shall state separately the amount or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the district is or will be located, and subject to division (E) of this section, the life of a an incentive district shall not exceed ten years, and the percentage of

improvements to be exempted shall not exceed seventy-five per 71242
cent. With ~~such~~ approval of the board of education, the life of a 71243
district may be not more than thirty years, and the percentage of 71244
improvements to be exempted may be not more than one hundred per 71245
cent. 71246

(5) Approval of a board of education shall be obtained in the 71247
manner provided in division (D) of this section for exemptions 71248
under division (B) of this section, except that the notice to the 71249
board of education shall delineate the boundaries of the district, 71250
specifically identify each parcel within the district, identify 71251
each anticipated improvement in the district, provide an estimate 71252
of the true value in money of each such improvement, specify the 71253
life of the district and the percentage of improvements that would 71254
be exempted, and indicate the date on which the board of township 71255
trustees intends to adopt the resolution. 71256

~~A board of township trustees shall not adopt a resolution 71257
under this division after June 30, 2007.~~ 71258

(D) Improvements with respect to a parcel may be exempted 71259
from taxation under division (B) of this section for up to ten 71260
years or, with the approval of the board of education of the city, 71261
local, or exempted village school district within which the parcel 71262
is located, for up to thirty years. The percentage of the 71263
improvements exempted from taxation may, with such approval, 71264
exceed seventy-five per cent, but shall not exceed one hundred per 71265
cent. Not later than forty-five business days prior to adopting a 71266
resolution under this section declaring improvements to be a 71267
public purpose that is subject to approval by a board of education 71268
under this division, the board of trustees shall deliver to the 71269
board of education a notice stating its intent to adopt a 71270
resolution making that declaration. The notice shall identify the 71271
parcels for which improvements are to be exempted from taxation, 71272
provide an estimate of the true value in money of the 71273

improvements, specify the period for which the improvements would 71274
be exempted from taxation and the percentage of the improvements 71275
that would be exempted, and indicate the date on which the board 71276
of trustees intends to adopt the resolution. The board of 71277
education, by resolution adopted by a majority of the board, may 71278
approve the exemption for the period or for the exemption 71279
percentage specified in the notice, may disapprove the exemption 71280
for the number of years in excess of ten, may disapprove the 71281
exemption for the percentage of the improvements to be exempted in 71282
excess of seventy-five per cent, or both, or may approve the 71283
exemption on the condition that the board of trustees and the 71284
board of education negotiate an agreement providing for 71285
compensation to the school district equal in value to a percentage 71286
of the amount of taxes exempted in the eleventh and subsequent 71287
years of the exemption period or, in the case of exemption 71288
percentages in excess of seventy-five per cent, compensation equal 71289
in value to a percentage of the taxes that would be payable on the 71290
portion of the improvements in excess of seventy-five per cent 71291
were that portion to be subject to taxation, or other mutually 71292
agreeable compensation. The board of education shall certify its 71293
resolution to the board of trustees not later than fourteen days 71294
prior to the date the board of trustees intends to adopt the 71295
resolution as indicated in the notice. ~~If the board of education~~ 71296
~~approves the exemption on the condition that a compensation~~ 71297
~~agreement be negotiated, the board of education in its resolution~~ 71298
~~shall propose a compensation percentage.~~ If the board of education 71299
and the board of trustees negotiate a mutually acceptable 71300
compensation agreement, the resolution may declare the 71301
improvements a public purpose for the number of years specified in 71302
the resolution or, in the case of exemption percentages in excess 71303
of seventy-five per cent, for the exemption percentage specified 71304
in the resolution. In either case, if the board of education and 71305
the board of trustees fail to negotiate a mutually acceptable 71306

compensation agreement, the resolution may declare the 71307
improvements a public purpose for not more than ten years, but 71308
shall not exempt more than seventy-five per cent of the 71309
improvements from taxation, ~~or, in the case of a resolution~~ 71310
~~adopted under division (B) of this section, not more than the~~ 71311
~~estimated percentage of the incremental demand as otherwise~~ 71312
~~prescribed by division (B) of this section if that percentage is~~ 71313
~~less than seventy five per cent.~~ If the board of education fails 71314
to certify a resolution to the board of trustees within the time 71315
prescribed by this section, the board of trustees thereupon may 71316
adopt the resolution and may declare the improvements a public 71317
purpose for up to thirty years or, in the case of exemption 71318
percentages proposed in excess of seventy-five per cent, for the 71319
exemption percentage specified in the resolution. The board of 71320
township trustees may adopt the resolution at any time after the 71321
board of education certifies its resolution approving the 71322
exemption to the board of township trustees, or, if the board of 71323
education approves the exemption on the condition that a mutually 71324
acceptable compensation agreement be negotiated, at any time after 71325
the compensation agreement is agreed to by the board of education 71326
and the board of township trustees. 71327

If a board of education has adopted a resolution waiving its 71328
right to approve exemptions from taxation and the resolution 71329
remains in effect, approval of such exemptions by the board of 71330
education is not required under this division. If a board of 71331
education has adopted a resolution allowing a board of township 71332
trustees to deliver the notice required under this division fewer 71333
than forty-five business days prior to adoption of the resolution 71334
by the board of township trustees, the board of township trustees 71335
shall deliver the notice to the board of education not later than 71336
the number of days prior to such adoption as prescribed by the 71337
board of education in its resolution. If a board of education 71338
adopts a resolution waiving its right to approve exemptions or 71339

shortening the notification period, the board of education shall 71340
certify a copy of the resolution to the board of township 71341
trustees. If the board of education rescinds such a resolution, it 71342
shall certify notice of the rescission to the board of township 71343
trustees. 71344

If the board of trustees is not required by this division to 71345
notify the board of education of the board of trustees' intent to 71346
declare improvements to be a public purpose, the board of trustees 71347
shall comply with the notice requirements imposed under section 71348
5709.83 of the Revised Code before taking formal action to adopt 71349
the resolution making that declaration, unless the board of 71350
education has adopted a resolution under that section waiving its 71351
right to receive such a notice. 71352

(E)(1) If a proposed resolution under division (C)(1) of this 71353
section exempts improvements with respect to a parcel for more 71354
than ten years, or the percentage of the improvement exempted from 71355
taxation exceeds seventy-five per cent, not later than forty-five 71356
business days prior to adopting the ordinance the board of 71357
township trustees shall deliver to the board of county 71358
commissioners of the county within which the incentive district is 71359
or will be located a notice that states its intent to adopt a 71360
resolution creating an incentive district. The notice shall 71361
include a copy of the proposed resolution. 71362

(2) The board of county commissioners, by resolution adopted 71363
by a majority of the board, may object to the exemption for the 71364
number of years in excess of ten, may object to the exemption for 71365
the percentage of the improvement to be exempted in excess of 71366
seventy-five per cent, or both, or may accept either or both 71367
exemptions. If the board of county commissioners objects, the 71368
board may negotiate an agreement with the board of township 71369
trustees that provides to the board of county commissioners in the 71370
eleventh and subsequent years of the exemption period compensation 71371

equal in value to not more than fifty per cent of the taxes that 71372
would be payable to the county on the portion of the improvement 71373
in excess of seventy-five per cent, were that portion to be 71374
subject to taxation. The board of county commissioners shall 71375
certify its resolution to the board of township trustees not later 71376
than thirty days after receipt of the notice. 71377

(3) If the board of county commissioners does not object or 71378
fails to certify its resolution objecting to an exemption within 71379
thirty days after receipt of the notice, the board of township 71380
trustees may adopt its resolution, and no compensation shall be 71381
provided to the board of county commissioners. If the board of 71382
county commissioners timely certifies its resolution objecting to 71383
the trustees' resolution, the board of township trustees may adopt 71384
its resolution at any time after the compensation agreement is 71385
agreed to by the board of county commissioners and the board of 71386
township trustees, or, if no compensation agreement is negotiated, 71387
at any time after the board of township trustees agrees to provide 71388
compensation to the board of county commissioners of fifty per 71389
cent of the taxes that would be payable to the county in the 71390
eleventh and subsequent years of the exemption period on the 71391
portion of the improvement in excess of seventy-five per cent, 71392
were that portion to be subject to taxation. 71393

(F) Any of the following property tax levies that are enacted 71394
on or after January 1, 2006, and after the date an ordinance 71395
creating an incentive district is adopted on or after January 1, 71396
2006, under division (C)(1) of this section shall be levied on 71397
property that was exempted from taxation under division (C) of 71398
this section and revenues collected from such levies shall not be 71399
used to provide service payments under this section: 71400

(1) A tax levied under division (L) of section 5705.19 of the 71401
Revised Code for community mental retardation and developmental 71402
disabilities programs and services pursuant to Chapter 5126. of 71403

| | |
|---|-------|
| <u>the Revised Code;</u> | 71404 |
| <u>(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;</u> | 71405 |
| | 71406 |
| | 71407 |
| <u>(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;</u> | 71408 |
| | 71409 |
| <u>(4) A tax levied under section 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services;</u> | 71410 |
| | 71411 |
| <u>(5) A tax levied under section 5705.23 of the Revised Code for library purposes;</u> | 71412 |
| | 71413 |
| <u>(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children.</u> | 71414 |
| | 71415 |
| | 71416 |
| <u>(G) An exemption from taxation granted under this section commences with the tax year in which an improvement first appears on the tax list and duplicate of real and public utility property and specified in the resolution that begins after the effective date of the resolution. Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the public infrastructure improvements and housing renovations are paid in full from the township public improvement tax increment equivalent fund established under section 5709.75 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel may end on a later date, as specified in the resolution, if the board of township trustees and the board of education of the city, local, or exempted village school district within which the parcel is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement or district and the board of</u> | 71417 |
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education has approved the term of the exemption under division 71435
(D) of this section, but in no case shall the improvement be 71436
exempted from taxation for more than thirty years. The board of 71437
township trustees may, by majority vote, adopt a resolution 71438
permitting the township to enter into such agreements as the board 71439
finds necessary or appropriate to provide for the construction or 71440
undertaking of public infrastructure improvements and housing 71441
renovations. Any exemption shall be claimed and allowed in the 71442
same or a similar manner as in the case of other real property 71443
exemptions. If an exemption status changes during a tax year, the 71444
procedure for the apportionment of the taxes for that year is the 71445
same as in the case of other changes in tax exemption status 71446
during the year. 71447

~~(F)~~(H) The board of township trustees may issue the notes of 71448
the township to finance all costs pertaining to the construction 71449
or undertaking of public infrastructure improvements and housing 71450
renovations made pursuant to this section. The notes shall be 71451
signed by the board and attested by the signature of the township 71452
clerk, shall bear interest not to exceed the rate provided in 71453
section 9.95 of the Revised Code, and are not subject to Chapter 71454
133. of the Revised Code. The resolution authorizing the issuance 71455
of the notes shall pledge the funds of the township public 71456
improvement tax increment equivalent fund established pursuant to 71457
section 5709.75 of the Revised Code to pay the interest on and 71458
principal of the notes. The notes, which may contain a clause 71459
permitting prepayment at the option of the board, shall be offered 71460
for sale on the open market or given to the vendor or contractor 71461
if no sale is made. 71462

~~(G)~~(I) The township, not later than fifteen days after the 71463
adoption of a resolution under this section, shall submit to the 71464
director of development a copy of the resolution. On or before the 71465
thirty-first day of March of each year, the township shall submit 71466

a status report to the director of development. The report shall 71467
indicate, in the manner prescribed by the director, the progress 71468
of the project during each year that the exemption remains in 71469
effect, including a summary of the receipts from service payments 71470
in lieu of taxes; expenditures of money from funds created under 71471
section 5709.75 of the Revised Code; a description of the public 71472
infrastructure improvements and housing renovations financed with 71473
such expenditures; and a quantitative summary of changes in 71474
private investment resulting from each project. 71475

~~(H)~~(J) Nothing in this section shall be construed to prohibit 71476
a board of township trustees from declaring to be a public purpose 71477
improvements with respect to more than one parcel. 71478

~~(I)~~(K) A board of township trustees that adopted a resolution 71479
under this section prior to July 21, 1994, may amend that 71480
resolution to include any additional public infrastructure 71481
improvement. A board of township trustees that seeks by such an 71482
amendment to utilize money from its township public improvement 71483
tax increment equivalent fund for land acquisition in aid of 71484
industry, commerce, distribution, or research, demolition on 71485
private property, or stormwater and flood remediation projects may 71486
do so provided that the board currently is a party to a 71487
hold-harmless agreement with the board of education of the city, 71488
local, or exempted village school district within the territory of 71489
which are located the parcels that are subject to an exemption. 71490
For the purposes of this division, a "hold-harmless agreement" 71491
means an agreement under which the board of township trustees 71492
agrees to compensate the school district for one hundred per cent 71493
of the tax revenue that the school district would have received 71494
from further improvements to parcels designated in the resolution 71495
were it not for the exemption granted by the resolution. 71496

Sec. 5709.77. As used in sections 5709.77 to 5709.81 of the 71497

Revised Code: 71498

(A) "Business day" means a day of the week excluding 71499
Saturday, Sunday, and a legal holiday as defined in section 1.14 71500
of the Revised Code. 71501

(B) "Fund" means to provide for the payment of the debt 71502
service on and the expenses relating to an outstanding obligation 71503
of the county. 71504

(C) "Housing renovation" means a project carried out for 71505
residential purposes. 71506

(D) "Improvement" means the increase in the ~~true~~ assessed 71507
value of real property that would first appear on the tax list and 71508
duplicate of real and public utility property after the effective 71509
date of a resolution adopted under section 5709.78 of the Revised 71510
Code were it not for the exemption granted by that resolution. 71511
~~"Improvement" does not include a public infrastructure~~ 71512
~~improvement.~~ For purposes of division (A) of section 5709.78 of 71513
the Revised Code, "improvement" does not include any property used 71514
or to be used for residential purposes. 71515

(E) "Incentive district" has the same meaning as in section 71516
5709.40 of the Revised Code, except that a blighted area is in the 71517
unincorporated territory of a county. 71518

(F) "Refund" means to fund and retire an outstanding 71519
obligation of the county. 71520

(G) "Project" and "public infrastructure improvement" have 71521
the same meanings as in section 5709.40 of the Revised Code. 71522

Sec. 5709.78. (A) A board of county commissioners may, by 71523
resolution, declare improvements to certain parcels of real 71524
property located in the unincorporated territory of the county to 71525
be a public purpose. Except as otherwise provided in division (C) 71526
of this section, not more than seventy-five per cent of an 71527

improvement thus declared to be a public purpose may be exempted 71528
from real property taxation; ~~the percentage exempted shall not,~~ 71529
~~except as otherwise provided in those divisions, exceed the~~ 71530
~~estimated percentage of the incremental demand placed on the~~ 71531
~~public infrastructure improvements that is directly attributable~~ 71532
~~to the exempted improvement.~~ The resolution shall specify the 71533
percentage of the improvement to be exempted. 71534

A resolution adopted under this division shall designate the 71535
specific public infrastructure improvements made, to be made, or 71536
in the process of being made by the county that directly benefit, 71537
or that once made will directly benefit, the parcels for which 71538
improvements are declared to be a public purpose. ~~For the purposes~~ 71539
~~of this division, a public infrastructure improvement directly~~ 71540
~~benefits such a parcel only if a project on the parcel places~~ 71541
~~direct, additional demand on the public infrastructure improvement~~ 71542
~~or, if the public infrastructure improvement has not yet been~~ 71543
~~completed, will place direct, additional demand on the public~~ 71544
~~infrastructure improvement once it is completed.~~ The service 71545
payments provided for in section 5709.79 of the Revised Code shall 71546
be used to finance the public infrastructure improvements 71547
designated in the resolution. 71548

(B)(1) A board of county commissioners may adopt a resolution 71549
creating an incentive district and declaring improvements to 71550
parcels within the district to be a public purpose and, except as 71551
provided in division (E) of this section, exempt from taxation as 71552
provided in this section, but no board of county commissioners of 71553
a county that has a population that exceeds twenty-five thousand, 71554
as shown by the most recent federal decennial census, shall adopt 71555
a resolution that creates an incentive district if, as a result of 71556
adopting the resolution, more than twenty-five per cent of the 71557
county's taxable value, as of the first day of January of the year 71558
in which the resolution takes effect, is subject to exemption 71559

because of an incentive district. The twenty-five per cent 71560
limitation does not apply to an incentive district that was 71561
created by a resolution adopted prior to January 1, 2006, unless 71562
the board creates an additional incentive district after that 71563
date. The district shall be located within the unincorporated 71564
territory of the county and shall not include any territory that 71565
is included within a district created under division (C) of 71566
section 5709.73 of the Revised Code. The resolution shall 71567
delineate the boundary of the district and specifically identify 71568
each parcel within the district. A district may not include any 71569
parcel that is or has been exempted from taxation under division 71570
(A) of this section or that is or has been within another district 71571
created under this division. A resolution may create more than one 71572
such district, and more than one resolution may be adopted under 71573
~~this~~ division (B)(1) of this section. 71574

(2) Not later than thirty days prior to adopting a resolution 71575
under ~~this~~ division (B)(1) of this section, if the county intends 71576
to apply for exemptions from taxation under section 5709.911 of 71577
the Revised Code on behalf of owners of real property located 71578
within the proposed incentive district, the board of county 71579
commissioners shall conduct a public hearing on the proposed 71580
resolution. Not later than thirty days prior to the public 71581
hearing, the board shall give notice of the public hearing and the 71582
proposed resolution by first class mail to every real property 71583
owner whose property is located within the boundaries of the 71584
proposed incentive district that is the subject of the proposed 71585
resolution. The board also shall provide the notice by first class 71586
mail to the clerk of each township in which the proposed incentive 71587
district will be located. 71588

(3)(a) A resolution under ~~this~~ division (B)(1) of this 71589
section shall specify the life of the district and the percentage 71590
of the improvements to be exempted ~~and~~, shall designate the public 71591

infrastructure improvements made ~~or~~, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The resolution also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the resolution. The project identified may, but need not be, the project under division (B)(3)(b) of this section that places real property in use for commercial or industrial purposes.

(b) A resolution adopted under ~~this~~ division (B)(1) of this section may authorize the use of service payments provided for in section 5709.79 of the Revised Code for the purpose of housing renovations within the district, provided that the resolution also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The resolution shall designate the parcels within the district that are eligible for housing renovations. The resolution shall state separately the amount or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the district is or will be located, and subject to division (D) of this section, the life of a an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With ~~such~~ approval of the board of education, the life of a district may be not more than thirty years, and the percentage of

improvements to be exempted may be not more than one hundred per cent. 71624
71625

(5) Approval of a board of education shall be obtained in the 71626
manner provided in division (C) of this section for exemptions 71627
under division (A) of this section, except that the notice to the 71628
board of education shall delineate the boundaries of the district, 71629
specifically identify each parcel within the district, identify 71630
each anticipated improvement in the district, provide an estimate 71631
of the true value in money of each such improvement, specify the 71632
life of the district and the percentage of improvements that would 71633
be exempted, and indicate the date on which the board of county 71634
commissioners intends to adopt the resolution. 71635

~~A board of county commissioners shall not adopt a resolution 71636
under this division after June 30, 2007. 71637~~

(C)(1) Improvements with respect to a parcel may be exempted 71638
from taxation under division (A) of this section for up to ten 71639
years or, with the approval of the board of education of the city, 71640
local, or exempted village school district within which the parcel 71641
is located, for up to thirty years. The percentage of the 71642
improvements exempted from taxation may, with such approval, 71643
exceed seventy-five per cent, but shall not exceed one hundred per 71644
cent. Not later than forty-five business days prior to adopting a 71645
resolution under this section declaring improvements to be a 71646
public purpose that is subject to the approval of a board of 71647
education under this division, the board of county commissioners 71648
shall deliver to the board of education a notice stating its 71649
intent to adopt a resolution making that declaration. The notice 71650
shall identify the parcels for which improvements are to be 71651
exempted from taxation, provide an estimate of the true value in 71652
money of the improvements, specify the period for which the 71653
improvements would be exempted from taxation and the percentage of 71654
the improvements that would be exempted, and indicate the date on 71655

which the board of county commissioners intends to adopt the 71656
resolution. The board of education, by resolution adopted by a 71657
majority of the board, may approve the exemption for the period or 71658
for the exemption percentage specified in the notice, may 71659
disapprove the exemption for the number of years in excess of ten, 71660
may disapprove the exemption for the percentage of the 71661
improvements to be exempted in excess of seventy-five per cent, or 71662
both, or may approve the exemption on the condition that the board 71663
of county commissioners and the board of education negotiate an 71664
agreement providing for compensation to the school district equal 71665
in value to a percentage of the amount of taxes exempted in the 71666
eleventh and subsequent years of the exemption period or, in the 71667
case of exemption percentages in excess of seventy-five per cent, 71668
compensation equal in value to a percentage of the taxes that 71669
would be payable on the portion of the improvements in excess of 71670
seventy-five per cent were that portion to be subject to taxation, 71671
or other mutually agreeable compensation. The board of education 71672
shall certify its resolution to the board of county commissioners 71673
not later than fourteen days prior to the date the board of county 71674
commissioners intends to adopt its resolution as indicated in the 71675
notice. ~~If the board of education approves the exemption on the~~ 71676
~~condition that a compensation agreement be negotiated, the board~~ 71677
~~of education in its resolution shall propose a compensation~~ 71678
~~percentage.~~ If the board of education and the board of county 71679
commissioners negotiate a mutually acceptable compensation 71680
agreement, the resolution of the board of county commissioners may 71681
declare the improvements a public purpose for the number of years 71682
specified in that resolution or, in the case of exemption 71683
percentages in excess of seventy-five per cent, for the exemption 71684
percentage specified in the resolution. In either case, if the 71685
board of education and the board of county commissioners fail to 71686
negotiate a mutually acceptable compensation agreement, the 71687
resolution may declare the improvements a public purpose for not 71688

more than ten years, but shall not exempt more than seventy-five 71689
per cent of the improvements from taxation, ~~or, in the case of a~~ 71690
~~resolution adopted under division (A) of this section, not more~~ 71691
~~than the estimated percentage of the incremental demand as~~ 71692
~~otherwise prescribed by division (A) of this section if that~~ 71693
~~percentage is less than seventy five per cent.~~ If the board of 71694
education fails to certify a resolution to the board of county 71695
commissioners within the time prescribed by this section, the 71696
board of county commissioners thereupon may adopt the resolution 71697
and may declare the improvements a public purpose for up to thirty 71698
years or, in the case of exemption percentages proposed in excess 71699
of seventy-five per cent, for the exemption percentage specified 71700
in the resolution. The board of county commissioners may adopt the 71701
resolution at any time after the board of education certifies its 71702
resolution approving the exemption to the board of county 71703
commissioners, or, if the board of education approves the 71704
exemption on the condition that a mutually acceptable compensation 71705
agreement be negotiated, at any time after the compensation 71706
agreement is agreed to by the board of education and the board of 71707
county commissioners. 71708

(2) If a board of education has adopted a resolution waiving 71709
its right to approve exemptions from taxation and the resolution 71710
remains in effect, approval of such exemptions by the board of 71711
education is not required under division (C)(1) of this section. 71712
If a board of education has adopted a resolution allowing a board 71713
of county commissioners to deliver the notice required under 71714
division (C)(1) of this section fewer than forty-five business 71715
days prior to approval of the resolution by the board of county 71716
commissioners, the board of county commissioners shall deliver the 71717
notice to the board of education not later than the number of days 71718
prior to such approval as prescribed by the board of education in 71719
its resolution. If a board of education adopts a resolution 71720
waiving its right to approve exemptions or shortening the 71721

notification period, the board of education shall certify a copy 71722
of the resolution to the board of county commissioners. If the 71723
board of education rescinds such a resolution, it shall certify 71724
notice of the rescission to the board of county commissioners. 71725

(D)(1) If a proposed resolution under division (B)(1) of this 71726
section exempts improvements with respect to a parcel for more 71727
than ten years, or the percentage of the improvement exempted from 71728
taxation exceeds seventy-five per cent, not later than forty-five 71729
business days prior to adopting the ordinance the board of county 71730
commissioners shall deliver to the board of township trustees of 71731
any township or legislative authority of any municipal corporation 71732
within which the incentive district is or will be located a notice 71733
that states its intent to adopt a resolution creating an incentive 71734
district. The notice shall include a copy of the proposed 71735
resolution. 71736

(2) The board of township trustees or legislative authority 71737
of the municipal corporation, or both, by resolution, may object 71738
to the exemption for the number of years in excess of ten, may 71739
object to the exemption for the percentage of the improvement to 71740
be exempted in excess of seventy-five per cent, or both, or may 71741
accept either or both exemptions. If the board of township 71742
trustees or legislative authority, or both, objects, the board of 71743
township trustees or legislative authority may negotiate an 71744
agreement with the board of county commissioners that provides to 71745
the board of township trustees or legislative authority, or both, 71746
in the eleventh and subsequent years of the exemption period 71747
compensation equal in value to not more than fifty per cent of the 71748
taxes that would be payable to the township or municipal 71749
corporation on the portion of the improvement in excess of 71750
seventy-five per cent, were that portion to be subject to 71751
taxation. The board of township trustees and legislative authority 71752
shall certify its resolution to the board of county commissioners 71753

not later than thirty days after receipt of the notice. 71754

(3) If the board of township trustees and the legislative authority of the municipal corporation does not object or fails to certify a resolution objecting to an exemption within thirty days after receipt of the notice, the board of county commissioners may adopt its resolution, and no compensation shall be provided to the board of township trustees or legislative authority. If both the board of township trustees or legislative authority of the municipal corporation certify resolutions objecting to the commissioners' resolution, the board of county commissioners may adopt its resolution at any time after both compensation agreements are agreed to by the board of county commissioners and the respective party to the agreement. If either the board of township trustees or legislative authority of the municipal corporation certify a resolution objecting to the commissioners' resolution, the board of county commissioners may adopt its resolution at any time after the compensation agreement is agreed to by the board of county commissioners and the board or legislative authority, or, if no compensation agreement is negotiated, at any time after the board of county commissioners agrees to provide compensation to the board of township trustees or legislative authority, or to both, of fifty per cent of the taxes that would be payable to the township or municipal corporation in the eleventh and subsequent years of the exemption period on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. 71755
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(E) Any of the following property tax levies that are enacted on or after January 1, 2006, and after the date an ordinance creating an incentive district is adopted on or after January 1, 2006, under division (C)(1) of this section shall be levied on property that was exempted from taxation under division (C) of this section and revenues collected from such levies shall not be 71780
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| <u>used to provide service payments under this section:</u> | 71786 |
| <u>(1) A tax levied under division (L) of section 5705.19 of the Revised Code for community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;</u> | 71787 71788 71789 71790 |
| <u>(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;</u> | 71791 71792 71793 |
| <u>(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;</u> | 71794 71795 |
| <u>(4) A tax levied under section 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services;</u> | 71796 71797 |
| <u>(5) A tax levied under section 5705.23 of the Revised Code for library purposes;</u> | 71798 71799 |
| <u>(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children.</u> | 71800 71801 71802 |
| <u>(F) An exemption from taxation granted under this section commences with the tax year in which an improvement first appears on the tax list and duplicate of real and public utility property and specified in the resolution that begins after the effective date of the resolution. Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the county can no longer require annual service payments in lieu of taxes under section 5709.79 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel may end on a later date, as specified in the resolution, if the board of commissioners and the board of education of the city, local, or exempted village school district within which the parcel</u> | 71803 71804 71805 71806 71807 71808 71809 71810 71811 71812 71813 71814 71815 71816 |

is located have entered into a compensation agreement under 71817
section 5709.82 of the Revised Code with respect to the 71818
improvement or district and the board of education has approved 71819
the term of the exemption under division (C)(1) of this section, 71820
but in no case shall the improvement be exempted from taxation for 71821
more than thirty years. Exemptions shall be claimed and allowed in 71822
the same or a similar manner as in the case of other real property 71823
exemptions. If an exemption status changes during a tax year, the 71824
procedure for the apportionment of the taxes for that year is the 71825
same as in the case of other changes in tax exemption status 71826
during the year. 71827

~~(E)~~(G) If the board of county commissioners is not required 71828
by this section to notify the board of education of the board of 71829
county commissioners' intent to declare improvements to be a 71830
public purpose, the board of county commissioners shall comply 71831
with the notice requirements imposed under section 5709.83 of the 71832
Revised Code before taking formal action to adopt the resolution 71833
making that declaration, unless the board of education has adopted 71834
a resolution under that section waiving its right to receive such 71835
a notice. 71836

~~(F)~~(H) The county, not later than fifteen days after the 71837
adoption of a resolution under this section, shall submit to the 71838
director of development a copy of the resolution. On or before the 71839
thirty-first day of March of each year, the county shall submit a 71840
status report to the director of development. The report shall 71841
indicate, in the manner prescribed by the director, the progress 71842
of the project during each year that an exemption remains in 71843
effect, including a summary of the receipts from service payments 71844
in lieu of taxes; expenditures of money from funds created under 71845
section 5709.75 of the Revised Code; a description of the public 71846
infrastructure improvements and housing renovations financed with 71847
such expenditures; and a quantitative summary of changes in 71848

employment and private investment resulting from each project. 71849

~~(G)~~(I) Nothing in this section shall be construed to prohibit 71850
a board of county commissioners from declaring to be a public 71851
purpose improvements with respect to more than one parcel. 71852

Sec. 5711.01. As used in this chapter: 71853

(A) "Taxable property" includes all the kinds of property 71854
mentioned in division (B) of section 5709.01 and section 5709.02 71855
of the Revised Code, and also the amount or value as of the date 71856
of conversion of all taxable property converted into bonds or 71857
other securities not taxed on or after the first day of November 71858
in the year preceding the date of listing, and of all other 71859
taxable property converted into deposits after the date as of 71860
which deposits are required to be listed in such year, except in 71861
the usual course of the taxpayer's business, to the extent ~~he~~ the 71862
taxpayer may hold or control such bonds, securities, or deposits 71863
on such day, without deduction for indebtedness created in the 71864
purchase of such bonds or securities from ~~his~~ the taxpayer's 71865
credits. ~~However, taxable~~ "Taxable property" does not include such 71866
investments and deposits as are taxable at the source as provided 71867
in sections 5725.01 to 5725.26 of the Revised Code, surrender 71868
values under policies of insurance, or any tangible personal 71869
property acquired from a public utility or interexchange 71870
telecommunications company as defined in section 5727.01 of the 71871
Revised Code, and leased back to the public utility or 71872
interexchange telecommunications company pursuant to a sale and 71873
leaseback transaction as defined in division (I) of section 71874
5727.01 of the Revised Code. 71875

For tax year 2007 and thereafter, taxable property leased to 71876
a telephone, telegraph, or interexchange telecommunications 71877
company, as defined in section 5727.01 of the Revised Code, shall 71878
be listed and assessed by the owner of the property at the 71879

percentage of true value in money required under division (H) of 71880
section 5711.22 of the Revised Code. 71881

(B) "Taxpayer" means any owner of taxable property, including 71882
property exempt under division (C) of section 5709.01 of the 71883
Revised Code, and includes every person residing in, or 71884
incorporated or organized by or under the laws of this state, or 71885
doing business in this state, or owning or having a beneficial 71886
interest in taxable personal property in this state and every 71887
fiduciary required by sections 5711.01 to 5711.36 of the Revised 71888
Code, to make a return for or on behalf of another. For tax year 71889
2007 and thereafter, "taxpayer" includes telephone companies, 71890
telegraph companies, and interexchange telecommunications company 71891
as defined in section 5727.01 of the Revised Code. The tax 71892
commissioner may by rule define and designate the taxpayer, as to 71893
any taxable property which would not otherwise be required by this 71894
section to be returned; and any such rule shall be considered 71895
supplementary to the enumeration of kinds of taxpayers following: 71896

(1) Individuals of full age and sound mind residing in this 71897
state; 71898

(2) Partnerships, corporations, associations, and joint-stock 71899
companies, under whatever laws organized or existing, doing 71900
business or having taxable property in this state; and 71901
corporations incorporated by or organized under the laws of this 71902
state, wherever their actual business is conducted; 71903

(3) Fiduciaries appointed by any court in this state or 71904
having title, possession, or custody of taxable personal property 71905
in this state or engaged in business in this state; 71906

(4) Unincorporated mutual funds. 71907

Taxpayer excludes all individuals, partnerships, 71908
corporations, associations, and joint-stock companies, their 71909
executors, administrators, and receivers who are defined in Title 71910

LVII of the Revised Code as financial institutions, dealers in 71911
intangibles, domestic insurance companies, or public utilities, 71912
except to the extent they may be required by sections 5711.01 to 71913
5711.36 of the Revised Code, to make returns as fiduciaries, or by 71914
section 5725.26 of the Revised Code, to make returns of property 71915
leased, or held for the purpose of leasing, to others if the owner 71916
or lessor of the property acquired it for the sole purpose of 71917
leasing it to others or to the extent that property is taxable 71918
under section 5725.25 of the Revised Code. 71919

(C) "Return" means the taxpayer's annual report of taxable 71920
property. 71921

(D) "List" means the designation, in a return, of the 71922
description of taxable property, the valuation or amount thereof, 71923
the name of the owner, and the taxing district where assessable. 71924

(E) "Taxing district" means, in the case of property 71925
assessable on the classified tax list and duplicate, a municipal 71926
corporation or the territory in a county outside the limits of all 71927
municipal corporations therein; in the case of property assessable 71928
on the general tax list and duplicate, a municipal corporation or 71929
township, or part thereof, in which the aggregate rate of taxation 71930
is uniform. 71931

(F) "Assessor" includes the tax commissioner and the county 71932
auditor as deputy of the commissioner. 71933

(G) "Fiduciary" includes executors, administrators, parents, 71934
guardians, receivers, assignees, official custodians, factors, 71935
bailees, lessees, agents, attorneys, and employees, but does not 71936
include trustees unless the sense so requires. 71937

(H) "General tax list and duplicate" means the books or 71938
records containing the assessments of property subject to local 71939
tax levies. 71940

(I) "Classified tax list and duplicate" means the books or 71941

records containing the assessments of property not subject to 71942
local tax levies. 71943

(J) "Investment company" means any corporation, the shares of 71944
which are regularly offered for sale to the public, engaged solely 71945
in the business of investing and reinvesting funds in real 71946
property or investments, or holding or selling real property or 71947
investments for the purpose of realizing income or profit which is 71948
distributed to its shareholders. Investment company does not 71949
include any dealer in intangibles, as defined in section 5725.01 71950
of the Revised Code. 71951

(K) "Unincorporated mutual fund" means any partnership, each 71952
partner of which is a corporation, engaged solely in the business 71953
of investing and reinvesting funds in investments, or holding or 71954
selling investments for the purpose of realizing income or profit 71955
which is distributed to its partners and which is subject to 71956
Chapter 1707. of the Revised Code. An unincorporated mutual fund 71957
does not include any dealer in intangibles as defined in section 71958
5725.01 of the Revised Code. 71959

Sec. 5711.16. (A) As used in this section, ~~manufacturer:~~ 71960

(1) "Manufacturer" means a person who purchases, receives, or 71961
holds personal property for the purpose of adding to its value by 71962
manufacturing, refining, rectifying, or combining different 71963
materials with a view of making a gain or profit by so doing. 71964

(2) "Manufacturing equipment" means machinery and equipment, 71965
and tools and implements, including any associated patterns, jigs, 71966
dies, drawings, and business fixtures, used at a manufacturing 71967
facility by a manufacturer, and includes any such property leased 71968
to the manufacturer. "Manufacturing equipment" excludes property 71969
used for general office purposes. Nothing in this division is to 71970
be construed to change the definition of personal property, as 71971
defined in section 5701.03 of the Revised Code. 71972

(3) "Manufacturing facility" means a facility or portion of a facility used for manufacturing, mining, refining, rectifying, or combining different materials with a view of making a gain or profit by so doing. "Manufacturing facility" includes that portion of a facility used to store or transport raw materials, work-in-process, or finished goods inventory, for packaging, for research, or to test for quality control, as long as manufacturing, mining, refining, rectifying, or combining is also performed at the facility. "Manufacturing facility" does not include any portion of a facility used primarily for making retail sales.

(4) "Manufacturing inventory" means all articles purchased, received, or otherwise held for the purpose of being used, in whole or in part, in manufacturing, mining, combining, rectifying, or refining, and of all articles that were at any time manufactured or changed in any way by a manufacturer, either by mining, combining, rectifying, refining, or adding thereto.

(B) When a manufacturer is required to return a statement of the amount of the manufacturer's personal property used in business, the manufacturer shall include the average value, estimated as provided in this section, of ~~all articles purchased, received, or otherwise held for the purpose of being used, in whole or in part, in manufacturing, combining, rectifying, or refining, and of all articles that were at any time manufactured or changed in any way by the manufacturer, either by combining, rectifying, refining, or adding thereto,~~ manufacturing inventory that the manufacturer has had on hand during the year ending on the day the property is listed for taxation annually, or the part of such year during which the manufacturer was engaged in business. The manufacturer shall separately list finished products not kept or stored at the place of manufacture or at a warehouse in the same county.

The average value of such property shall be ascertained by 72005
taking the value of all property subject to be listed on the 72006
average basis, owned by the manufacturer on the last business day 72007
of each month the manufacturer was engaged in business during the 72008
year, adding the monthly values together, and dividing the result 72009
by the number of months the manufacturer was engaged in such 72010
business during the year. The result shall be the average value to 72011
be listed. 72012

~~(B)(C)~~ A manufacturer also shall list all ~~engines and~~ 72013
~~machinery, and tools and implements, of every kind used, or~~ 72014
~~designed to be used, in refining and manufacturing, and equipment~~ 72015
owned or used by the manufacturer. 72016

Sec. 5711.21. (A) In assessing taxable property the assessor 72017
shall be governed by the rules of assessment prescribed by 72018
sections 5711.01 to 5711.36 of the Revised Code. Wherever any 72019
taxable property is required to be assessed at its true value in 72020
money or at any percentage of true value, the assessor shall be 72021
guided by the statements contained in the taxpayer's return and 72022
such other rules and evidence as will enable the assessor to 72023
arrive at such true value. Wherever the income yield of taxable 72024
property is required to be assessed, and the method of determining 72025
between income and return or distribution of principal, or that of 72026
allocating expenses in determining net income, or that of 72027
ascertaining the source from which partial distributions of income 72028
have been made is not expressly prescribed by sections 5711.01 to 72029
5711.36 of the Revised Code, the assessor shall be guided by the 72030
statements contained in the taxpayer's return and such general 72031
rules as the tax commissioner adopts to enable the assessor to 72032
make such determination. 72033

(B) ~~The~~ For tax years before tax year 2009, the true value of 72034
the boilers, machinery, equipment, and any personal property used 72035

to generate or distribute the electricity shall be the sum of the 72036
following: 72037

(1) The true value of the property as it would be determined 72038
under this chapter if none of the electricity were distributed to 72039
others multiplied by the per cent of the electricity generated in 72040
the preceding calendar year that was used by the person who 72041
generated it; plus 72042

(2) The true value of the property that is production 72043
equipment as it would be determined for an electric company under 72044
section 5727.11 of the Revised Code multiplied by the per cent of 72045
the electricity generated in the preceding calendar year that was 72046
not used by the person who generated it; plus 72047

(3) The true value of the property that is not production 72048
equipment as it would be determined for an electric company under 72049
section 5727.11 of the Revised Code multiplied by the per cent of 72050
the electricity generated in the preceding calendar year that was 72051
not used by the person who generated it. 72052

(C) ~~The~~ For tax years before tax year 2009, the true value of 72053
personal property leased to a public utility or interexchange 72054
telecommunications company as defined in section 5727.01 of the 72055
Revised Code and used by the utility or interexchange 72056
telecommunications company directly in the rendition of a public 72057
utility service as defined in division (P) of section 5739.01 of 72058
the Revised Code shall be determined in the same manner that the 72059
true value of such property is determined under section 5727.11 of 72060
the Revised Code if owned by the public utility or interexchange 72061
telecommunications company. 72062

Sec. 5711.22. (A) Deposits not taxed at the source shall be 72063
listed and assessed at their amount in dollars on the day they are 72064
required to be listed. Moneys shall be listed and assessed at the 72065
amount thereof in dollars on hand on the day that they are 72066

required to be listed. In listing investments, the amount of the 72067
income yield of each for the calendar year next preceding the date 72068
of listing shall, except as otherwise provided in this chapter, be 72069
stated in dollars and cents and the assessment thereof shall be at 72070
the amount of such income yield; but any property defined as 72071
investments in either division (A) or (B) of section 5701.06 of 72072
the Revised Code that has not been outstanding for the full 72073
calendar year next preceding the date of listing, except shares of 72074
stock of like kind as other shares of the same corporation 72075
outstanding for the full calendar year next preceding the date of 72076
listing, or which has yielded no income during such calendar year 72077
shall be listed and assessed as unproductive investments, at their 72078
true value in money on the day that such investments are required 72079
to be listed. 72080

Credits and other taxable intangibles shall be listed and 72081
assessed at their true value in money on the day as of which the 72082
same are required to be listed. 72083

Shares of stock of a bank holding company, as defined in 72084
Title 12 U.S.C.A., section 1841, that are required to be listed 72085
for taxation under this division and upon which dividends were 72086
paid during the year of their issuance, which dividends are 72087
subject to taxation under the provisions of Chapter 5747. of the 72088
Revised Code, shall be exempt from the intangibles tax for the 72089
year immediately succeeding their issuance. If such shares bear 72090
dividends the first calendar year after their issuance, which 72091
dividends are subject to taxation under the provisions of Chapter 72092
5747. of the Revised Code, it shall be deemed that the 72093
nondelinquent intangible property tax pursuant to division (A) of 72094
section 5707.04 of the Revised Code was paid on those dividends 72095
paid that first calendar year after the issuance of the shares. 72096

~~(B)(1) Boilers~~ For tax years before tax year 2009, boilers, 72097
machinery, equipment, and personal property the true value of 72098

which is determined under division (B) of section 5711.21 of the Revised Code shall be listed and assessed at an amount equal to the sum of the products determined under divisions (B)(1)~~(a)~~, ~~(b)~~(2), and ~~(c)~~(3) of this section-;:

~~(a)~~(1) Multiply the portion of the true value determined under division (B)(1) of section 5711.21 of the Revised Code by the assessment rate for the tax year in division ~~(F)~~(G) of this section;

~~(b)~~(2) Multiply the portion of the true value determined under division (B)(2) of section 5711.21 of the Revised Code by the assessment rate in section 5727.111 of the Revised Code that is applicable to the production equipment of an electric company;

~~(c)~~(3) Multiply the portion of the true value determined under division (B)(3) of section 5711.21 of the Revised Code by the assessment rate in section 5727.111 of the Revised Code that is applicable to the property of an electric company that is not production equipment.

~~(2) Personal~~ (C) For tax years before tax year 2009, personal property leased to a public utility or interexchange telecommunications company as defined in section 5727.01 of the Revised Code and used directly in the rendition of a public utility service as defined in division (P) of section 5739.01 of the Revised Code shall be listed and assessed at the same percentage of true value in money that such property is required to be assessed by section 5727.111 of the Revised Code if owned by the public utility or interexchange telecommunications company.

~~(C)~~(D)(1) Merchandise or an agricultural product shipped from outside this state and held in this state in a warehouse or a place of storage without further manufacturing or processing and for storage only and for shipment outside this state, but that ~~is taxable because it~~ does not qualify as "not used in business in

this state" under division (B)(1) or (2) of section 5701.08 of the Revised Code, shall be listed and assessed at a rate of twenty five one hundredths of its true value in money until reduced in accordance with the following schedule:

(a) For any year, subtract five one hundredths from the rate at which such property was required to be listed and assessed in the preceding year, if the total statewide collection of all real and tangible personal property taxes for the second preceding year exceeded the total statewide collection of all real and tangible personal property taxes for the third preceding year by more than the greater of four per cent or the rate of increase from the third to the second preceding years in the average consumer price index (all urban consumers, all items) prepared by the bureau of labor statistics of the United States department of labor:

(b) If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year.

(2) Each year until the year the assessment rate equals zero, the tax commissioner shall determine the assessment rate required under this division and shall notify all county auditors of that rate.

(3) Notwithstanding provisions to the contrary in division (B) of section 5701.08 of the Revised Code, during and after the year for which the assessment rate as calculated under this division equals zero, any merchandise or agricultural product shipped from outside this state and held in this state in any warehouse or place of storage, whether public or private, without further manufacturing or processing and for storage only and for shipment outside this state to any person for any purpose is nevertheless not used in business in this state for property tax purposes.

(D)(1)(2) Merchandise or an agricultural product owned by a

qualified out-of-state person shipped from outside this state and 72161
held in this state in a public warehouse without further 72162
manufacturing or processing and for temporary storage only and for 72163
shipment inside this state, but that ~~is taxable because it~~ does 72164
not qualify as "not used in business in this state" under division 72165
(B)(1) or (2) of section 5701.08 of the Revised Code, ~~shall be~~ 72166
~~listed and assessed at a rate of twenty five one hundredths of its~~ 72167
~~true value in money until reduced in accordance with the following~~ 72168
~~schedule:~~ 72169

~~(a) For any year, subtract five one hundredths from the rate 72170
at which such property was required to be listed and assessed in 72171
the preceding year, if the total statewide collection of all real 72172
and tangible personal property taxes for the second preceding year 72173
exceeded the total statewide collection of all real and tangible 72174
personal property taxes for the third preceding year by more than 72175
the greater of four per cent or the rate of increase from the 72176
third to the second preceding years in the average consumer price 72177
index (all urban consumers, all items) prepared by the bureau of 72178
labor statistics of the United States department of labor;~~ 72179

~~(b) If no reduction in the assessment rate is made for a 72180
year, the rate is the same as for the preceding year.~~ 72181

~~(2) Each year until the year the assessment rate equals zero, 72182
the tax commissioner shall determine the assessment rate required 72183
under this division and shall notify all county auditors of that 72184
rate.~~ 72185

~~(3) Notwithstanding provisions to the contrary in division 72186
(B) of section 5701.08 of the Revised Code, during and after the 72187
year for which the assessment rate as calculated under this 72188
division equals zero, any merchandise or agricultural product 72189
described in division (D)(1) of this section is nevertheless not 72190
used in business in this state for property tax purposes.~~ 72191

~~(4)(3)~~ As used in division (D)~~(2)~~ of this section: 72192

(a) "Qualified out-of-state person" means a person that does 72193
not own, lease, or use property, other than merchandise or an 72194
agricultural product described in this division, in this state, 72195
and does not have employees, agents, or representatives in this 72196
state; 72197

(b) "Public warehouse" means a warehouse in this state that 72198
is not subject to the control of or under the supervision of the 72199
owner of the merchandise or agricultural product stored in it, or 72200
staffed by the owner's employees, and from which the property is 72201
to be shipped inside this state. 72202

(E) Personal property valued pursuant to section 5711.15 of 72203
the Revised Code and personal property required to be listed on 72204
the average basis by division ~~(A)~~ (B) of section 5711.16 of the 72205
Revised Code, except property described in division ~~(C)~~ ~~or~~ (D) of 72206
this section, business fixtures, and furniture not held for sale 72207
in the course of business, shall be listed and assessed at ~~the~~ 72208
~~rate of twenty five per cent of its true value in money until~~ 72209
~~reduced to zero in accordance with the following schedule:~~ 72210

~~(1) Beginning in tax year 2002 and for each of tax years 2003~~ 72211
~~and 2004, subtract one percentage point from the rate at which the~~ 72212
~~property was required to be listed and assessed in the preceding~~ 72213
~~year, if the total statewide collection of tangible personal~~ 72214
~~property taxes for the second preceding year exceeded the total~~ 72215
~~statewide collection of tangible personal property taxes for the~~ 72216
~~third preceding year. If no reduction in the assessment rate is~~ 72217
~~made for a year, the rate is the same as for the preceding year.~~ 72218

~~(2) In tax years 2005 and 2006, the assessment rate shall be~~ 72219
~~reduced by two percentage points, if the total statewide~~ 72220
~~collection of tangible personal property taxes for the second~~ 72221
~~preceding year exceeded the total statewide collection of tangible~~ 72222

~~personal property taxes for the third preceding year. If no~~ 72223
~~reduction in the assessment rate is made for a year, the rate is~~ 72224
~~the same as for the preceding year.~~ 72225

~~(3) For tax year 2007 and each tax year thereafter, the~~ 72226
~~assessment rate shall be reduced by two percentage points. During~~ 72227
~~and after the tax year that the assessment rate equals zero, the~~ 72228
~~property described in division (E) of this section shall not be~~ 72229
~~listed for taxation.~~ 72230

~~Each year until the year the assessment rate equals zero, the~~ 72231
~~tax commissioner shall determine the assessment rate required~~ 72232
~~under this division and shall notify all county auditors of that~~ 72233
~~rate.~~ 72234

~~For purposes of division (E) of this section, "total~~ 72235
~~statewide collection of tangible person property taxes" excludes~~ 72236
~~taxes collected from public utilities and interexchange~~ 72237
~~telecommunications companies on property that is determined to be~~ 72238
~~taxable pursuant to section 5727.06 of the Revised Code~~ 72239
~~twenty-three per cent of its true value in money for tax year 2005~~ 72240
~~and at the percentage of such true value specified in division (G)~~ 72241
~~of this section for tax year 2006 and each tax year thereafter.~~ 72242

~~(F) All manufacturing equipment as defined in section 5711.16~~ 72243
~~of the Revised Code shall be listed and assessed at the following~~ 72244
~~percentage of its true value in money:~~ 72245

~~(1) For all such property not previously used in business in~~ 72246
~~this state by the owner thereof, or by related member or~~ 72247
~~predecessor of the owner, other than as inventory, before January~~ 72248
~~1, 2005, zero per cent of true value;~~ 72249

~~(2) For all other such property, at the percentage of true~~ 72250
~~value specified in division (G) of this section for tax year 2005~~ 72251
~~and each tax year thereafter.~~ 72252

~~(F)~~(G) Unless otherwise provided by law, all other personal 72253

property used in business that has not been legally regarded as an 72254
improvement on land and considered in arriving at the value of the 72255
real property assessed for taxation shall be listed and assessed 72256
at the ~~rate of twenty-five per cent~~ following percentages of its 72257
true value in money: 72258

(1) For tax year 2005, twenty-five per cent of true value; 72259

(2) For tax year 2006, eighteen and three-fourths per cent of 72260
true value; 72261

(3) For tax year 2007, twelve and one-half per cent of true 72262
value; 72263

(4) For tax year 2008, six and one-fourth per cent of true 72264
value; 72265

(5) For tax year 2009 and each tax year thereafter, zero per 72266
cent of true value. 72267

(H)(1) For tax year 2007 and thereafter, all personal 72268
property used by a telephone company, telegraph company, or 72269
interexchange telecommunications company shall be listed as 72270
provided in this chapter and assessed at the following percentages 72271
of true value in money: 72272

(a) For tax year 2007, twenty per cent of true value; 72273

(b) For tax year 2008, fifteen per cent of true value; 72274

(c) For tax year 2009, ten per cent of true value; 72275

(d) For tax year 2010, five per cent of true value; 72276

(e) For tax year 2011 and each tax year thereafter, zero per 72277
cent of true value. 72278

(2) The property owned by a telephone, telegraph, or 72279
telecommunications company shall be apportioned to each 72280
appropriate taxing district as provided in section 5727.15 of the 72281
Revised Code. 72282

(I) During and after the tax year in which the assessment rate equals zero per cent, the property described in division (E), (F), (G), or (H) of this section shall not be listed for taxation. 72283
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(J) Divisions (E), (F), (G), and (H) of this section apply to the property of a person described in divisions (E)(3) to (10) of section 5751.01 of the Revised Code. Division (J) of this section does not prevent the application of the exemption of property from taxation under section 5725.25 or 5725.26 of the Revised Code. 72286
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Sec. 5711.28. Whenever the assessor imposes a penalty prescribed by section 5711.27 or 5725.17 of the Revised Code, the assessor shall send notice of such penalty assessment to the taxpayer by mail. If the notice also reflects the assessment of any property not listed in or omitted from a return, or the assessment of any item or class of taxable property listed in a return by the taxpayer in excess of the value or amount thereof as so listed, or without allowing a claim duly made for deduction from the net book value of accounts receivable, or depreciated book value of personal property used in business, so listed, and the taxpayer objects to one or more of such corrections in addition to the penalty, the taxpayer shall proceed as prescribed by section 5711.31 of the Revised Code, but if no such correction is reflected in the notice, or if the taxpayer does not object to any such correction made, ~~he~~ the taxpayer shall proceed as prescribed herein. 72291
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Within sixty days after the mailing of the notice of a penalty assessment prescribed by this section, the taxpayer may file with the tax commissioner, in person or by certified mail, a petition for abatement of such penalty assessment. If the petition is filed by certified mail, the date of the United States postmark placed on the sender's receipt by the postal employee to whom the petition is presented shall be treated as the date of filing. The 72307
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petition shall have attached thereto and incorporated therein by 72314
reference a true copy of the notice of assessment complained of, 72315
but the failure to attach a copy of such notice and incorporate it 72316
by reference does not invalidate the petition. The petition shall 72317
also indicate that the taxpayer's only objection is to the 72318
assessed penalty and the reason for such objection. 72319

Upon the filing of a petition for abatement of penalty, the 72320
commissioner shall notify the treasurer of state or the auditor 72321
and treasurer of each county having any part of the penalty 72322
assessment entered on the tax list or duplicate. The commissioner 72323
shall review the petition without the need for hearing. If it 72324
appears that the failure of the taxpayer to timely return or list 72325
as required under this chapter, or to file a complying report and 72326
pay tax under Chapter 5725. of the Revised Code, whichever the 72327
case may be, was due to reasonable cause and not willful neglect, 72328
the commissioner may abate in whole or in part the penalty 72329
assessment. The commissioner shall transmit a certificate of the 72330
commissioner's determination to the taxpayer, and if no appeal is 72331
taken therefrom as provided by law, or upon the final 72332
determination of an appeal which may be taken, the commissioner 72333
shall notify the treasurer of state or the proper county auditor 72334
of such final determination. If the final determination orders 72335
abatement of the penalty assessment, the notification may be in 72336
the form of an amended assessment certificate. Upon receipt of the 72337
notification, the treasurer of state or county auditor shall make 72338
any corrections to the treasurer's or auditor's records and tax 72339
lists and duplicates required in accordance therewith and proceed 72340
as prescribed by section 5711.32 or 5725.22 of the Revised Code. 72341

The decision of the commissioner shall be final with respect 72342
to the percentage of penalty, if any, the commissioner finds 72343
~~appropriate for the failure to return timely or list the property,~~ 72344
but neither the commissioner's decision nor a final judgment of 72345

the board of tax appeals or any court to which such final 72346
determination may be appealed shall finalize the assessment of 72347
such property. 72348

Sec. 5713.01. (A) Each county shall be the unit for assessing 72349
real estate for taxation purposes. The county auditor shall be the 72350
assessor of all the real estate in ~~his~~ the auditor's county for 72351
purposes of taxation, but this section does not affect the power 72352
conferred by Chapter 5727. of the Revised Code upon the tax 72353
commissioner regarding the valuation and assessment of ~~the~~ real 72354
property ~~of railroads~~ used in railroad operations. 72355

(B) The auditor shall assess all the real estate situated in 72356
the county at its taxable value in accordance with sections 72357
5713.03, 5713.31, and 5715.01 of the Revised Code and with the 72358
rules and methods applicable to ~~his~~ the auditor's county adopted, 72359
prescribed, and promulgated by the tax commissioner. The auditor 72360
shall view and appraise or cause to be viewed and appraised at its 72361
true value in money, each lot or parcel of real estate, including 72362
land devoted exclusively to agricultural use, and the improvements 72363
located thereon at least once in each six-year period and the 72364
taxable values required to be derived therefrom shall be placed on 72365
the auditor's tax list and the county treasurer's duplicate for 72366
the tax year ordered by the commissioner pursuant to section 72367
5715.34 of the Revised Code. The commissioner may grant an 72368
extension of one year or less if ~~he~~ the commissioner finds that 72369
good cause exists for the extension. When the auditor so views and 72370
appraises, ~~he~~ the auditor may enter each structure located thereon 72371
to determine by actual view what improvements have been made 72372
therein or additions made thereto since the next preceding 72373
valuation. The auditor shall revalue and assess at any time all or 72374
any part of the real estate in such county, including land devoted 72375
exclusively to agricultural use, where ~~he~~ the auditor finds that 72376
the true or taxable values thereof have changed, and when a 72377

conservation easement is created under sections 5301.67 to 5301.70 72378
of the Revised Code. He The auditor may increase or decrease the 72379
true or taxable value of any lot or parcel of real estate in any 72380
township, municipal corporation, or other taxing district by an 72381
amount which will cause all real property on the tax list to be 72382
valued as required by law, or ~~he~~ the auditor may increase or 72383
decrease the aggregate value of all real property, or any class of 72384
real property, in the county, township, municipal corporation, or 72385
other taxing district, or in any ward or other division of a 72386
municipal corporation by a per cent or amount which will cause all 72387
property to be properly valued and assessed for taxation in 72388
accordance with Section 36, Article II, Section 2, Article XII, 72389
Ohio Constitution, this section, and sections 5713.03, 5713.31, 72390
and 5715.01 of the Revised Code. 72391

(C) When the auditor determines to reappraise all the real 72392
estate in the county or any class thereof, when the tax 72393
commissioner orders an increase in the aggregate true or taxable 72394
value of the real estate in any taxing subdivision, or when the 72395
taxable value of real estate is increased by the application of a 72396
uniform taxable value per cent of true value pursuant to the order 72397
of the commissioner, ~~he~~ the auditor shall advertise the completion 72398
of ~~his~~ the reappraisal or equalization action in a newspaper of 72399
general circulation in the county once a week for the three 72400
consecutive weeks next preceding the issuance of the tax bills. 72401
When the auditor changes the true or taxable value of any 72402
individual parcels of real estate, ~~he~~ the auditor shall notify the 72403
owner of the real estate, or the person in whose name the same 72404
stands charged on the duplicate, by mail or in person, of the 72405
changes ~~he~~ the auditor has made in the assessments of such 72406
property. Such notice shall be given at least thirty days prior to 72407
the issuance of the tax bills. Failure to receive notice shall not 72408
invalidate any proceeding under this section. 72409

(D) The auditor shall make the necessary abstracts from books 72410
of ~~his~~ the auditor's office containing descriptions of real estate 72411
in such county, together with such platbooks and lists of 72412
transfers of title to land as the auditor deems necessary in the 72413
performance of ~~his~~ the auditor's duties in valuing such property 72414
for taxation. Such abstracts, platbooks, and lists shall be in 72415
such form and detail as the tax commissioner prescribes. 72416

(E) The auditor, with the approval of the tax commissioner, 72417
may appoint and employ such experts, deputies, clerks, or other 72418
employees as ~~he~~ the auditor deems necessary to the performance of 72419
~~his~~ the auditor's duties as assessor, or, with the approval of the 72420
tax commissioner, ~~he~~ the auditor may enter into a contract with an 72421
individual, partnership, firm, company, or corporation to do all 72422
or any part of the work; the amount to be expended in the payment 72423
of the compensation of such employees shall be fixed by the board 72424
of county commissioners. If, in the opinion of the auditor, the 72425
board of county commissioners fails to provide a sufficient amount 72426
for the compensation of such employees, ~~he~~ the auditor may apply 72427
to the tax commissioner for an additional allowance, and the 72428
additional amount of compensation allowed by the commissioner 72429
shall be certified to the board of county commissioners, and the 72430
same shall be final. The salaries and compensation of such 72431
experts, deputies, clerks, and employees shall be paid upon the 72432
warrant of the auditor out of the general fund or the real estate 72433
assessment fund of the county, or both. If the salaries and 72434
compensation are in whole or in part fixed by the commissioner, 72435
they shall constitute a charge against the county regardless of 72436
the amount of money in the county treasury levied or appropriated 72437
for such purposes. 72438

(F) Any contract for goods or services related to the 72439
auditor's duties as assessor, including contracts for mapping, 72440
computers, and reproduction on any medium of any documents, 72441

records, photographs, microfiche, or magnetic tapes, but not 72442
including contracts for the professional services of an appraiser, 72443
shall be awarded pursuant to the competitive bidding procedures 72444
set forth in sections 307.86 to 307.92 of the Revised Code and 72445
shall be paid for, upon the warrant of the auditor, from the real 72446
estate assessment fund. 72447

(G) Experts, deputies, clerks, and other employees, in 72448
addition to their other duties, shall perform such services as the 72449
auditor directs in ascertaining such facts, description, location, 72450
character, dimensions of buildings and improvements, and other 72451
circumstances reflecting upon the value of real estate as will aid 72452
the auditor in fixing its true and taxable value and, in the case 72453
of land valued in accordance with section 5713.31 of the Revised 72454
Code, its current agricultural use value. The auditor may also 72455
summon and examine any person under oath in respect to any matter 72456
pertaining to the value of any real property within the county. 72457

Sec. 5715.01. (A) The tax commissioner shall direct and 72458
supervise the assessment for taxation of all real property. The 72459
commissioner shall adopt, prescribe, and promulgate rules for the 72460
determination of true value and taxable value of real property by 72461
uniform rule for such values and for the determination of the 72462
current agricultural use value of land devoted exclusively to 72463
agricultural use. The uniform rules shall prescribe methods of 72464
determining the true value and taxable value of real property and 72465
shall also prescribe the method for determining the current 72466
agricultural use value of land devoted exclusively to agricultural 72467
use, which method shall reflect standard and modern appraisal 72468
techniques, that take into consideration: the productivity of the 72469
soil under normal management practices; the average price patterns 72470
of the crops and products produced to determine the income 72471
potential to be capitalized; the market value of the land for 72472
agricultural use; and other pertinent factors. The rules shall 72473

provide that in determining the true value of lands or 72474
improvements thereon for tax purposes, all facts and circumstances 72475
relating to the value of the property, its availability for the 72476
purposes for which it is constructed or being used, its obsolete 72477
character, if any, the income capacity of the property, if any, 72478
and any other factor that tends to prove its true value shall be 72479
used. The In determining the true value of minerals or rights to 72480
minerals for the purpose of real property taxation, the tax 72481
commissioner shall not include in the value of the minerals or 72482
rights to minerals the value of any tangible personal property 72483
used in the recovery of those minerals. 72484

(B) The taxable value shall be that per cent of true value in 72485
money, or current agricultural use value in the case of land 72486
valued in accordance with section 5713.31 of the Revised Code, the 72487
commissioner by rule establishes, but it shall not exceed 72488
thirty-five per cent. The uniform rules shall also prescribe 72489
methods of making the appraisals set forth in section 5713.03 of 72490
the Revised Code. The taxable value of each tract, lot, or parcel 72491
of real property and improvements thereon, determined in 72492
accordance with the uniform rules and methods prescribed thereby, 72493
shall be the taxable value of the tract, lot, or parcel for all 72494
purposes of sections 5713.01 to 5713.26, 5715.01 to 5715.51, and 72495
5717.01 to 5717.06 of the Revised Code. County auditors shall, 72496
under the direction and supervision of the commissioner, be the 72497
chief assessing officers of their respective counties, and shall 72498
list and value the real property within their respective counties 72499
for taxation in accordance with this section and sections 5713.03 72500
and 5713.31 of the Revised Code and with such rules of the 72501
commissioner. There shall also be a board in each county, known as 72502
the county board of revision, which shall hear complaints and 72503
revise assessments of real property for taxation. 72504

(C) The commissioner shall neither adopt nor enforce any rule 72505

that requires true value for any tax year to be any value other 72506
than the true value in money on the tax lien date of such tax year 72507
or that requires taxable value to be obtained in any way other 72508
than by reducing the true value, or in the case of land valued in 72509
accordance with section 5713.31 of the Revised Code, its current 72510
agricultural use value, by a specified, uniform percentage. 72511

Sec. 5715.24. (A) The tax commissioner, annually, shall 72512
determine whether the real property and the various classes 72513
thereof in the several counties, municipal corporations, and 72514
taxing districts which have completed a sexennial reappraisal in 72515
the current year and which will have the new taxable values placed 72516
on the tax list and duplicate have been assessed as required by 72517
law, and whether the values set forth in the agricultural land tax 72518
list in such taxing districts correctly reflect the true and 72519
agricultural use values of the lands contained therein. The 72520
determination shall be made prior to the first Monday in August 72521
unless the commissioner, for good cause, extends the date. If the 72522
commissioner finds that the real property or any class thereof in 72523
any such county, municipal corporation, or taxing district, as 72524
reported to it by the several county auditors of the counties that 72525
have completed such reappraisal is not listed for taxation or 72526
recorded on the agricultural land tax list in accordance 72527
therewith, ~~he~~ the commissioner shall increase or decrease the 72528
appropriate aggregate value of the real property or any class 72529
thereof in any such county, township, municipal corporation, 72530
taxing district, or ward or division of a municipal corporation, 72531
by a per cent or amount that will cause such property to be 72532
correctly valued on the agricultural land tax list and to be 72533
correctly assessed on the tax list at its taxable value so that 72534
every class of real property shall be listed and valued for 72535
taxation and valued for purposes of sections 5713.33 to 5713.35 of 72536
the Revised Code as required by law. In determining whether a 72537

class of real property has been assessed at its correct taxable 72538
value and in determining any per cent or amount by which the 72539
aggregate value of the class from a prior year shall be increased 72540
or decreased to be correctly assessed, the commissioner shall 72541
consider only the aggregate values of property that existed in the 72542
prior year and that is to be taxed in the current year. In 72543
addition to any other adjustments the commissioner considers 72544
necessary to comply with this requirement, the value of new 72545
construction shall not be regarded as an increase in such 72546
aggregate value from the prior year, and the value of property 72547
destroyed or demolished since the prior year shall be deducted 72548
from the aggregate value of that class for the prior year. 72549

In implementing any increase or decrease in valuation of real 72550
property ordered by the commissioner pursuant to this section, the 72551
county auditor shall, when practicable, increase or decrease the 72552
taxable valuation of parcels in accordance with actual changes in 72553
valuation of real property which occur in different subdivisions, 72554
neighborhoods, or among classes of real property in the county. 72555

(B) Division (A) of this section also applies to a county in 72556
the third calendar year following the year in which a sexennial 72557
reappraisal is completed. 72558

Sec. 5719.041. If the payment of a general personal property 72559
or classified property tax is not made on or before the last day 72560
prescribed by section 5719.03 or 5719.031 of the Revised Code, an 72561
interest charge shall begin to accrue and shall continue until all 72562
charges are paid, except that no interest charge shall accrue for 72563
or in the month in which such payment was due under such section 72564
or under the circumstances and for the period described in 72565
division (A)(2) of section 5711.33 of the Revised Code or upon 72566
delinquent taxes that are the subject of a delinquent tax contract 72567
entered into pursuant to section 5719.05 of the Revised Code. 72568

The interest charge shall accrue against the balance of such 72569
taxes and any penalty thereon outstanding that remains unpaid on 72570
the last day of each month and shall be at the rate per calendar 72571
month, rounded to the nearest one-hundredth of one per cent, equal 72572
to one-twelfth of the ~~rate per annum prescribed by federal~~ 72573
short-term rate determined by the tax commissioner under section 72574
5703.47 of the Revised Code for the calendar year that includes 72575
the month for which the charge accrues. The charge is payable in 72576
addition to the unpaid balance of taxes and penalties on the day 72577
the charge accrues, unless the entire balance is sooner paid. 72578

If a delinquent tax contract becomes void, interest shall be 72579
charged on the day on which the contract becomes void in the 72580
amount that would have been charged had the delinquent tax 72581
contract not been entered into and shall thereafter accrue as 72582
provided in this section. 72583

Interest shall be allowed, at the same rate per calendar 72584
month as is applicable that month for underpayments, on any 72585
overpayment of the tax charged on a general personal property or a 72586
classified property tax duplicate, from the first day of the month 72587
following the date of the overpayment until the last day of the 72588
month preceding the date of the refund of the overpayment. The 72589
interest shall be paid from the fund or funds to which the 72590
overpayment was credited. 72591

When the county treasurer makes the treasurer's annual 72592
settlement with the county auditor under division (D) of section 72593
321.24 of the Revised Code, the treasurer shall certify to the 72594
auditor a list of all entries on the cumulative delinquent tax 72595
duplicate that are at that time in the process of being paid in 72596
installments under a valid delinquent tax contract. For each entry 72597
that appears on the duplicate that is not on the certified list, 72598
the auditor shall compute the full amount of interest charges 72599
which have accrued against such entry since the preceding such 72600

settlement was made and shall include such charges through the 72601
last day of the month preceding the current settlement. The 72602
auditor shall include such amounts on the tax list and duplicates 72603
prepared by the auditor as prescribed in section 5719.04 of the 72604
Revised Code unless the interest is less than one dollar, in which 72605
case it shall not be added to such tax lists and duplicates. 72606

Before the county treasurer accepts any payment of taxes 72607
against which there are accrued interest charges that do not 72608
appear on the delinquent tax duplicate, the treasurer shall notify 72609
the auditor who shall issue a certificate to the treasurer showing 72610
the amount of such interest charges, and the treasurer shall 72611
collect the amount shown on such certificate at the time of 72612
accepting payment of such taxes. If the amount of such interest 72613
charges is less than one dollar, no such certificate shall be 72614
issued. In the case of delinquent personal property taxes, the 72615
interest shown on such certificate shall be credited to the 72616
undivided general tax fund, and distributed in the same manner as 72617
the delinquent taxes upon which the interest charges accrued. In 72618
the case of delinquent classified property taxes, the interest 72619
shown on such certificate shall be credited to the county library 72620
and local government support fund and distributed in accordance 72621
with section 5747.48 of the Revised Code. When the payment of 72622
delinquent taxes is credited on the tax duplicate the treasurer 72623
shall make a separate notation thereon indicating the amount 72624
collected and the index number of the auditor's certificate herein 72625
prescribed. 72626

Sec. 5725.01. As used in sections 5725.01 to 5725.26 of the 72627
Revised Code: 72628

(A) "Financial institution" means: 72629

(1) A national bank organized and existing as a national bank 72630
association pursuant to the "National Bank Act," 12 U.S.C. 21; 72631

(2) A federal savings association or federal savings bank 72632
that is chartered under 12 U.S.C. 1464; 72633

(3) A bank, banking association, trust company, savings and 72634
loan association, savings bank, or other banking institution that 72635
is incorporated or organized under the laws of any state; 72636

(4) Any corporation organized under 12 U.S.C. 611 to 631; 72637

(5) Any agency or branch of a foreign depository as defined 72638
in 12 U.S.C. 3101; 72639

(6) A company licensed as a small business investment company 72640
under the "Small Business Investment Act of 1958," 72 Stat. 689, 72641
15 U.S.C. 661, as amended; or 72642

(7) A company chartered under the "Farm Credit Act of 1933," 72643
48 Stat. 257, 12 U.S.C. 1131(d), as amended. 72644

Corporations or institutions organized under the "Federal 72645
Farm Loan Act" and amendments thereto, insurance companies, and 72646
credit unions shall not be considered financial institutions or 72647
dealers in intangibles within the meaning of such sections. 72648

(B)(1) "Dealer in intangibles" includes every person who 72649
keeps an office or other place of business in this state and 72650
engages at such office or other place in ~~the~~ a business that 72651
consists primarily of lending money, or discounting, buying, or 72652
selling bills of exchange, drafts, acceptances, notes, mortgages, 72653
or other evidences of indebtedness, or of buying or selling bonds, 72654
stocks, or other investment securities, whether on the person's 72655
own account with a view to profit, or as agent or broker for 72656
others, with a view to profit or personal earnings. Dealer in 72657
intangibles excludes institutions used exclusively for charitable 72658
purposes, insurance companies, and financial institutions. ~~Neither~~ 72659
~~casual nor isolated transactions of any of the kinds enumerated in~~ 72660
~~this division of this section, nor the~~ The investment of funds as 72661
personal accumulations or as business reserves or working capital 72662

does not constitute engaging in a business within the meaning of 72663
this division ~~of this section~~; but a person who, having engaged in 72664
~~the~~ a business that consists primarily of lending money, or 72665
discounting, buying, or selling bills of exchange, drafts, 72666
acceptances, notes, mortgages, or other evidences of indebtedness 72667
on the person's own account, remains in business primarily for the 72668
purpose of realizing upon the assets of ~~such~~ the business is 72669
deemed a dealer in intangibles, though not presently engaged in a 72670
business that consists primarily of lending money or discounting 72671
or buying such securities. 72672

(2) The tax commissioner shall adopt a rule defining 72673
"primarily" as that term is used in division (B)(1) of this 72674
section. 72675

(C) "Insurance company" includes every corporation, 72676
association, and society engaged in the business of insurance of 72677
any character, or engaged in the business of entering into 72678
contracts substantially amounting to insurance of any character, 72679
or of indemnifying or guaranteeing against loss or damage, or 72680
acting as surety on bonds or undertakings. "Insurance company" 72681
also includes any health insuring corporation as defined in 72682
section 1751.01 of the Revised Code. 72683

(D) "Domestic insurance company" includes every insurance 72684
company organized and existing under the laws of this state, and 72685
every unincorporated association and society formed under the laws 72686
of this state for the purpose of engaging in said business, except 72687
a company, association, or society that is an insurance holding 72688
company affiliate controlled by a nonresident affiliate and has 72689
risks in this state formerly written by its foreign affiliates in 72690
a total amount exceeding the risks outstanding on the taxpayer's 72691
latest annual report that arise from business initially written by 72692
it in this state; and excludes every foreign insurance company. As 72693
used in this division, terms defined in section 3901.32 of the 72694

Revised Code have the same meanings given to them in that section. 72695

(E) "Foreign insurance company" includes every insurance 72696
company organized or existing under the laws of any other state, 72697
territory, country, or the United States and every insurance 72698
holding company affiliate excepted under division (D) of this 72699
section. 72700

Sec. 5725.19. (A) As used in this section, "tax otherwise 72701
due" means the tax imposed on a domestic insurance company under 72702
section 5725.18 of the Revised Code reduced by the total amount of 72703
all other nonrefundable credits, if any, that the domestic 72704
insurance company is entitled to claim. 72705

(B) Upon the issuance of a tax credit certificate by the Ohio 72706
venture capital authority under section 150.07 of the Revised 72707
Code, a credit may be claimed against the tax imposed on a 72708
domestic insurance company under section 5725.18 of the Revised 72709
Code. The credit shall be claimed in the calendar year specified 72710
in the certificate issued by the authority. 72711

(C) If the company elected a refundable credit under section 72712
150.07 of the Revised Code and if the amount of the credit shown 72713
on the certificate does not exceed the tax otherwise due, then for 72714
the calendar year the company shall claim a refundable credit 72715
equal to the amount of the credit shown on the certificate. 72716

(D) If the company elected a refundable credit under section 72717
150.07 of the Revised Code, and the amount of the credit shown on 72718
the certificate exceeds the tax otherwise due ~~under section~~ 72719
~~5725.18 of the Revised Code, then for the calendar year the~~ 72720
~~company may receive a refund equal to seventy five per cent of~~ 72721
~~such excess. If shall claim a refundable credit equal to the sum~~ 72722
of the following: 72723

(1) The amount, if any, of the tax otherwise due; 72724

(2) Seventy-five per cent of the difference between the amount of the refundable credit shown on the certificate and the tax otherwise due. 72725
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(E) If the company elected a nonrefundable credit, the amount of the credit shown on the certificate shall not exceed the amount of tax otherwise due. If the company elected a nonrefundable credit and the credit to which the company would otherwise be entitled under this section for any calendar year is greater than the tax otherwise due ~~under section 5725.18 of the Revised Code,~~ the excess shall be allowed as a nonrefundable credit in each of the ensuing ten calendar years, but the amount of any excess credit allowed in the ensuing calendar year shall be deducted from the balance carried forward to the next calendar year. 72728
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Sec. 5725.32. Upon the issuance of a tax credit certificate by the director of development, a refundable credit granted by the tax credit authority under section 122.17 of the Revised Code may be claimed against the tax imposed by section 5725.18 of the Revised Code. The credit shall be claimed in the calendar year specified in the certificate issued by the director of development. 72738
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Sec. 5727.01. As used in this chapter: 72745

(A) "Public utility" means each person referred to as a telephone company, telegraph company, electric company, natural gas company, pipe-line company, water-works company, water transportation company, heating company, rural electric company, railroad company, or combined company. 72746
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(B) "Gross receipts" means the entire receipts for business done by any person from operations as a public utility, or incidental thereto, or in connection therewith, including any receipts received under Chapter 4928. of the Revised Code. The 72751
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gross receipts for business done by an incorporated company 72755
engaged in operation as a public utility includes the entire 72756
receipts for business done by such company under the exercise of 72757
its corporate powers, whether from the operation as a public 72758
utility or from any other business. 72759

(C) "Rural electric company" means any nonprofit corporation, 72760
organization, association, or cooperative engaged in the business 72761
of supplying electricity to its members or persons owning an 72762
interest therein in an area the major portion of which is rural. 72763

(D) Any person: 72764

(1) Is a telegraph company when engaged in the business of 72765
transmitting telegraphic messages to, from, through, or in this 72766
state; 72767

(2) Is a telephone company when primarily engaged in the 72768
business of providing local exchange telephone service, excluding 72769
cellular radio service, in this state; 72770

(3) Is an electric company when engaged in the business of 72771
generating, transmitting, or distributing electricity within this 72772
state for use by others, but excludes a rural electric company; 72773

(4) Is a natural gas company when engaged in the business of 72774
supplying or distributing natural gas for lighting, power, or 72775
heating purposes to consumers within this state, excluding a 72776
person that is a governmental aggregator or retail natural gas 72777
supplier as defined in section 4929.01 of the Revised Code; 72778

(5) Is a pipe-line company when engaged in the business of 72779
transporting natural gas, oil, or coal or its derivatives through 72780
pipes or tubing, either wholly or partially within this state; 72781

(6) Is a water-works company when engaged in the business of 72782
supplying water through pipes or tubing, or in a similar manner, 72783
to consumers within this state; 72784

(7) Is a water transportation company when engaged in the transportation of passengers or property, by boat or other watercraft, over any waterway, whether natural or artificial, from one point within this state to another point within this state, or between points within this state and points without this state;

(8) Is a heating company when engaged in the business of supplying water, steam, or air through pipes or tubing to consumers within this state for heating purposes;

(9) Is a railroad company when engaged in the business of owning or operating a railroad either wholly or partially within this state on rights-of-way acquired and held exclusively by such company, or otherwise, and includes a passenger, street, suburban, or interurban railroad company.

As used in division (D)(2) of this section, "local exchange telephone service" means making available or furnishing access and a dial tone to all persons within a local calling area for use in originating and receiving voice grade communications over a switched network operated by the provider of the service within the area and for gaining access to other telecommunication services.

(E) "Taxable property" means the property required by section 5727.06 of the Revised Code to be assessed by the tax commissioner, but does not include either of the following:

(1) An item of tangible personal property that for the period subsequent to the effective date of an air, water, or noise pollution control certificate and continuing so long as the certificate is in force, has been certified as part of the pollution control facility with respect to which the certificate has been issued;

(2) An item of tangible personal property that during the construction of a plant or facility and until the item is first

capable of operation, whether actually used in operation or not, 72816
is incorporated in or being held exclusively for incorporation in 72817
that plant or facility. 72818

Notwithstanding section 5701.03 of the Revised Code, for tax 72819
year 2006 and thereafter, "taxable property" includes patterns, 72820
jigs, dies, and drawings of an electric company or a combined 72821
company for use in the activity of an electric company. 72822

(F) "Taxing district" means a municipal corporation of 72823
township, or part thereof, in which the aggregate rate of taxation 72824
is uniform. 72825

(G) "Telecommunications service" has the same meaning as in 72826
division (AA) of section 5739.01 of the Revised Code. 72827

(H) "Interexchange telecommunications company" means a person 72828
that is engaged in the business of transmitting telephonic 72829
messages to, from, through, or in this state, but that is not a 72830
telephone company. 72831

(I) "Sale and leaseback transaction" means a transaction in 72832
which a public utility or interexchange telecommunications company 72833
sells any tangible personal property to a person other than a 72834
public utility or interexchange telecommunications company and 72835
leases that property back from the buyer. 72836

(J) "Production equipment" means all taxable steam, nuclear, 72837
hydraulic, and other production plant equipment used to generate 72838
electricity. For tax years prior to 2001, "production equipment" 72839
includes taxable station equipment that is located at a production 72840
plant. 72841

(K) "Tax year" means the year for which property or gross 72842
receipts are subject to assessment under this chapter. This 72843
division does not limit the tax commissioner's ability to assess 72844
and value property or gross receipts outside the tax year. 72845

(L) "Combined company" means any person engaged in the 72846
activity of an electric company or rural electric company that is 72847
also engaged in the activity of a heating company or a natural gas 72848
company, or any combination thereof. 72849

(M) "Public utility property lessor" means any person, other 72850
than a public utility or an interexchange telecommunications 72851
company, that leases personal property, other than in a sale and 72852
leaseback transaction, to a public utility, other than a railroad, 72853
water transportation, telephone, or telegraph company if the 72854
property would be taxable property if owned by the public utility. 72855
A public utility property lessor is subject to this chapter only 72856
for the purposes of reporting and paying tax on taxable property 72857
it leases to a public utility other than a telephone or telegraph 72858
company. A public utility property lessor that leases property to 72859
a public utility other than a telephone or telegraph company is 72860
not a public utility, but it shall report its property and be 72861
assessed in the same manner as the utility to which it leases the 72862
property. 72863

Sec. 5727.02. As used in this chapter, "public utility," 72864
"electric company," "natural gas company," "pipe-line company," 72865
"water-works company," "water transportation company" or "heating 72866
company" does not include any of the following: 72867

(A) Any (1) Except as provided in division (A)(2) of this 72868
section, any person that is engaged in some other primary business 72869
to which the supplying of electricity, heat, natural gas, water, 72870
water transportation, steam, or air to others is incidental. As 72871
used in ~~this~~ division (A) of this section and in section 5727.031 72872
of the Revised Code, "supplying of electricity" means generating, 72873
transmitting, or distributing electricity. 72874

(2) For tax year 2009 and each tax year thereafter, a person 72875
that is engaged in some other primary business to which the 72876

supplying of electricity to others is incidental shall be treated 72877
as an "electric company" and a "public utility" for purposes of 72878
this chapter solely to the extent required by section 5727.031 of 72879
the Revised Code. 72880

(B) Any person that supplies electricity, natural gas, water, 72881
water transportation, steam, or air to its tenants, whether for a 72882
separate charge or otherwise; 72883

(C) Any person whose primary business in this state consists 72884
of producing, refining, or marketing petroleum or its products. 72885

(D) Any person whose primary business in this state consists 72886
of producing or gathering natural gas rather than supplying or 72887
distributing natural gas to consumers. 72888

Sec. 5727.031. (A) For tax year 2009 and each tax year 72889
thereafter, a person that is engaged in some other primary 72890
business to which the supplying of electricity to others is 72891
incidental shall file a report under section 5727.08 of the 72892
Revised Code as an electric company but shall only report therein 72893
as taxable property the amounts required in divisions (B) and (C) 72894
of this section. All time limits and other procedural requirements 72895
of this chapter for the reporting and assessment of property of 72896
electric companies apply to persons required to file a report 72897
under this section. 72898

(B) A person subject to this section shall report the true 72899
value of the boilers, machinery, equipment, and any personal 72900
property used to supply electricity to others, which shall be the 72901
sum of the following: 72902

(1) The true value of the property that is production 72903
equipment as it would be determined for an electric company under 72904
section 5727.11 of the Revised Code multiplied by the per cent of 72905
the electricity generated in the preceding calendar year that was 72906

not used by the person who generated it; plus 72907

(2) The true value of the property that is not production equipment as it would be determined for an electric company under section 5727.11 of the Revised Code multiplied by the per cent of the electricity generated in the preceding calendar year that was not used by the person who generated it. 72908
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(C) The property reported under division (B) of this section shall be listed and assessed at an amount equal to the sum of the products determined under divisions (C)(1) and (2) of this section. 72913
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(1) Multiply the portion of the true value determined under division (B)(1) of this section by the assessment rate in section 5727.111 of the Revised Code that is applicable to the production equipment of an electric company; 72917
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(2) Multiply the portion of the true value determined under division (B)(2) of this section by the assessment rate in section 5727.111 of the Revised Code that is applicable to the property of an electric company that is not production equipment. 72921
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Sec. 5727.06. (A) Except as otherwise provided by law, the following constitutes the taxable property of a public utility ~~or~~ interexchange telecommunications company, or public utility property lessor that shall be assessed by the tax commissioner: 72925
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(1) For tax years before tax year 2006: 72929

(a) In the case of a railroad company, all real property and tangible personal property owned or operated by the railroad company in this state on the thirty-first day of December of the preceding year; 72930
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~~(2)~~(b) In the case of a water transportation company, all tangible personal property, except watercraft, owned or operated by the water transportation company in this state on the 72934
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thirty-first day of December of the preceding year and all 72937
watercraft owned or operated by the water transportation company 72938
in this state during the preceding calendar year; 72939

~~(3)(c)~~ In the case of all other public utilities and 72940
interexchange telecommunications companies, all tangible personal 72941
property that on the thirty-first day of December of the preceding 72942
year was both located in this state and: 72943

~~(a)(i)~~ Owned by the public utility or interexchange 72944
telecommunications company; or 72945

~~(b)(ii)~~ Leased by the public utility or interexchange 72946
telecommunications company under a sale and leaseback transaction. 72947

(2) For tax years 2006, 2007, and 2008: 72948

(a) In the case of a railroad company, all real property used 72949
in railroad operations and tangible personal property owned or 72950
operated by the railroad company in this state on the thirty-first 72951
day of December of the preceding year; 72952

(b) In the case of a water transportation company, all 72953
tangible personal property, except watercraft, owned or operated 72954
by the water transportation company in this state on the 72955
thirty-first day of December of the preceding year and all 72956
watercraft owned or operated by the water transportation company 72957
in this state during the preceding calendar year; 72958

(c) In the case of all other public utilities except 72959
telephone and telegraph companies, all tangible personal property 72960
that on the thirty-first day of December of the preceding year was 72961
both located in this state and either owned by the public utility 72962
or leased by the public utility under a sale and leaseback 72963
transaction. 72964

(3) For tax year 2009 and each tax year thereafter: 72965

(a) In the case of a railroad company, all real property used 72966

in railroad operations and tangible personal property owned or 72967
operated by the railroad company in this state on the thirty-first 72968
day of December of the preceding year; 72969

(b) In the case of a water transportation company, all 72970
tangible personal property, except watercraft, owned or operated 72971
by the water transportation company in this state on the 72972
thirty-first day of December of the preceding year and all 72973
watercraft owned or operated by the water transportation company 72974
in this state during the preceding calendar year; 72975

(c) In the case of all other public utilities except 72976
telephone and telegraph companies, all tangible personal property 72977
that on the thirty-first day of December of the preceding year was 72978
both located in this state and either owned by the public utility 72979
or leased by the public utility under a sale and leaseback 72980
transaction; 72981

(d) In the case of a public utility property lessor, all 72982
personal property that on the thirty-first day of December of the 72983
preceding year was both located in this state and leased, in other 72984
than a sale and leaseback transaction, to an interexchange 72985
telecommunications company or a public utility other than a 72986
railroad company or water transportation company. The assessment 72987
rate used under section 5727.111 of the Revised Code shall be 72988
based on the assessment rate that would apply if the interexchange 72989
telecommunications company or public utility owned the property. 72990

(4) For tax years 2005 and 2006, in the case of telephone, 72991
telegraph, or interexchange telecommunications companies, all 72992
tangible personal property that on the thirty-first day of 72993
December of the preceding year was both located in this state and 72994
either owned by the telephone, telegraph, or interexchange 72995
telecommunications company or leased by the telephone, telegraph, 72996
or interexchange telecommunications company under a sale and 72997
leaseback transaction. 72998

(5) For tax year 2007 and thereafter, in the case of 72999
telephone, telegraph, or interexchange telecommunications 73000
companies, all tangible personal property shall be listed and 73001
assessed for taxation under Chapter 5711. of the Revised Code. 73002

(B) ~~In~~ This division applies to tax years before tax year 73003
2007. 73004

In the case of an interexchange telecommunications company, 73005
all taxable property shall be subject to the provisions of this 73006
chapter and shall be valued by the commissioner in accordance with 73007
division (A) of section 5727.11 of the Revised Code. A person 73008
described by this division shall file the report required by 73009
section 5727.08 of the Revised Code. Persons described in this 73010
division shall not be considered taxpayers, as defined in division 73011
(B) of section 5711.01 of the Revised Code, and shall not be 73012
required to file a return and list their taxable property under 73013
any provision of Chapter 5711. of the Revised Code. 73014

(C) The lien of the state for taxes levied each year on the 73015
real and personal property of public utilities and interexchange 73016
telecommunications companies and on the personal property of 73017
public utility property lessors shall attach thereto on the 73018
thirty-first day of December of the preceding year. 73019

(D) Property that is required by division (A)(3)(b) of this 73020
section to be assessed by the tax commissioner under this chapter 73021
shall not be listed by the owner of the property under Chapter 73022
5711. of the Revised Code. 73023

(E) The tax commissioner may adopt rules governing the 73024
listing of the taxable property of public utilities and 73025
interexchange telecommunications companies and the determination 73026
of true value. 73027

Sec. 5727.08. On or before the first day of March, annually, 73028

each public utility and interexchange telecommunications company, 73029
and, for tax years 2009 and thereafter, each public utility 73030
property lessor, shall file a report with the tax commissioner, on 73031
a form prescribed by the tax commissioner. The report shall 73032
include such information as the tax commissioner requires to 73033
enable the tax commissioner to make any assessment or 73034
apportionment required under this chapter. 73035

The report shall be signed by either the owner of the public 73036
utility, interexchange telecommunications company, or public 73037
utility property lessor or the president, secretary, treasurer, or 73038
another duly authorized person. 73039

If such a public utility, interexchange telecommunications 73040
company, or lessor fails to file the report on or before the first 73041
day of March, or the date it is due under an extension allowed 73042
pursuant to section 5727.48 of the Revised Code, or fails to 73043
accurately report all taxable property, the tax commissioner may 73044
impose a penalty of up to fifty per cent of the taxable value of 73045
the property that was not timely or accurately reported. However, 73046
if ~~the~~ such a public utility, company, or lessor files, within 73047
sixty days after the first day of March or the extended due date, 73048
the report or an amended report and discloses all items of taxable 73049
property that are required by this chapter to be reported, the 73050
penalty shall not be more than five per cent of the taxable value 73051
that was not timely or accurately reported. The penalty shall be 73052
added to and considered a part of the total taxable value of the 73053
property that was not timely or accurately reported, and may be 73054
abated in whole or in part by the tax commissioner pursuant to a 73055
petition for reassessment filed under section 5727.47 of the 73056
Revised Code. 73057

Sec. 5727.10. Annually, the tax commissioner shall determine, 73058
in accordance with section 5727.11 of the Revised Code, the true 73059

value in money of all taxable property, except property of a 73060
railroad company, required by ~~division (A)(2) or (3)~~ of section 73061
5727.06 of the Revised Code to be assessed by the commissioner. 73062
The commissioner also shall determine the total taxable value of 73063
such property based on the percentages of true value at which the 73064
property is required to be assessed by section 5727.111 of the 73065
Revised Code. 73066

The commissioner shall be guided by the information contained 73067
in the report filed by the public utility and such other evidence 73068
and rules as will enable ~~him~~ the commissioner to make these 73069
determinations. 73070

Before issuing the preliminary assessment under section 73071
5727.23 of the Revised Code, the commissioner shall notify each 73072
public utility of the proposed total taxable value of its taxable 73073
property, including any proposed penalty. After receiving such 73074
notice, a public utility may, upon written application, within the 73075
time prescribed by the commissioner, appear before ~~him~~ the 73076
commissioner and be heard in the matter of the proposal. The 73077
commissioner may, on the application of a public utility, or on 73078
~~his~~ the commissioner's own motion, correct the proposal. 73079

Sec. 5727.11. (A) Except as otherwise provided in this 73080
section, the true value of all taxable property, except property 73081
of a railroad company, required by ~~division (A)(2) or (3)~~ of 73082
section 5727.06 of the Revised Code to be assessed by the tax 73083
commissioner shall be determined by a method of valuation using 73084
cost as capitalized on the public utility's books and records less 73085
composite annual allowances as prescribed by the commissioner. If 73086
the commissioner finds that application of this method will not 73087
result in the determination of true value of the public utility's 73088
taxable property, the commissioner may use another method of 73089
valuation. 73090

(B)(1) Except as provided in division (B)(2) of this section, 73091
the true value of current gas stored underground is the cost of 73092
that gas shown on the books and records of the public utility on 73093
the thirty-first day of December of the preceding year. 73094

(2) For tax year 2001 and thereafter, the true value of 73095
current gas stored underground is the quotient obtained by 73096
dividing (a) the average value of the current gas stored 73097
underground, which shall be determined by adding the value of the 73098
gas on hand at the end of each calendar month in the calendar year 73099
preceding the tax year, or, if applicable, the last day of 73100
business of each month for a partial month, divided by (b) the 73101
total number of months the natural gas company was in business 73102
during the calendar year prior to the beginning of the tax year. 73103
with the approval of the tax commissioner, a natural gas company 73104
may use a date other than the end of a calendar month to value its 73105
current gas stored underground. 73106

(C) The true value of noncurrent gas stored underground is 73107
thirty-five per cent of the cost of that gas shown on the books 73108
and records of the public utility on the thirty-first day of 73109
December of the preceding year. 73110

(D)(1) Except as provided in division (D)(2) of this section, 73111
the true value of the production equipment of an electric company 73112
and the true value of all taxable property of a rural electric 73113
company is the equipment's or property's cost as capitalized on 73114
the company's books and records less fifty per cent of that cost 73115
as an allowance for depreciation and obsolescence. 73116

(2) The true value of the production equipment of an electric 73117
company or rural electric company purchased, transferred, or 73118
placed into service after the effective date of this amendment is 73119
the purchase price of the equipment as capitalized on the 73120
company's books and records less composite annual allowances as 73121
prescribed by the tax commissioner. 73122

(E) The true value of taxable property ~~described in division~~ 73123
~~(A)(2) or (3) of, except property of a railroad company, required~~ 73124
by section 5727.06 of the Revised Code to be assessed by the tax 73125
commissioner shall not include the allowance for funds used during 73126
construction or interest during construction that has been 73127
capitalized on the public utility's books and records as part of 73128
the total cost of the taxable property. This division shall not 73129
apply to the taxable property of an electric company or a rural 73130
electric company, excluding transmission and distribution 73131
property, first placed into service after December 31, 2000, or to 73132
the taxable property a person purchases, which includes transfers, 73133
if that property was used in business by the seller prior to the 73134
purchase. 73135

(F) The true value of watercraft owned or operated by a water 73136
transportation company shall be determined by multiplying the true 73137
value of the watercraft as determined under division (A) of this 73138
section by a fraction, the numerator of which is the number of 73139
revenue-earning miles traveled by the watercraft in the waters of 73140
this state and the denominator of which is the number of 73141
revenue-earning miles traveled by the watercraft in all waters. 73142

(G) The cost of property subject to a sale and leaseback 73143
transaction is the cost of the property as capitalized on the 73144
books and records of the public utility owning the property 73145
immediately prior to the sale and leaseback transaction. 73146

(H) The cost as capitalized on the books and records of a 73147
public utility includes amounts capitalized that represent 73148
regulatory assets, if such amounts previously were included on the 73149
company's books and records as capitalized costs of taxable 73150
personal property. 73151

(I) Any change in the composite annual allowances as 73152
prescribed by the commissioner on a prospective basis shall not be 73153
admissible in any judicial or administrative action or proceeding 73154

as evidence of value with regard to prior years' taxes. 73155
Information about the business, property, or transactions of any 73156
taxpayer obtained by the commissioner for the purpose of adopting 73157
or modifying the composite annual allowances shall not be subject 73158
to discovery or disclosure. 73159

Sec. 5727.111. The taxable property of each public utility, 73160
except a railroad company, and of each interexchange 73161
telecommunications company shall be assessed at the following 73162
percentages of true value: 73163

~~(A)(1) Except as provided in division (A)(2) of this section,~~ 73164
~~fifty per cent in the case of a rural electric company;~~ 73165

~~(2) For tax year 2001 and thereafter, fifty~~ Fifty per cent in 73166
the case of the taxable transmission and distribution property of 73167
a rural electric company, and twenty-five per cent for all its 73168
other taxable property; 73169

(B) In the case of a telephone or telegraph company, 73170
twenty-five per cent for taxable property first subject to 73171
taxation in this state for tax year 1995 or thereafter for tax 73172
years before tax year 2007, and pursuant to division (H) of 73173
section 5711.22 of the Revised Code for tax year 2007 and 73174
thereafter, and the following for all other taxable property: 73175

(1) For tax years prior to 2005, eighty-eight per cent; 73176

(2) For tax year 2005, sixty-seven per cent; 73177

(3) For tax year 2006, forty-six per cent; 73178

(4) For tax year 2007 and thereafter, ~~twenty-five per cent~~ 73179
pursuant to division (H) of section 5711.22 of the Revised Code. 73180

(C) Twenty-five per cent in the case of a natural gas 73181
company. 73182

(D) Eighty-eight per cent in the case of a pipe-line, 73183

water-works, or heating company; 73184

~~(E)(1) Except as provided in division (E)(2) or (3) of this section, one hundred per cent in the case of the taxable production equipment of an electric company and eighty eight per cent for all its other taxable property;~~ 73185
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~~(2) For tax year 2001 and thereafter 2005, eighty-eight per cent in the case of the taxable transmission and distribution property of an electric company, and twenty-five per cent for all its other taxable property;~~ 73189
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~~(3) Property listed and assessed under divisions (B)(1) and (2) of section 5711.22 of the Revised Code and leased to an electric company shall continue to be assessed at one hundred per cent for production equipment and eighty eight~~ 73193
(2) For tax year 2006 and each tax year thereafter, eighty-five per cent in the case of the taxable transmission and distribution property of an electric company, and twenty-four per cent for all such its other taxable property until January 1, 2002. 73194
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(F)(1) Twenty-five per cent in the case of an interexchange telecommunications company for tax years before tax year 2007; 73201
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(2) Pursuant to division (H) of section 5711.22 of the Revised Code for tax year 2007 and thereafter. 73203
73204

(G) Twenty-five per cent in the case of a water transportation company. 73205
73206

Sec. 5727.12. As used in this chapter, "property used in railroad operations" means property used in or determined by the tax commissioner to be held by a railroad for use in railroad operations. In determining the true value of all real and personal property owned or leased by each railroad company and used in railroad operations, the commissioner shall use the unitary method and value all of the property of the company's railroad system as 73207
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a whole, considering the factors generally used in that method, 73214
and weighing each factor appropriately. The true value of the 73215
property used in railroad operations shall be apportioned to this 73216
state as provided in section 5727.14 of the Revised Code. ~~The~~ 73217
~~commissioner shall separately determine the true~~ For tax year 2006 73218
and each tax year thereafter, the county auditor shall value of ~~of~~ 73219
and assess the real property owned by the company that the 73220
commissioner determines is not used in railroad operations. ~~The~~ 73221
~~commissioner may require the advice of county auditors concerning~~ 73222
~~such values.~~ 73223

All property of a railroad shall be assessed for taxation at 73224
the same percentage of true value at which all other real property 73225
in this state is assessed, in the case of real property, and at 73226
the percentage of true value provided under divisions (E) ~~and,~~ 73227
(F), and (G) of section 5711.22 of the Revised Code, in the case 73228
of personal property. 73229

A determination of the value of ~~each tract, lot, or parcel of~~ 73230
~~real property or~~ each item of personal property not used in 73231
railroad operations shall be considered a separate determination 73232
with respect to which a separate petition for reassessment may be 73233
filed under section 5727.47 of the Revised Code. 73234

Where a line of railroad is subsidized under the terms of the 73235
federal regional rail reorganization act or the federal rail 73236
revitalization and regulatory reform act, the real and other fixed 73237
property shall be assessed solely in the name of its owner. 73238

Sec. 5727.23. On or before the first Monday in October, 73239
annually, the tax commissioner shall assess the taxable property 73240
of each public utility. ~~The~~ and interexchange telecommunications 73241
company, and for tax year 2009 and thereafter of each public 73242
utility property lessor. If the taxpayer failed to file its annual 73243
report required by section 5727.08 of the Revised Code at least 73244

sixty days prior to the first Monday of October, the commissioner 73245
may make the assessment under this section within sixty days after 73246
the taxpayer files the report, but this does not preclude the 73247
commissioner from making an assessment without receiving the 73248
report. 73249

The action of the tax commissioner shall be evidenced by a 73250
preliminary assessment that reflects the taxable value apportioned 73251
to each county and each taxing district in the county. The 73252
commissioner may amend the preliminary assessment as provided in 73253
this section. Each preliminary assessment and amended preliminary 73254
assessment shall be certified to the public utility, interexchange 73255
telecommunications company, or public utility property lessor, and 73256
to, the auditor of each county to which taxable value has been 73257
apportioned. 73258

The county auditor shall place the apportioned taxable value 73259
on the general tax list and duplicate of real and public utility 73260
property, and taxes shall be levied and collected thereon at the 73261
same rates and in the same manner as taxes are levied and 73262
collected on real property in the taxing district in question. 73263

Unless a petition for reassessment of an assessment has been 73264
properly filed pursuant to section 5727.47 of the Revised Code, 73265
each preliminary assessment and, if amended, each preliminary 73266
assessment as last amended shall become final ninety days after 73267
certification of the preliminary assessment or thirty days after 73268
certification of the amended preliminary assessment, whichever is 73269
later. If a petition for reassessment is properly filed, the 73270
assessment shall become final when the tax commissioner issues a 73271
final determination. 73272

Neither the certification of any preliminary or amended 73273
assessment nor the expiration of the period of time that makes any 73274
assessment final constitutes a final determination, assessment, 73275
reassessment, valuation, finding, computation, or order of the 73276

commissioner that is appealable under section 5717.02 of the Revised Code. 73277
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Sec. 5727.241. (A) As used in this section: 73279

(1) "Tax otherwise due" means the tax imposed on a taxpayer under section 5727.24 of the Revised Code reduced by the total amount of all other nonrefundable credits, if any, that the taxpayer is entitled to claim. 73280
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(2) "Taxpayer" means any person subject to the tax imposed by section 5727.24 of the Revised Code. 73284
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(B) Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed on a taxpayer under section 5727.24 of the Revised Code. The credit shall be claimed on a return due under section 5727.25 of the Revised Code after the certificate is issued by the authority. 73286
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(C) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code and if the amount of the credit shown on the certificate does not exceed the tax otherwise due, then for the calendar year the taxpayer shall claim a refundable credit equal to the amount of the credit shown on the certificate. 73292
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(D) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code, and if the amount of the refundable credit shown on the certificate exceeds the tax otherwise due, then for the calendar year the taxpayer shall claim a refundable credit equal to the sum of the following: 73297
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(1) The amount, if any, of the tax otherwise due; 73302

(2) Seventy-five per cent of the difference between the amount of the refundable credit shown on the certificate and the tax otherwise due. 73303
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(E) If the taxpayer elected a nonrefundable credit under 73306

section 150.07 of the Revised Code and if the nonrefundable credit 73307
to which the taxpayer would otherwise be entitled under this 73308
section for any calendar year is greater than the tax otherwise 73309
due, the excess shall be allowed as a nonrefundable credit in each 73310
of the ensuing ten calendar years, but the amount of any excess 73311
nonrefundable credit allowed in the ensuing calendar year shall be 73312
deducted from the balance carried forward to the next calendar 73313
year. 73314

Sec. 5727.84. (A) As used in this section and sections 73315
5727.85, 5727.86, and 5727.87 of the Revised Code: 73316

(1) "School district" means a city, local, or exempted 73317
village school district. 73318

(2) "Joint vocational school district" means a joint 73319
vocational school district created under section 3311.16 of the 73320
Revised Code, and includes a cooperative education school district 73321
created under section 3311.52 or 3311.521 of the Revised Code and 73322
a county school financing district created under section 3311.50 73323
of the Revised Code. 73324

(3) "Local taxing unit" means a subdivision or taxing unit, 73325
as defined in section 5705.01 of the Revised Code, a park district 73326
created under Chapter 1545. of the Revised Code, or a township 73327
park district established under section 511.23 of the Revised 73328
Code, but excludes school districts and joint vocational school 73329
districts. 73330

(4) "State education aid" means the sum of state aid amounts 73331
computed for a school district or joint vocational school district 73332
under Chapter 3317. of the Revised Code. 73333

(5) "State education aid offset" means the amount determined 73334
for each school district or joint vocational school district under 73335
division (A)(1) of section 5727.85 of the Revised Code. 73336

- (6) "Recognized valuation" has the same meaning as in section 3317.02 of the Revised Code. 73337
73338
- (7) "Electric company tax value loss" means the amount determined under division (D) of this section. 73339
73340
- (8) "Natural gas company tax value loss" means the amount determined under division (E) of this section. 73341
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- (9) "Tax value loss" means the sum of the electric company tax value loss and the natural gas company tax value loss. 73343
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- (10) "Fixed-rate levy" means any tax levied on property other than a fixed-sum levy. 73345
73346
- (11) "Fixed-rate levy loss" means the amount determined under division (G) of this section. 73347
73348
- (12) "Fixed-sum levy" means a tax levied on property at whatever rate is required to produce a specified amount of tax money or levied in excess of the ten-mill limitation to pay debt charges, and includes school district emergency levies imposed pursuant to section 5705.194 of the Revised Code. 73349
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- (13) "Fixed-sum levy loss" means the amount determined under division (H) of this section. 73354
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- (14) "Consumer price index" means the consumer price index (all items, all urban consumers) prepared by the bureau of labor statistics of the United States department of labor. 73356
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- (B) The kilowatt-hour tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.81 of the Revised Code. All money in the kilowatt-hour tax receipts fund shall be credited as follows: 73359
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- (1) Fifty-nine and nine hundred seventy-six one-thousandths per cent, shall be credited to the general revenue fund. 73363
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- (2) Two and six hundred forty-six one-thousandths per cent shall be credited to the local government fund, for distribution 73365
73366

in accordance with section 5747.50 of the Revised Code. 73367

(3) Three hundred seventy-eight one-thousandths per cent 73368
shall be credited to the local government revenue assistance fund, 73369
for distribution in accordance with section 5747.61 of the Revised 73370
Code. 73371

(4) Twenty-five and four-tenths per cent shall be credited to 73372
the school district property tax replacement fund, which is hereby 73373
created in the state treasury for the purpose of making the 73374
payments described in section 5727.85 of the Revised Code. 73375

(5) Eleven and six-tenths per cent shall be credited to the 73376
local government property tax replacement fund, which is hereby 73377
created in the state treasury for the purpose of making the 73378
payments described in section 5727.86 of the Revised Code. 73379

~~(6) In fiscal years 2002, 2003, 2004, 2005, and 2006, if the 73380
revenue arising from the tax levied by section 5727.81 of the 73381
Revised Code is less than five hundred fifty two million dollars, 73382
the amount credited to the general revenue fund under division 73383
(B)(1) of this section shall be reduced by the amount necessary to 73384
credit to each of the funds in divisions (B)(2) and (3) of this 73385
section the amount it would have received if the tax did raise 73386
five hundred fifty two million dollars for that fiscal year. The 73387
tax commissioner shall certify to the director of budget and 73388
management the amounts that shall be credited under this division. 73389~~

~~(7) Beginning in fiscal year 2007, if the revenue arising 73390
from the tax levied by section 5727.81 of the Revised Code is less 73391
than five hundred fifty two million dollars, the amount credited 73392
to the general revenue fund under division (B)(1) of this section 73393
shall be reduced by the amount necessary to credit to each of the 73394
funds in divisions (B)(2), (3), (4), and (5) of this section the 73395
amount that it would have received if the tax did raise five 73396
hundred fifty two million dollars for that fiscal year. The tax 73397~~

~~commissioner shall certify to the director of budget and management the amounts to be credited under division (B)(7) of this section.~~ 73398
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(C) The natural gas tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.811 of the Revised Code. All money in the fund shall be credited as follows: 73401
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(1) Sixty-eight and seven-tenths per cent shall be credited to the school district property tax replacement fund for the purpose of making the payments described in section 5727.85 of the Revised Code. 73405
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(2) Thirty-one and three-tenths per cent shall be credited to the local government property tax replacement fund for the purpose of making the payments described in section 5727.86 of the Revised Code. 73409
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~~(3) Beginning in fiscal year 2007, if the revenue arising from the tax levied by section 5727.811 of the Revised Code is less than ninety million dollars, an amount equal to the difference between the amount collected and ninety million dollars shall be transferred from the general revenue fund to each of the funds in divisions (C)(1) and (2) of this section in the same percentages as if that amount had been collected as taxes under section 5727.811 of the Revised Code. The tax commissioner shall certify to the director of budget and management the amounts that shall be transferred under this division.~~ 73413
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(D) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its electric company tax value loss, which is the sum of the applicable amounts described in divisions (D)(1) to (3) of this section: 73423
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(1) The difference obtained by subtracting the amount described in division (D)(1)(b) from the amount described in 73427
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division (D)(1)(a) of this section. 73429

(a) The value of electric company and rural electric company 73430
tangible personal property as assessed by the tax commissioner for 73431
tax year 1998 on a preliminary assessment, or an amended 73432
preliminary assessment if issued prior to March 1, 1999, and as 73433
apportioned to the taxing district for tax year 1998; 73434

(b) The value of electric company and rural electric company 73435
tangible personal property as assessed by the tax commissioner for 73436
tax year 1998 had the property been apportioned to the taxing 73437
district for tax year 2001, and assessed at the rates in effect 73438
for tax year 2001. 73439

(2) The difference obtained by subtracting the amount 73440
described in division (D)(2)(b) from the amount described in 73441
division (D)(2)(a) of this section. 73442

(a) The three-year average for tax years 1996, 1997, and 1998 73443
of the assessed value from nuclear fuel materials and assemblies 73444
assessed against a person under Chapter 5711. of the Revised Code 73445
from the leasing of them to an electric company for those 73446
respective tax years, as reflected in the preliminary assessments; 73447

(b) The three-year average assessed value from nuclear fuel 73448
materials and assemblies assessed under division (D)(2)(a) of this 73449
section for tax years 1996, 1997, and 1998, as reflected in the 73450
preliminary assessments, using an assessment rate of twenty-five 73451
per cent. 73452

(3) In the case of a taxing district having a nuclear power 73453
plant within its territory, any amount, resulting in an electric 73454
company tax value loss, obtained by subtracting the amount 73455
described in division (D)(1) of this section from the difference 73456
obtained by subtracting the amount described in division (D)(3)(b) 73457
of this section from the amount described in division (D)(3)(a) of 73458
this section. 73459

(a) The value of electric company tangible personal property 73460
as assessed by the tax commissioner for tax year 2000 on a 73461
preliminary assessment, or an amended preliminary assessment if 73462
issued prior to March 1, 2001, and as apportioned to the taxing 73463
district for tax year 2000; 73464

(b) The value of electric company tangible personal property 73465
as assessed by the tax commissioner for tax year 2001 on a 73466
preliminary assessment, or an amended preliminary assessment if 73467
issued prior to March 1, 2002, and as apportioned to the taxing 73468
district for tax year 2001. 73469

(E) Not later than January 1, 2002, the tax commissioner 73470
shall determine for each taxing district its natural gas company 73471
tax value loss, which is the sum of the amounts described in 73472
divisions (E)(1) and (2) of this section: 73473

(1) The difference obtained by subtracting the amount 73474
described in division (E)(1)(b) from the amount described in 73475
division (E)(1)(a) of this section. 73476

(a) The value of all natural gas company tangible personal 73477
property, other than property described in division (E)(2) of this 73478
section, as assessed by the tax commissioner for tax year 1999 on 73479
a preliminary assessment, or an amended preliminary assessment if 73480
issued prior to March 1, 2000, and apportioned to the taxing 73481
district for tax year 1999; 73482

(b) The value of all natural gas company tangible personal 73483
property, other than property described in division (E)(2) of this 73484
section, as assessed by the tax commissioner for tax year 1999 had 73485
the property been apportioned to the taxing district for tax year 73486
2001, and assessed at the rates in effect for tax year 2001. 73487

(2) The difference in the value of current gas obtained by 73488
subtracting the amount described in division (E)(2)(b) from the 73489
amount described in division (E)(2)(a) of this section. 73490

(a) The three-year average assessed value of current gas as 73491
assessed by the tax commissioner for tax years 1997, 1998, and 73492
1999 on a preliminary assessment, or an amended preliminary 73493
assessment if issued prior to March 1, 2001, and as apportioned in 73494
the taxing district for those respective years; 73495

(b) The three-year average assessed value from current gas 73496
under division (E)(2)(a) of this section for tax years 1997, 1998, 73497
and 1999, as reflected in the preliminary assessment, using an 73498
assessment rate of twenty-five per cent. 73499

(F) The tax commissioner may request that natural gas 73500
companies, electric companies, and rural electric companies file a 73501
report to help determine the tax value loss under divisions (D) 73502
and (E) of this section. The report shall be filed within thirty 73503
days of the commissioner's request. A company that fails to file 73504
the report or does not timely file the report is subject to the 73505
penalty in section 5727.60 of the Revised Code. 73506

(G) Not later than January 1, 2002, the tax commissioner 73507
shall determine for each school district, joint vocational school 73508
district, and local taxing unit its fixed-rate levy loss, which is 73509
the sum of its electric company tax value loss multiplied by the 73510
tax rate in effect in tax year 1998 for fixed-rate levies and its 73511
natural gas company tax value loss multiplied by the tax rate in 73512
effect in tax year 1999 for fixed-rate levies. 73513

(H) Not later than January 1, 2002, the tax commissioner 73514
shall determine for each school district, joint vocational school 73515
district, and local taxing unit its fixed-sum levy loss, which is 73516
the amount obtained by subtracting the amount described in 73517
division (H)(2) of this section from the amount described in 73518
division (H)(1) of this section: 73519

(1) The sum of the electric company tax value loss multiplied 73520
by the tax rate in effect in tax year 1998, and the natural gas 73521

company tax value loss multiplied by the tax rate in effect in tax 73522
year 1999, for fixed-sum levies for all taxing districts within 73523
each school district, joint vocational school district, and local 73524
taxing unit. For the years 2002 through 2006, this computation 73525
shall include school district emergency levies that existed in 73526
1998 in the case of the electric company tax value loss, and 1999 73527
in the case of the natural gas company tax value loss, and all 73528
other fixed-sum levies that existed in 1998 in the case of the 73529
electric company tax value loss and 1999 in the case of the 73530
natural gas company tax value loss and continue to be charged in 73531
the tax year preceding the distribution year. For the years 2007 73532
through 2016 in the case of school district emergency levies, and 73533
for all years after 2006 in the case of all other fixed-sum 73534
levies, this computation shall exclude all fixed-sum levies that 73535
existed in 1998 in the case of the electric company tax value loss 73536
and 1999 in the case of the natural gas company tax value loss, 73537
but are no longer in effect in the tax year preceding the 73538
distribution year. For the purposes of this section, an emergency 73539
levy that existed in 1998 in the case of the electric company tax 73540
value loss, and 1999 in the case of the natural gas company tax 73541
value loss, continues to exist in a year beginning on or after 73542
January 1, 2007, but before January 1, 2017, if, in that year, the 73543
board of education levies a school district emergency levy for an 73544
annual sum at least equal to the annual sum levied by the board in 73545
tax year 1998 or 1999, respectively, less the amount of the 73546
payment certified under this division for 2002. 73547

(2) The total taxable value in tax year 1999 less the tax 73548
value loss in each school district, joint vocational school 73549
district, and local taxing unit multiplied by one-fourth of one 73550
mill. 73551

If the amount computed under division (H) of this section for 73552
any school district, joint vocational school district, or local 73553

taxing unit is greater than zero, that amount shall equal the 73554
fixed-sum levy loss reimbursed pursuant to division (E) of section 73555
5727.85 of the Revised Code or division (A)(2) of section 5727.86 73556
of the Revised Code, and the one-fourth of one mill that is 73557
subtracted under division (H)(2) of this section shall be 73558
apportioned among all contributing fixed-sum levies in the 73559
proportion of each levy to the sum of all fixed-sum levies within 73560
each school district, joint vocational school district, or local 73561
taxing unit. 73562

(I) Notwithstanding divisions (D), (E), (G), and (H) of this 73563
section, in computing the tax value loss, fixed-rate levy loss, 73564
and fixed-sum levy loss, the tax commissioner shall use the 73565
greater of the 1998 tax rate or the 1999 tax rate in the case of 73566
levy losses associated with the electric company tax value loss, 73567
but the 1999 tax rate shall not include for this purpose any tax 73568
levy approved by the voters after June 30, 1999, and the tax 73569
commissioner shall use the greater of the 1999 or the 2000 tax 73570
rate in the case of levy losses associated with the natural gas 73571
company tax value loss. 73572

(J) Not later than January 1, 2002, the tax commissioner 73573
shall certify to the department of education the tax value loss 73574
determined under divisions (D) and (E) of this section for each 73575
taxing district, the fixed-rate levy loss calculated under 73576
division (G) of this section, and the fixed-sum levy loss 73577
calculated under division (H) of this section. The calculations 73578
under divisions (G) and (H) of this section shall separately 73579
display the levy loss for each levy eligible for reimbursement. 73580

(K) Not later than September 1, 2001, the tax commissioner 73581
shall certify the amount of the fixed-sum levy loss to the county 73582
auditor of each county in which a school district with a fixed-sum 73583
levy loss has territory. 73584

Sec. 5727.85. (A) By the thirty-first day of July of each year, beginning in 2002 and ending in 2016, the department of education shall determine the following for each school district and each joint vocational school district eligible for payment under division (C) or (D) of this section:

(1) The state education aid offset, which is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section:

(a) The state education aid computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July;

(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July if the recognized valuation included the tax value loss for the school district or joint vocational school district.

(2) The greater of zero or the difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the fixed-rate levy loss certified under division (J) of section 5727.84 of the Revised Code for all taxing districts in each school district and joint vocational school district.

By the fifth day of August of each such year, the department of education shall certify the amount so determined under division (A)(1) of this section to the director of budget and management.

(B) Not later than the thirty-first day of October of the years 2006 through 2016, the department of education shall determine all of the following for each school district:

(1) The amount obtained by subtracting the district's state

education aid computed for fiscal year 2002 from the district's 73615
state education aid computed for the current fiscal year; 73616

(2) The inflation-adjusted property tax loss. The 73617
inflation-adjusted property tax loss equals the fixed-rate levy 73618
loss, excluding the tax loss from levies within the ten-mill 73619
limitation to pay debt charges, determined under division (G) of 73620
section 5727.84 of the Revised Code for all taxing districts in 73621
each school district, plus the product obtained by multiplying 73622
that loss by the cumulative percentage increase in the consumer 73623
price index from January 1, 2002, to the thirtieth day of June of 73624
the current year. 73625

(3) The difference obtained by subtracting the amount 73626
computed under division (B)(1) from the amount of the 73627
inflation-adjusted property tax loss. If this difference is zero 73628
or a negative number, no further payments shall be made under 73629
division (C) of this section to the school district from the 73630
school district property tax replacement fund. 73631

(C) The department of education shall pay from the school 73632
district property tax replacement fund to each school district all 73633
of the following: 73634

(1) In February 2002, one-half of the fixed-rate levy loss 73635
certified under division (J) of section 5727.84 of the Revised 73636
Code between the twenty-first and twenty-eighth days of February. 73637

(2) From August 2002 through August 2006, one-half of the 73638
amount calculated for that fiscal year under division (A)(2) of 73639
this section between the twenty-first and twenty-eighth days of 73640
August and of February. 73641

(3) From February 2007 through August 2016, one-half of the 73642
amount calculated for that calendar year under division (B)(3) of 73643
this section between the twenty-first and twenty-eighth days of 73644
August and of February. 73645

(4) For taxes levied within the ten-mill limitation for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2016.

The department of education shall report to each school district the apportionment of the payments among the school district's funds based on the certifications under division (J) of section 5727.84 of the Revised Code.

(D) Not later than January 1, 2002, for all taxing districts in each joint vocational school district, the tax commissioner shall certify to the department of education the fixed-rate levy loss determined under division (G) of section 5727.84 of the Revised Code. From February 2002 to August 2016, the department shall pay from the school district property tax replacement fund to the joint vocational school district one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February.

(E)(1) Not later than January 1, 2002, for each fixed-sum levy levied by each school district or joint vocational school district and for each year for which a determination is made under division (H) of section 5727.84 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner made such a determination. The department shall pay from the school district property tax replacement fund to the school district or joint vocational school district

one-half of the fixed-sum levy loss so certified for each year 73678
between the twenty-first and twenty-eighth days of August and of 73679
February. 73680

(2) Beginning in 2003, by the thirty-first day of January of 73681
each year, the tax commissioner shall review the certification 73682
originally made under division (E)(1) of this section. If the 73683
commissioner determines that a debt levy that had been scheduled 73684
to be reimbursed in the current year has expired, a revised 73685
certification for that and all subsequent years shall be made to 73686
the department of education. 73687

(F) If the balance of the half-mill equalization fund created 73688
under section 3318.18 of the Revised Code is insufficient to make 73689
the full amount of payments required under division (D) of that 73690
section, the department of education, at the end of the third 73691
quarter of the fiscal year, shall certify to the director of 73692
budget and management the amount of the deficiency, and the 73693
director shall transfer an amount equal to the deficiency from the 73694
school district property tax replacement fund to the half-mill 73695
equalization fund. 73696

(G) Beginning in August 2002, and ending in ~~February~~ May 73697
2017, the director of budget and management shall transfer from 73698
the school district property tax replacement fund to the general 73699
revenue fund each of the following: 73700

(1) Between the twenty-eighth day of August and the fifth day 73701
of September, the lesser of one-half of the amount certified for 73702
that fiscal year under division (A)(2) of this section or the 73703
balance in the school district property tax replacement fund; 73704

(2) Between the first and fifth days of ~~March~~ May, the lesser 73705
of one-half of the amount certified for that fiscal year under 73706
division (A)(2) of this section or the balance in the school 73707
district property tax replacement fund. 73708

~~(G) By August 5, 2002, the tax commissioner shall estimate the amount of money in the school district property tax replacement fund in excess of the amount necessary to make payments under divisions (C), (D), (E), and (F) of this section. Notwithstanding division (C) of this section, the department of education, in consultation with the tax commissioner and from those excess funds, may pay any school district four and one half times the amount certified under division (A)(2) of this section. Payments shall be made in order from the smallest annual loss to the largest annual loss. A payment made under this division shall be in lieu of the payment to be made in August 2002 under division (C)(2) of this section. No payments shall be made in the manner established in this division to any school district with annual losses from permanent improvement fixed rate levies in excess of twenty thousand dollars, or annual losses from any other fixed rate levies in excess of twenty thousand dollars. A school district receiving a payment under this division is no longer entitled to any further payments under division (C) of this section.~~

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~~(H) On the thirty first day of July of 2003, 2004, 2005, and 2006, and on the thirty first day of January and July of 2007 and each year thereafter, if the amount credited to the school district property tax replacement fund exceeds the amount needed to make payments from the fund under divisions (C), (D), (E), and (F) of this section, the department of education shall distribute the excess among school districts and joint vocational school districts. The amount distributed to each district shall bear the same proportion to the excess remaining in the fund as the ADM of the district bears to the ADM of all of the districts. For the purpose of this division, "ADM" means the formula ADM in the case of a school district, and the average daily membership reported under section 3317.03 of the Revised Code in the case of a joint vocational school district.~~

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~~If, in the opinion of the department of education, the excess remaining in the school district property tax replacement fund in any year is not sufficient to warrant distribution under this division, the excess shall remain to the credit of the fund.~~ 73742
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~~Amounts received by a school district or joint vocational school district under this division shall be used exclusively for capital improvements.~~ 73746
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(H) On the first day of June each year, the director of budget and management shall transfer any balance remaining in the school district property tax replacement fund after the payments have been made under divisions (C), (D), (E), (F), and (G) of this section to the half-mill equalization fund created under section 3318.18 of the Revised Code. 73749
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(I) From fiscal year 2002 through fiscal year 2016, if the total amount in the school district property tax replacement fund is insufficient to make all payments under divisions (C), (D), ~~and (E), and (F)~~ of this section at the time the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district property tax replacement fund the difference between the total amount to be paid and the total amount in the school district property tax replacement fund, except that no transfer shall be made by reason of a deficiency to the extent that it results from the amendment of section 5727.84 of the Revised Code by Amended Substitute House Bill No. 95 of the 125th general assembly. 73755
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(J) If all ~~or a part~~ of the territory of a school district or joint vocational school district is merged with an existing district, or if a part of the territory of a school district or joint vocational school district is transferred to another an existing or new district, the department of education, in consultation with the tax commissioner, shall adjust the payments made under this section ~~to each of the districts in proportion to~~ 73767
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the tax value loss apportioned to the merged or transferred territory as follows: 73774
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(1) For the merger of all of the territory of two or more districts, the fixed-rate levy loss and the fixed-sum levy loss of the successor district shall be equal to the sum of the fixed-rate levy losses and the fixed-sum levy losses for each of the districts involved in the merger. 73776
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(2) For the transfer of a part of one district's territory to an existing district, the amount of the fixed-rate levy loss that is transferred to the recipient district shall be an amount equal to the transferring district's total fixed-rate levy loss times a fraction, the numerator of which is the value of electric company tangible personal property located in the part of the territory that was transferred, and the denominator of which is the total value of electric company tangible personal property located in the entire district from which the territory was transferred. The value of electric company tangible personal property under this division shall be determined for the most recent year for which data is available. Fixed-sum levy losses for both districts shall be determined under division (J)(4) of this section. 73781
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(3) For the transfer of a part of the territory of one or more districts to create a new district: 73794
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(a) If the new district is created on or after January 1, 2000, but before January 1, 2005, the new district shall be paid its current fixed-rate levy loss through August 2006. From February 2007 to August 2016, the new district shall be paid the lesser of: (i) the amount calculated under division (B) of this section or (ii) an amount determined under the schedule in division (A)(1) of section 5727.86 of the Revised Code, as if for this purpose the new district was a local taxing unit under that section. Fixed-sum levy losses for the districts shall be determined under division (J)(4) of this section. 73796
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(b) If the new district is created on or after January 1, 2005, the new district shall be deemed not to have any fixed-rate levy loss or, except as provided in division (J)(4) of this section, fixed-sum levy loss. The district or districts from which the territory was transferred shall have no reduction in their fixed-rate levy loss, or, except as provided in division (J)(4) of this section, their fixed-sum levy loss.

(4) If a recipient district under division (J)(2) of this section or a new district under division (J)(3)(a) or (b) of this section takes on debt from one or more of the districts from which territory was transferred, and any of the districts transferring the territory had fixed-sum levy losses, the department of education, in consultation with the tax commissioner, shall make an equitable division of the fixed-sum levy losses.

(K) There is hereby created the public utility property tax study committee, effective January 1, 2011. The committee shall consist of the following seven members: the tax commissioner, three members of the senate appointed by the president of the senate, and three members of the house of representatives appointed by the speaker of the house of representatives. The appointments shall be made not later than January 31, 2011. The tax commissioner shall be the chairperson of the committee.

The committee shall study the extent to which each school district or joint vocational school district has been compensated, under sections 5727.84 and 5727.85 of the Revised Code as enacted by Substitute Senate Bill No. 3 of the 123rd general assembly and any subsequent acts, for the property tax loss caused by the reduction in the assessment rates for natural gas, electric, and rural electric company tangible personal property. Not later than June 30, 2011, the committee shall issue a report of its findings, including any recommendations for providing additional compensation for the property tax loss or regarding remedial

legislation, to the president of the senate and the speaker of the 73838
house of representatives, at which time the committee shall cease 73839
to exist. 73840

The department of taxation and department of education shall 73841
provide such information and assistance as is required for the 73842
committee to carry out its duties. 73843

Sec. 5728.01. As used in sections 5728.02 to 5728.14 of the 73844
Revised Code: 73845

(A) "Motor vehicle" means everything on wheels that is 73846
self-propelled, other than by muscular power or power collected 73847
from electric trolley wires and other than vehicles or machinery 73848
not designed for or employed in general highway transportation, 73849
used to transport or propel persons or property over a public 73850
highway. 73851

(B) "Commercial car" means any motor vehicle used for 73852
transporting persons or property, wholly on its own structure on a 73853
public highway. 73854

(C) "Commercial tractor" means any motor vehicle designed and 73855
used to propel or draw a trailer or semi-trailer or both on a 73856
public highway without having any provision for carrying loads 73857
independently of such trailer or semi-trailer. 73858

(D) "Trailer" means everything on wheels that is not 73859
self-propelled, except vehicles or machinery not designed for or 73860
employed in general highway transportation, used for carrying 73861
property wholly on its own structure and for being drawn by a 73862
motor vehicle on a public highway, including any such vehicle when 73863
formed by or operated as a combination of a semi-trailer and a 73864
vehicle of the dolly type such as that commonly known as a trailer 73865
dolly. "Trailer" does not include manufactured homes as defined in 73866
division (C)(4) of section 3781.06 of the Revised Code or mobile 73867

homes as defined in division (O) of section 4501.01 of the Revised Code. 73868
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(E) "Semi-trailer" means everything on wheels that is not self-propelled, except vehicles or machinery not designed for or employed in general highway transportation, designed and used for carrying property on a public highway when being propelled or drawn by a commercial tractor when part of its own weight or the weight of its load, or both, rest upon and is carried by a commercial tractor. 73870
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(F) "Commercial tandem" means any commercial car and trailer or any commercial tractor, semi-trailer, and trailer when fastened together and used as one unit. 73877
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(G) "Commercial tractor combination" means any commercial tractor and semi-trailer when fastened together and used as one unit. 73880
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(H) "Axle" means two or more load carrying wheels mounted in a single transverse vertical plane. 73883
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(I) "Public highway" means any highway, road, or street dedicated to public use, including a highway under the control and jurisdiction of the Ohio turnpike commission created by the provisions of section 5537.02 of the Revised Code and land and lots over which the public, either as user or owner, generally has a right to pass even though such land or lots are closed temporarily by public authorities for the purpose of construction, reconstruction, maintenance, or repair. 73885
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(J) "Jurisdiction" means a state of the United States, the District of Columbia, or a province or territory of Canada. 73893
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Sec. 5728.02. (A) Except as provided in section 5728.03 of the Revised Code, every person who is liable for the tax imposed by section 5728.06 of the Revised Code on the operation of a 73895
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commercial car ~~with three or more axles when operated alone or as~~ 73898
~~part of a commercial tandem, a commercial car with two axles that~~ 73899
~~is to be operated as part of a commercial tandem with a gross~~ 73900
~~vehicle weight or a registered gross vehicle weight exceeding~~ 73901
~~twenty six thousand pounds, or a commercial tractor that is, or is~~ 73902
to be, operated or driven upon a public highway in two or more 73903
jurisdictions shall cause to be filed annually with the tax 73904
commissioner ~~a written~~ an application for a fuel use permit ~~on~~ 73905
~~blank forms~~ to be furnished by the commissioner for that purpose. 73906

Each application for a fuel use permit for a commercial car 73907
or a commercial tractor shall contain any information the tax 73908
commissioner prescribes. 73909

(B) Upon receipt of the application, the tax commissioner 73910
shall issue to the person making the application a fuel use permit 73911
and any identification device that the commissioner considers 73912
necessary for the proper administration of this chapter. The 73913
permit and the identification device shall be of a design and 73914
contain any information the commissioner considers necessary. The 73915
identification device shall be displayed on the commercial car or 73916
commercial tractor for which it was issued at all times in the 73917
manner the commissioner prescribes. The fuel use permits and the 73918
identification device shall not be transferable. In case of the 73919
loss of a fuel use permit or identification device, the 73920
commissioner shall issue a duplicate of the permit or device. 73921

The fuel use permit shall be valid until it expires or is 73922
suspended or surrendered. 73923

Sec. 5728.03. (A) In lieu of filing an application for an 73924
annual fuel use permit under section 5728.02 of the Revised Code 73925
and in lieu of filing returns under section 5728.08 of the Revised 73926
Code, a person who is the owner of a commercial car ~~with three or~~ 73927
~~more axles when operated alone or as part of a commercial tandem,~~ 73928

~~a commercial car with two axles that is to be operated as part of~~ 73929
~~a commercial tandem with a gross vehicle weight or a registered~~ 73930
~~gross vehicle weight exceeding twenty six thousand pounds,~~ or a 73931
commercial tractor that would otherwise be liable for the tax 73932
imposed by section 5728.06 of the Revised Code, that is, or is to 73933
be, operated or driven upon a public highway, may file an 73934
application with the tax commissioner for a single-trip fuel use 73935
permit. The application shall be based on rules adopted by the tax 73936
commissioner and shall include an amount estimated to be 73937
substantially equivalent to the fuel use tax liability that the 73938
applicant will incur by driving on the highways of this state 73939
during the period covered by the single-trip permit. The amount so 73940
estimated shall be considered to be the fuel use tax liability so 73941
incurred. 73942

The commissioner may authorize independent permit services or 73943
other persons to issue single-trip fuel use permits. 73944

(B) The tax commissioner shall adopt rules establishing all 73945
of the following: 73946

(1) Procedures for the issuance of single-trip permits; 73947

(2) The length of time the permits are effective; 73948

(3) Requirements that independent permit services or other 73949
persons must meet to be authorized to issue single-trip fuel use 73950
permits and procedures for obtaining that authorization; 73951

(4) Estimates of the amount substantially equivalent to the 73952
fuel use tax liability that an applicant will incur by driving on 73953
the highways of this state during the period covered by the 73954
permit. 73955

(C) No person whose fuel use permit issued under section 73956
5728.02 of the Revised Code is currently under suspension in 73957
accordance with section 5728.11 of the Revised Code shall be 73958
issued a single-trip fuel use permit under this section. 73959

(D) All moneys collected pursuant to this section shall be 73960
deposited in the state treasury in accordance with section 5728.08 73961
of the Revised Code. 73962

Sec. 5728.04. (A) It is unlawful for any person to operate a 73963
commercial car ~~with three or more axles when operated alone or as~~ 73964
~~part of a commercial tandem, a commercial car with two axles that~~ 73965
~~is to be operated as part of a commercial tandem with a gross~~ 73966
~~vehicle weight or a registered gross vehicle weight exceeding~~ 73967
~~twenty six thousand pounds, or a commercial tractor when operated~~ 73968
~~alone or as part of a commercial tractor combination or commercial~~ 73969
~~tandem that is subject to the tax imposed by section 5728.06 of~~ 73970
the Revised Code on a public highway in two or more jurisdictions 73971
under either of the following circumstances: 73972

(1) Without a fuel use permit or single trip fuel use permit 73973
for such commercial car or commercial tractor. 73974

(2) With a suspended or surrendered fuel use permit for such 73975
commercial car or commercial tractor. 73976

(B) The judge or magistrate of any court finding any person 73977
guilty of unlawfully operating a commercial car or commercial 73978
tractor as provided for in this section shall immediately notify 73979
the tax commissioner of such violation and shall transmit to the 73980
tax commissioner the name and the permanent address of the owner 73981
of the commercial car or commercial tractor operated in violation 73982
of this section, the registration number, the state of 73983
registration, and the certificate of title number of the 73984
commercial car or commercial tractor. The commercial car or 73985
commercial tractor involved in a violation of division (A)(1) or 73986
(2) of this section may be detained until a valid fuel use permit 73987
is obtained or reinstated. 73988

Sec. 5728.06. (A) For the following purposes, an excise tax 73989

is hereby imposed on the use of motor fuel to operate on the 73990
public highways of this state a commercial car with three or more 73991
axles, regardless of weight, operated alone or as part of a 73992
commercial tandem, a commercial car with two axles ~~operated as~~ 73993
~~part of a commercial tandem~~ having a gross vehicle weight or 73994
registered gross vehicle weight exceeding twenty-six thousand 73995
pounds operated alone or as part of a commercial tandem, or a 73996
commercial tractor operated alone or as part of a commercial 73997
tractor combination or commercial tandem: to provide revenue for 73998
maintaining the state highway system, to widen existing surfaces 73999
on such highways, to resurface such highways, to enable the 74000
counties of the state properly to plan for, maintain, and repair 74001
their roads, to enable the municipal corporations to plan, 74002
construct, reconstruct, repave, widen, maintain, repair, clear, 74003
and clean public highways, roads, and streets; to pay that portion 74004
of the construction cost of a highway project that a county, 74005
township, or municipal corporation normally would be required to 74006
pay, but that the director of transportation, pursuant to division 74007
(B) of section 5531.08 of the Revised Code, determines instead 74008
will be paid from moneys in the highway operating fund; to 74009
maintain and repair bridges and viaducts; to purchase, erect, and 74010
maintain street and traffic signs and markers; to purchase, erect, 74011
and maintain traffic lights and signals; to pay the costs 74012
apportioned to the public under section 4907.47 of the Revised 74013
Code; and to supplement revenue already available for such 74014
purposes, to distribute equitably among those persons using the 74015
privilege of driving motor vehicles upon such highways and streets 74016
the cost of maintaining and repairing the same, and to pay the 74017
interest, principal, and charges on bonds and other obligations 74018
issued pursuant to Section 2i of Article VIII, Ohio Constitution, 74019
and sections 5528.30 and 5528.31 of the Revised Code. The tax is 74020
imposed in the same amount as the motor fuel tax imposed under 74021
Chapter 5735. of the Revised Code plus an additional tax of three 74022

cents per gallon of motor fuel used before July 1, 2004, provided 74023
that the additional tax shall be reduced to two cents per gallon 74024
of motor fuel used from July 1, 2004 through June 30, 2005, as 74025
determined by the gallons consumed while operated on the public 74026
highways of this state. Subject to section 5735.292 of the Revised 74027
Code, on and after July 1, 2005, the tax shall be imposed in the 74028
same amount as the motor fuel tax imposed under Chapter 5735. of 74029
the Revised Code. Payment of the fuel use tax shall be made by the 74030
purchase ~~of motor fuel~~ within Ohio of such gallons of motor fuel, 74031
for which the tax imposed under Chapter 5735. of the Revised Code 74032
has been paid, as is equivalent to the gallons consumed while 74033
operating such a motor vehicle on the public highways of this 74034
state, or by direct remittance to the treasurer of state with the 74035
fuel use tax return filed pursuant to section 5728.08 of the 74036
Revised Code. 74037

Any person subject to the tax imposed under this section who 74038
purchases motor fuel in this state for use in another state in 74039
excess of the amount consumed while operating such motor vehicle 74040
on the public highways of this state shall be allowed a credit 74041
against the tax imposed by this section or a refund equal to the 74042
motor fuel tax paid to this state on such excess. No such credit 74043
or refund shall be allowed for taxes paid to any state that 74044
imposes a tax on motor fuel purchased or obtained in this state 74045
and used on the highways of such other state but does not allow a 74046
similar credit or refund for the tax paid to this state on motor 74047
fuel purchased or acquired in the other state and used on the 74048
public highways of this state. 74049

The tax commissioner is authorized to determine whether such 74050
credits or refunds are available and to prescribe such rules as 74051
are required for the purpose of administering this chapter. 74052

(B) Within sixty days after the last day of each month, the 74053
tax commissioner shall determine the amount of motor fuel tax 74054

allowed as a credit against the tax imposed by this section. The 74055
commissioner shall certify the amount to the director of budget 74056
and management and the treasurer of state, who shall credit the 74057
amount in accordance with section 5728.08 of the Revised Code from 74058
current revenue arising from the tax levied by section 5735.05 of 74059
the Revised Code. 74060

(C) The owner of each commercial car and commercial tractor 74061
subject to sections 5728.01 to 5728.14 of the Revised Code is 74062
liable for the payment of the full amount of the taxes imposed by 74063
this section. 74064

An owner who is a person regularly engaged, for compensation, 74065
in the business of leasing or renting motor vehicles without 74066
furnishing drivers may designate that the lessee of a motor 74067
vehicle leased for a period of thirty days or more shall report 74068
and pay the tax incurred during the duration of the lease. An 74069
owner who is an independent contractor that furnishes both the 74070
driver and motor vehicle, may designate that the person so 74071
furnished with the driver and motor vehicle for a period of thirty 74072
days or more shall report and pay the tax incurred during that 74073
period. An independent contractor that is not an owner, but that 74074
furnishes both the driver and motor vehicle and that has been 74075
designated by the owner of the motor vehicle to report and pay the 74076
tax, may designate that the person so furnished with driver and 74077
motor vehicle for a period of thirty days or more shall report and 74078
pay the tax incurred during that period. 74079

Sec. 5728.08. Except as provided in section 5728.03 of the 74080
Revised Code and except as otherwise provided in ~~this division~~ (A) 74081
of section 5728.06 of the Revised Code, whoever is liable for the 74082
payment of the tax levied by section 5728.06 of the Revised Code, 74083
on or before the last day of each January, April, July, and 74084
October, shall file with the tax commissioner, on forms prescribed 74085

by the commissioner, a fuel use tax return and make payment of the 74086
full amount of the tax due for the operation of each commercial 74087
car and commercial tractor for the preceding three calendar 74088
months. ~~If the commercial cars or commercial tractors are farm 74089~~
~~trucks and the amount of motor fuel used to operate the trucks 74090~~
~~during the preceding twelve calendar months was less than fifteen 74091~~
~~thousand gallons, the fuel use tax return shall be filed and the 74092~~
~~full amount of tax due paid on or before the last day of each July 74093~~
~~for the preceding twelve calendar months. If the commercial cars 74094~~
~~or commercial tractors are farm trucks and the amount of motor 74095~~
~~fuel used to operate the trucks during the preceding twelve 74096~~
~~calendar months was fifteen thousand gallons or more, the fuel use 74097~~
~~tax return shall be filed and the full amount of the tax due paid 74098~~
~~either on or before the last day of each July for the preceding 74099~~
~~twelve calendar months, or on or before the last day of each 74100~~
~~January, April, July, and October for the preceding three calendar 74101~~
~~months, at the option of the person liable for payment of the tax. 74102~~
~~If the commercial cars or commercial tractors are not farm trucks, 74103~~
~~and if, in the estimation of the commissioner, the amount of the 74104~~
~~tax due does not warrant quarterly filing, the commissioner may 74105~~
~~authorize the filing of the fuel use tax return and payment of the 74106~~
~~full amount due on or before the last day of each July for the 74107~~
~~preceding twelve months. 74108~~

The commissioner shall immediately forward to the treasurer 74109
of state all money received from the tax levied by section 5728.06 74110
of the Revised Code. 74111

The treasurer of state shall place to the credit of the tax 74112
refund fund created by section 5703.052 of the Revised Code, out 74113
of receipts from the taxes levied by section 5728.06 of the 74114
Revised Code, amounts equal to the refund certified by the tax 74115
commissioner pursuant to section 5728.061 of the Revised Code. 74116
Receipts from the tax shall be used by the commissioner to defray 74117

expenses incurred by the department of taxation in administering 74118
sections 5728.01 to 5728.14 of the Revised Code. 74119

All moneys received in the state treasury from taxes levied 74120
by section 5728.06 of the Revised Code and fees assessed under 74121
section 5728.03 of the Revised Code that are not required to be 74122
placed to the credit of the tax refund fund as provided by this 74123
section shall, during each calendar year, be credited to the 74124
highway improvement bond retirement fund created by section 74125
5528.12 of the Revised Code until the commissioners of the sinking 74126
fund certify to the treasurer of state, as required by section 74127
5528.17 of the Revised Code, that there are sufficient moneys to 74128
the credit of the highway improvement bond retirement fund to meet 74129
in full all payments of interest, principal, and charges for the 74130
retirement of bonds and other obligations issued pursuant to 74131
Section 2g of Article VIII, Ohio Constitution, and sections 74132
5528.10 and 5528.11 of the Revised Code due and payable during the 74133
current calendar year and during the following calendar year. From 74134
the date of the receipt of the certification required by section 74135
5528.17 of the Revised Code by the treasurer of state until the 74136
thirty-first day of December of the calendar year in which the 74137
certification is made, all moneys received in the state treasury 74138
from taxes levied under section 5728.06 of the Revised Code and 74139
fees assessed under section 5728.03 of the Revised Code that are 74140
not required to be placed to the credit of the tax refund fund as 74141
provided by this section shall be credited to the highway 74142
obligations bond retirement fund created by section 5528.32 of the 74143
Revised Code until the commissioners of the sinking fund certify 74144
to the treasurer of state, as required by section 5528.38 of the 74145
Revised Code, that there are sufficient moneys to the credit of 74146
the highway obligations bond retirement fund to meet in full all 74147
payments of interest, principal, and charges for the retirement of 74148
bonds and other obligations issued pursuant to Section 2i of 74149
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 74150

of the Revised Code due and payable during the current calendar 74151
year and during the following calendar year. From the date of the 74152
receipt of the certification required by section 5528.38 of the 74153
Revised Code by the treasurer of state until the thirty-first day 74154
of December of the calendar year in which the certification is 74155
made, all moneys received in the state treasury from taxes levied 74156
under section 5728.06 of the Revised Code and fees assessed under 74157
section 5728.03 of the Revised Code that are not required to be 74158
placed to the credit of the tax refund fund as provided by this 74159
section shall be credited to the highway operating fund created by 74160
section 5735.291 of the Revised Code, except as provided by the 74161
following paragraph of this section. 74162

From the date of the receipt by the treasurer of state of 74163
certifications from the commissioners of the sinking fund, as 74164
required by sections 5528.18 and 5528.39 of the Revised Code, 74165
certifying that the moneys to the credit of the highway 74166
improvement bond retirement fund are sufficient to meet in full 74167
all payments of interest, principal, and charges for the 74168
retirement of all bonds and other obligations that may be issued 74169
pursuant to Section 2g of Article VIII, Ohio Constitution, and 74170
sections 5528.10 and 5528.11 of the Revised Code, and to the 74171
credit of the highway obligations bond retirement fund are 74172
sufficient to meet in full all payments of interest, principal, 74173
and charges for the retirement of all obligations issued pursuant 74174
to Section 2i of Article VIII, Ohio Constitution, and sections 74175
5528.30 and 5528.31 of the Revised Code, all moneys received in 74176
the state treasury from the taxes levied under section 5728.06 and 74177
fees assessed under section 5728.03 of the Revised Code that are 74178
not required to be placed to the credit of the tax refund fund as 74179
provided by this section, shall be deposited to the credit of the 74180
highway operating fund. 74181

~~As used in this section, "farm truck" means any commercial~~ 74182

~~ear or commercial tractor that is registered as a farm truck under~~ 74183
~~Chapter 4503. of the Revised Code.~~ 74184

Sec. 5729.032. Upon the issuance of a tax credit certificate 74185
by the director of development, a refundable credit granted by the 74186
tax credit authority under section 122.17 of the Revised Code may 74187
be claimed against the tax imposed by section 5729.03 of the 74188
Revised Code. The credit shall be claimed in the calendar year 74189
specified in the certificate issued by the director of 74190
development. 74191

Sec. 5729.08. (A) As used in this section, "tax otherwise 74192
due" means the tax imposed on a foreign insurance company under 74193
section 5729.03 of the Revised Code reduced by the total amount of 74194
all other nonrefundable credits, if any, that the foreign 74195
insurance company is entitled to claim. 74196

(B) Upon the issuance of a tax credit certificate by the Ohio 74197
venture capital authority under section 150.07 of the Revised 74198
Code, a credit may be claimed against the tax imposed on a foreign 74199
insurance company under section 5729.03 of the Revised Code. The 74200
credit shall be claimed in the calendar year specified in the 74201
certificate issued by the authority. 74202

(C) If the company elected a refundable credit under section 74203
150.07 of the Revised Code and if the amount of the credit shown 74204
on the certificate does not exceed the tax otherwise due, then for 74205
the calendar year the company shall claim a refundable credit 74206
equal to the amount of the credit shown on the certificate. 74207

(D) If the company elected a refundable credit under section 74208
150.07 of the Revised Code, and the amount of the credit shown on 74209
the certificate exceeds the tax otherwise due ~~under section~~ 74210
~~5729.03 of the Revised Code,~~ than for the calendar year the 74211
company may receive a refund equal to seventy five per cent of 74212

~~such excess. If shall claim a refundable credit equal to the sum~~ 74213
~~of the following:~~ 74214

(1) The amount, if any, of the tax otherwise due; 74215

(2) Seventy-five per cent of the difference between the 74216
amount of the refundable credit shown on the certificate and the 74217
tax otherwise due. 74218

(E) If the company elected a nonrefundable credit, the amount 74219
of the credit shown on the certificate shall not exceed the amount 74220
of tax otherwise due. If the company elected a nonrefundable 74221
credit and the credit to which the company would otherwise be 74222
entitled under this section for any calendar year is greater than 74223
the tax otherwise due ~~under section 5729.03 of the Revised Code,~~ 74224
the excess shall be allowed as a nonrefundable credit in each of 74225
the ensuing ten calendar years, but the amount of any excess 74226
credit allowed in the ensuing calendar year shall be deducted from 74227
the balance carried forward to the next calendar year. 74228

Sec. 5731.01. As used in this chapter: 74229

(A) The "value of the gross estate" of the decedent shall 74230
include, to the extent provided in sections 5731.03 to 5731.131 of 74231
the Revised Code, the value, on the ~~due~~ date of the decedent's 74232
death or on an alternate valuation date prescribed by division (D) 74233
of this section, of all property, real or personal, tangible or 74234
intangible, wherever situated, except real property situated and 74235
tangible personal property having an actual situs outside of this 74236
state. 74237

(B) Subject to the provisions of section 5731.011 of the 74238
Revised Code that permit a valuation of qualified farm property at 74239
its value for its actual qualified use, the value of any property 74240
included in the gross estate shall be the price at which such 74241
property would change hands between a willing buyer and a willing 74242

seller, neither being under any compulsion to buy or sell and both 74243
having reasonable knowledge of relevant facts. All relevant facts 74244
and elements of value as of the valuation date shall be considered 74245
in determining such value. 74246

The rulings and regulations of the internal revenue service 74247
and decisions of the federal courts defining the principles 74248
applicable in determining fair market value for purposes of the 74249
federal estate tax imposed by Subchapter A, Chapter 11 of the 74250
Internal Revenue Code ~~of 1954, 26 U.S.C. 2001, as amended,~~ shall 74251
be applied in determining fair market value for purposes of the 74252
estate taxes imposed by this chapter, to the extent that these 74253
rulings, regulations, and decisions are not inconsistent with the 74254
express provisions of this chapter, but the actual determination 74255
of the fair market value by the internal revenue service of any 74256
asset included in the gross estate is not controlling for purposes 74257
of the estate taxes imposed by this chapter, unless the person 74258
filing the estate tax return and the tax commissioner have agreed 74259
in writing to be bound by the federal determination, as provided 74260
in section 5731.26 of the Revised Code. 74261

(C) In the case of stock and securities of a corporation the 74262
value of which, by reason of their not being listed on an exchange 74263
and by reason of the absence of sales of them, cannot be 74264
determined with reference to bid and asked prices, or with 74265
reference to sales prices, the value of them shall be determined 74266
by taking into consideration, in addition to all other factors, 74267
the value of stock or securities of corporations engaged in the 74268
same or a similar line of business which are listed on an exchange 74269
or which are traded actively in the over-the-counter market. 74270

If a valuation of securities is undertaken by reference to 74271
market transactions and if the block of securities to be valued is 74272
so large in relation to actual sales on existing markets that it 74273
could not be liquidated in a reasonable time without depressing 74274

the market, the price at which the block could be sold, as such, 74275
outside the usual market, as through an underwriter, shall be 74276
considered in determining the value of such block of securities. 74277

(D) "Alternate valuation date" means the date for valuation 74278
of a gross estate permitted by filing an election under this 74279
division. Whether or not an alternate valuation date election is 74280
available to an estate for federal estate tax purposes or, if 74281
available, is made for the estate, the value of the gross estate 74282
may be determined, if the person required to file the estate tax 74283
return so elects, by valuing all the property included in the 74284
gross estate on the alternate date, if any, provided in section 74285
2032 (a) of the Internal Revenue Code ~~of 1954, 26 U.S.C. 2032(a),~~ 74286
~~as amended~~ as such section generally applies, for federal estate 74287
tax purposes, to the estates of persons dying on the decedent's 74288
date of death. 74289

No deduction under this chapter of any item shall be allowed 74290
if allowance is, in effect, given by use of the alternate 74291
valuation date. In the determination of any tax liability of any 74292
estate in which an election is filed under this division, all 74293
provisions in this chapter ~~which~~ that refer to value at the time 74294
of the decedent's death shall be construed for all purposes to 74295
mean the value of such property used in determining the value of 74296
the gross estate. For the purposes of the charitable deduction 74297
under section 5731.17 of the Revised Code, any bequest, legacy, 74298
devise, or transfer enumerated in it shall be valued as of the 74299
date of the decedent's death with adjustment for any difference in 74300
value, not due to mere lapse of time or the occurrence or 74301
nonoccurrence of a contingency, of the property as of the date six 74302
months after the decedent's death, or in case of its earlier 74303
disposition, on such date of disposition. 74304

An election under this division shall be exercised on the 74305
estate tax return by the person required to file the return. When 74306

made, an election under this division is irrevocable. An election 74307
cannot be exercised under this division if a return is filed more 74308
than one year after the time prescribed, including any extensions 74309
of time granted, pursuant to law for filing the return. 74310

(E) Unless otherwise indicated by the context, "county" means 74311
one of the following: 74312

(1) The county in which the decedent's estate is 74313
administered; 74314

(2) If no administration of the decedent's estate is being 74315
had, the county of residence of the decedent at the time of ~~his~~ 74316
death; 74317

(3) If the decedent dies a resident of another state, any 74318
county in which any property subject to tax is located. 74319

(F) "Internal Revenue Code" means the "Internal Revenue Code 74320
of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended. 74321

Sec. 5731.05. (A) Except as provided in divisions (B) and (C) 74322
of this section, the value of the gross estate shall include the 74323
value of all property, to the extent of any interest in property, 74324
of which the decedent has at any time made a transfer, by trust or 74325
otherwise, in contemplation of ~~his~~ death. 74326

(B) Any transfer, except as provided in division (C) of this 74327
section, by trust or otherwise, made within a period of three 74328
years ending with the date of the decedent's death shall be deemed 74329
to have been made in contemplation of death, unless the contrary 74330
is shown. No transfer made before that three-year period shall be 74331
treated as having been made in contemplation of death. 74332

(C) This section does not apply to any of the following: 74333

(1) A bona fide sale for an adequate and full consideration 74334
in money or money's worth; 74335

(2) A transfer of property that would not be included in the decedent's gross estate if retained by ~~him~~ the decedent until death;

(3) The first ten thousand dollars of the transfers that were made by the decedent to each transferee, other than the spouse of the decedent, in each calendar year, but only to the extent that those transfers qualify as present interests under section 2503(b) and (c) of the "Internal Revenue Code of 1986," 26 U.S.C. 2503, as amended. The exclusion provided by division (C)(3) of this section does not apply to any portion of a transfer that is treated as being made by the spouse of the decedent under section 2513 of the "Internal Revenue Code of 1986," 26 U.S.C. 2513, as amended.

(4) A transfer of property made to the spouse of the transferor, except as provided in section 5731.131 of the Revised Code;

(5) Federal or state gift taxes paid with respect to any includible transfer.

~~(D) The amendments made to this section by Amended Substitute House Bill No. 111 and Substitute Senate Bill No. 336 of the 118th general assembly that are effective on July 1, 1993, shall apply only to the estates of decedents who die on or after that date.~~

Sec. 5731.131. ~~(A)~~ The value of the gross estate shall include the value of any property in which the decedent had an income interest for life as follows:

~~(1)~~ (A) If a marital deduction was allowed with respect to the transfer of such property to the decedent under section 2523(f) of the "Internal Revenue Code of 1986," 26 U.S.C. 2523(f), as amended, in connection with the determination of the value of the taxable estate of the decedent's predeceasing spouse;

~~(2)~~ (B) If the decedent's predeceasing spouse was not a

resident of this state at the time of ~~his~~ death and if a marital 74366
deduction was allowed with respect to the transfer of such 74367
property to the decedent under section 2056(b)(7) of the "Internal 74368
Revenue Code ~~of 1986, "~~ 26 U.S.C. 2056(b)(7), ~~as amended~~, in 74369
connection with the determination of the value of the taxable 74370
estate of the decedent's predeceasing spouse; 74371

~~(3)~~(C) If the decedent's predeceasing spouse died prior to 74372
July 1, 1993, and if a marital deduction was allowed with respect 74373
to the transfer of such property to the decedent under division 74374
(A)(1) of section 5731.15 of the Revised Code as it existed prior 74375
to July 1, 1993, in connection with the determination of the value 74376
of the taxable estate of the decedent's predeceasing spouse; 74377

~~(4)~~(D) If a qualified terminable interest property deduction 74378
was allowed with respect to the transfer of such property to the 74379
decedent under division (B) of section 5731.15 of the Revised 74380
Code, in connection with the determination of the value of the 74381
taxable estate of the decedent's predeceasing spouse. 74382

~~(B) The amendments made to this section by Amended Substitute 74383
House Bill No. 111 and substitute Senate Bill No. 336 of the 118th 74384
general assembly that are effective on July 1, 1993, shall apply 74385
only to the estates of decedents who die on or after that date. 74386~~

Sec. 5731.14. For purposes of the tax levied by section 74387
5731.02 of the Revised Code, the value of the taxable estate shall 74388
be determined by deducting from the value of the gross estate 74389
deductions provided for in sections 5731.15 to 5731.17 ~~and 5731.20~~ 74390
of the Revised Code. 74391

Sec. 5731.18. (A) In addition to the tax levied by section 74392
5731.02 of the Revised Code, a tax is hereby levied upon the 74393
transfer of the estate of every person dying on or after July 1, 74394
1968, who, at the time of ~~his~~ death was a resident of this state, 74395

in an amount equal to the maximum credit allowable by subtitle B, 74396
~~chapter~~ Chapter 11 of the Internal Revenue Code ~~of 1954, 26 U.S.C.~~ 74397
~~2011, as amended~~, for any taxes paid to any state. 74398

(B) The tax levied on any estate under this section shall be 74399
credited with the amount of the tax levied under section 5731.02 74400
of the Revised Code and with the amount of any estate, 74401
inheritance, legacy, or succession taxes actually paid to any 74402
state or territory of the United States or to the District of 74403
Columbia on any property included in the decedent's gross estate 74404
for federal estate tax purposes. 74405

(C) The additional tax levied under this section shall be 74406
administered, collected, and paid as provided in section 5731.24 74407
of the Revised Code. 74408

Sec. 5731.181. (A) For purposes of this section, 74409
"generation-skipping transfer," "taxable distribution," and 74410
"taxable termination" have the same meaning as in Chapter 13 of 74411
subtitle B of the Internal Revenue Code ~~of 1986, 100 Stat. 2718,~~ 74412
~~26 U.S.C. 2601-2624, as amended.~~ 74413

(B) A tax is hereby levied upon every generation-skipping 74414
transfer of property having a situs in this state, that occurs at 74415
the same time as, and as a result of, the death of an individual, 74416
in an amount equal to the credit allowed by Chapter 13 of subtitle 74417
B of the Internal Revenue Code ~~of 1986, 100 Stat. 2718, 26 U.S.C.~~ 74418
~~2601-2624, as amended~~, for any taxes paid to any state in respect 74419
of any property included in the generation-skipping transfer. 74420

For purposes of this division, "property having a situs in 74421
this state" includes all the following: 74422

(1) Real property situated in this state; 74423

(2) Tangible personal property having an actual situs in this 74424
state; 74425

(3) Intangible personal property employed in carrying on a business in this state; 74426
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(4) Intangible personal property owned by a trust, the trustee of which resides in or has its principal place of business in this state, or, if there is more than one trustee of the trust, the principal place of administration of which is in this state. 74428
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(C) The return with respect to the generation-skipping tax levied by division (B) of this section shall be filed in the form that the tax commissioner shall prescribe, on or before the day prescribed by law, including extensions, for filing the generation-skipping transfer tax return under Chapter 13 of subtitle B of the Internal Revenue Code ~~of 1986, 100 Stat. 2718,~~ ~~26 U.S.C. 2601-2624, as amended,~~ for the same generation-skipping transfer. The return shall be filed by the distributee in the case of a taxable distribution and by the trustee in the case of a taxable termination. 74432
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(D) The generation-skipping tax levied by division (B) of this section shall be paid, without notice or demand by the tax commissioner, with the return, and shall be charged, collected, and administered in the same manner as estate taxes levied by this chapter. This chapter is generally applicable to, except to the extent it is inconsistent with the nature of, the generation-skipping tax. 74442
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(E) If another state levies a generation-skipping tax on a transfer described in division (B) of this section, the tax commissioner may enter into a compromise of the generation-skipping tax levied by division (B) of this section in the manner provided in section 5731.35 of the Revised Code, except that no approval of any probate court is required. If such a compromise agreement is made, no interest and penalties shall accrue for the period prior to the execution of the agreement and for sixty days after its execution. 74449
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Sec. 5731.22. (A) If the executor, administrator, or other 74458
person required to file a return fails to file the return required 74459
by this chapter or to pay the tax due under this chapter on or 74460
before the date prescribed therefor, determined with regard to any 74461
extension of time for filing or payment, ~~unless it is shown that~~ 74462
~~such failure is due to reasonable cause and not due to willful~~ 74463
~~neglect~~, there shall be added to the amount of tax as finally 74464
determined a penalty ~~determined by the tax commissioner~~, in the 74465
amount of ~~five~~ ten per cent of the amount of ~~that tax if the~~ 74466
~~failure is not for more than one month, or, if the failure is for~~ 74467
~~more than one month, in the amount of five per cent of the amount~~ 74468
~~of that tax plus an additional five per cent for each additional~~ 74469
~~month or fraction of a month during which the failure continues,~~ 74470
~~not exceeding twenty five per cent in the aggregate. If, due to~~ 74471
~~fraud, there is a failure to file the return or an underpayment of~~ 74472
~~tax due under this chapter, there shall be added to the amount of~~ 74473
~~tax as finally determined a penalty determined by the tax~~ 74474
~~commissioner, in an amount not to exceed ten thousand dollars~~ the 74475
tax due and unpaid. The ~~penalties~~ penalty imposed by this section 74476
shall be collected ~~at the same time and~~ in the same manner as the 74477
tax ~~itself~~. 74478

The ~~penalties~~ penalty shall be charged against the executor, 74479
administrator, or other person having custody or control of any 74480
property the transfer of which is subject to estate tax, and such 74481
executor, administrator, or other person is personally liable for 74482
the ~~penalties~~. ~~Such penalties~~ penalty. The penalty shall be 74483
divided in the same manner prescribed for the division of the tax 74484
in sections 5731.50 and 5731.51 of the Revised Code. 74485

(B) The county auditor, upon consultation with the county 74486
treasurer, shall remit a penalty imposed under this section on a 74487
person if that person applies for remission and shows that the 74488
failure to file the return or to pay the tax due under this 74489

chapter on or before the date prescribed for such filing or 74490
payment, determined with regard to any extension, was due to 74491
reasonable cause and not willful neglect. The county auditor shall 74492
notify the applicant of the remission decision by mail. If the 74493
county auditor denies the applicant's application for remission, 74494
the applicant, within sixty days after the notice of the county 74495
auditor's decision is mailed, may apply to the tax commissioner 74496
for review of the county auditor's decision. The application may 74497
be filed in person or by certified mail. If the application is 74498
filed by certified mail, the date of the United States postmark 74499
placed on the sender's receipt by the postal service shall be 74500
treated as the date of filing. The tax commissioner shall consider 74501
the application, determine whether the penalty should be remitted, 74502
and certify the determination to the applicant, the county 74503
auditor, and the county treasurer. The county auditor and county 74504
treasurer shall make any settlement, and the county treasurer 74505
shall correct the accounts required to be kept under section 74506
5731.46 of the Revised Code, as necessitated by the tax 74507
commissioner's determination. The applicant may file an exception 74508
to the tax commissioner's determination with the probate court as 74509
provided under section 5731.30 of the Revised Code. 74510

The tax commissioner may issue orders and instructions for 74511
the uniform implementation of this division by the county auditors 74512
and county treasurers of all counties, and such officers shall 74513
follow such orders and instructions. 74514

Sec. 5731.23. Subject to division (A) of section 5731.25 of 74515
the Revised Code or any other statute extending the time for 74516
payment of an estate tax, the tax levied by section 5731.02 and 74517
division (A) of section 5731.19 of the Revised Code shall, without 74518
notice or demand by the tax commissioner, be due and payable by 74519
the person liable for it, at the expiration of nine months from 74520
the date of the decedent's death, to the treasurer of the county. 74521

If any amount of tax levied by section 5731.02 or division (A) of 74522
section 5731.19 of the Revised Code is not paid on or before nine 74523
months from the date of the decedent's death, interest on such 74524
amount shall be paid for the period from such date to the date 74525
paid, computed at the ~~rate per annum prescribed by federal~~ 74526
short-term rate determined by the tax commissioner under section 74527
5703.47 of the Revised Code. Interest at the same rate shall be 74528
paid on any amount of tax determined to be due by way of 74529
deficiency from nine months from the date of the decedent's death 74530
to the date of payment thereof. Such interest shall be charged and 74531
collected in the same manner as the tax. 74532

Interest computed at the ~~rate per annum prescribed by federal~~ 74533
short-term rate determined by the tax commissioner under section 74534
5703.47 of the Revised Code shall be allowed and paid upon any 74535
overpayment of tax levied by section 5731.02 or division (A) of 74536
section 5731.19 of the Revised Code from nine months from the date 74537
of the decedent's death or the date of payment of the tax, 74538
whichever is later, to the date such overpayment is repaid. ~~Such~~ 74539
~~payment may be made upon an estimated basis whether or not a~~ 74540
~~return is filed, and shall be charged and collected in the same~~ 74541
~~manner as provided in section 5731.21 of the Revised Code.~~ 74542

At any time after nine months from the date of the decedent's 74543
death, payment of an estimated deficiency may be made and shall be 74544
credited against any deficiency of tax finally determined. 74545
Interest on any deficiency ultimately determined to be due shall 74546
be charged only upon the unpaid portion thereof. 74547

Sec. 5731.39. (A) No corporation organized or existing under 74548
the laws of this state shall transfer on its books or issue a new 74549
certificate for any share of its capital stock registered in the 74550
name of a decedent, or in trust for a decedent, or in the name of 74551
a decedent and another person or persons, without the written 74552

consent of the tax commissioner. 74553

(B) No safe deposit company, trust company, financial 74554
institution as defined in division (A) of section 5725.01 of the 74555
Revised Code or other corporation or person, having in possession, 74556
control, or custody a deposit standing in the name of a decedent, 74557
or in trust for a decedent, or in the name of a decedent and 74558
another person or persons, shall deliver or transfer an amount in 74559
excess of three-fourths of the total value of such deposit, 74560
including accrued interest and dividends, as of the date of 74561
decedent's death, without the written consent of the tax 74562
commissioner. The written consent of the tax commissioner need not 74563
be obtained prior to the delivery or transfer of amounts having a 74564
value of three-fourths or less of said total value. 74565

(C) No life insurance company shall pay the proceeds of an 74566
annuity or matured endowment contract, or of a life insurance 74567
contract payable to the estate of a decedent, or of any other 74568
insurance contract taxable under Chapter 5731. of the Revised 74569
Code, without the written consent of the tax commissioner. Any 74570
life insurance company may pay the proceeds of any insurance 74571
contract not specified in this division (C) without the written 74572
consent of the tax commissioner. 74573

(D) No trust company or other corporation or person shall pay 74574
the proceeds of any death benefit, retirement, pension or profit 74575
sharing plan in excess of two thousand dollars, without the 74576
written consent of the tax commissioner. Such trust company or 74577
other corporation or person, however, may pay the proceeds of any 74578
death benefit, retirement, pension, or profit-sharing plan which 74579
consists of insurance on the life of the decedent payable to a 74580
beneficiary other than the estate of the insured without the 74581
written consent of the tax commissioner. 74582

(E) No safe deposit company, trust company, financial 74583
institution as defined in division (A) of section 5725.01 of the 74584

Revised Code, or other corporation or person, having in 74585
possession, control, or custody securities, assets, or other 74586
property (including the shares of the capital stock of, or other 74587
interest in, such safe deposit company, trust company, financial 74588
institution as defined in division (A) of section 5725.01 of the 74589
Revised Code, or other corporation), standing in the name of a 74590
decedent, or in trust for a decedent, or in the name of a decedent 74591
and another person or persons, and the transfer of which is 74592
taxable under Chapter 5731. of the Revised Code, shall deliver or 74593
transfer any such securities, assets, or other property which have 74594
a value as of the date of decedent's death in excess of 74595
three-fourths of the total value thereof, without the written 74596
consent of the tax commissioner. The written consent of the tax 74597
commissioner need not be obtained prior to the delivery or 74598
transfer of any such securities, assets, or other property having 74599
a value of three-fourths or less of said total value. 74600

(F) No safe deposit company, financial institution as defined 74601
in division (A) of section 5725.01 of the Revised Code, or other 74602
corporation or person having possession or control of a safe 74603
deposit box or similar receptacle standing in the name of a 74604
decedent or in the name of the decedent and another person or 74605
persons, or to which the decedent had a right of access, except 74606
when such safe deposit box or other receptacle stands in the name 74607
of a corporation or partnership, or in the name of the decedent as 74608
guardian or executor, shall deliver any of the contents thereof 74609
unless the safe deposit box or similar receptacle has been opened 74610
and inventoried in the presence of the tax commissioner or the 74611
commissioner's agent, and a written consent to transfer issued; 74612
provided, however, that a safe deposit company, financial 74613
institution, or other corporation or person having possession or 74614
control of a safe deposit box may deliver wills, deeds to burial 74615
lots, and insurance policies to a representative of the decedent, 74616
but that a representative of the safe deposit company, financial 74617

institution, or other corporation or person must supervise the 74618
opening of the box and make a written record of the wills, deeds, 74619
and policies removed. Such written record shall be included in the 74620
tax commissioner's inventory records. 74621

(G) Notwithstanding any provision of this section: 74622

(1) The tax commissioner may authorize any delivery or 74623
transfer or waive any of the foregoing requirements under such 74624
terms and conditions as the commissioner may prescribe; 74625

(2) An adult care facility, as defined in section 3722.01 of 74626
the Revised Code, or a home, as defined in section 3721.10 of the 74627
Revised Code, may transfer or use the money in a personal needs 74628
allowance account in accordance with section ~~5111.112~~ 5111.113 of 74629
the Revised Code without the written consent of the tax 74630
commissioner, and without the account having been opened and 74631
inventoried in the presence of the commissioner or the 74632
commissioner's agent. 74633

Failure to comply with this section shall render such safe 74634
deposit company, trust company, life insurance company, financial 74635
institution as defined in division (A) of section 5725.01 of the 74636
Revised Code, or other corporation or person liable for the amount 74637
of the taxes and interest due under the provisions of Chapter 74638
5731. of the Revised Code on the transfer of such stock, deposit, 74639
proceeds of an annuity or matured endowment contract or of a life 74640
insurance contract payable to the estate of a decedent, or other 74641
insurance contract taxable under Chapter 5731. of the Revised 74642
Code, proceeds of any death benefit, retirement, pension, or 74643
profit sharing plan in excess of two thousand dollars, or 74644
securities, assets, or other property of any resident decedent, 74645
and in addition thereto, to a penalty of not less than five 74646
hundred or more than five thousand dollars. 74647

Sec. 5731.41. To enforce section 5731.39 of the Revised Code, 74648

and to administer Chapters 5713. and 4503. of the Revised Code the 74649
tax commissioner may appoint agents in the unclassified civil 74650
service who shall perform such duties as are prescribed by the 74651
commissioner. Such agents shall, as compensation, receive annually 74652
eight cents per capita for each full one thousand of the first 74653
twenty thousand of the population of the county and two cents per 74654
capita for each full one thousand over twenty thousand of the 74655
population of the county, as shown by the last federal census, 74656
which shall be paid in equal monthly installments from the 74657
undivided inheritance or estate tax in the county treasury on the 74658
warrant of the county auditor or from the county real estate 74659
assessment fund pursuant to division (B)(6) of section 325.31 of 74660
the Revised Code, any other provision of law to the contrary 74661
notwithstanding. The amount paid to any agent in the unclassified 74662
service for all of the duties performed ~~in estate tax matters~~ 74663
under this section, as directed by the commissioner, shall not 74664
exceed three thousand nor be less than twelve hundred dollars in 74665
any calendar year. 74666

Sec. 5733.01. (A) The tax provided by this chapter for 74667
domestic corporations shall be the amount charged against each 74668
corporation organized for profit under the laws of this state and 74669
each nonprofit corporation organized pursuant to Chapter 1729. of 74670
the Revised Code, except as provided in sections 5733.09 and 74671
5733.10 of the Revised Code, for the privilege of exercising its 74672
franchise during the calendar year in which that amount is 74673
payable, and the tax provided by this chapter for foreign 74674
corporations shall be the amount charged against each corporation 74675
organized for profit and each nonprofit corporation organized or 74676
operating in the same or similar manner as nonprofit corporations 74677
organized under Chapter 1729. of the Revised Code, under the laws 74678
of any state or country other than this state, except as provided 74679
in sections 5733.09 and 5733.10 of the Revised Code, for the 74680

privilege of doing business in this state, owning or using a part 74681
or all of its capital or property in this state, holding a 74682
certificate of compliance with the laws of this state authorizing 74683
it to do business in this state, or otherwise having nexus in or 74684
with this state under the Constitution of the United States, 74685
during the calendar year in which that amount is payable. 74686

(B) A corporation is subject to the tax imposed by section 74687
5733.06 of the Revised Code for each calendar year that it is so 74688
organized, doing business, owning or using a part or all of its 74689
capital or property, holding a certificate of compliance, or 74690
otherwise having nexus in or with this state under the 74691
Constitution of the United States, on the first day of January of 74692
that calendar year. 74693

(C) Any corporation subject to this chapter that is not 74694
subject to the federal income tax shall file its returns and 74695
compute its tax liability as required by this chapter in the same 74696
manner as if that corporation were subject to the federal income 74697
tax. 74698

(D) For purposes of this chapter, a federally chartered 74699
financial institution shall be deemed to be organized under the 74700
laws of the state within which its principal office is located. 74701

(E) Any For purposes of this chapter, any person, as defined 74702
in section 5701.01 of the Revised Code, shall be treated as a 74703
corporation ~~for purposes of this chapter~~ if the person is 74704
classified for federal income tax purposes as an association 74705
taxable as a corporation, and an equity interest in the person 74706
shall be treated as capital stock of the person. 74707

(F) For the purposes of this chapter, "disregarded entity" 74708
has the same meaning as in division (D) of section 5745.01 of the 74709
Revised Code. 74710

(1) A person's interest in a disregarded entity, whether held 74711

directly or indirectly, shall be treated as the person's ownership 74712
of the assets and liabilities of the disregarded entity, and the 74713
income, including gain or loss, shall be included in the person's 74714
net income under this chapter. 74715

(2) Any sale, exchange, or other disposition of the person's 74716
interest in the disregarded entity, whether held directly or 74717
indirectly, shall be treated as a sale, exchange, or other 74718
disposition of the person's share of the disregarded entity's 74719
underlying assets or liabilities, and the gain or loss from such 74720
sale, exchange, or disposition shall be included in the person's 74721
net income under this chapter. 74722

(3) The disregarded entity's payroll, property, and sales 74723
factors shall be included in the person's factors. 74724

(G) The tax a corporation is required to pay under this 74725
chapter shall be as follows: 74726

(1)(a) For financial institutions, the greater of the minimum 74727
payment required under division (E) of section 5733.06 of the 74728
Revised Code or the difference between all taxes charged the 74729
financial institution under this chapter, without regard to 74730
division (G)(2) of this section, less any credits allowable 74731
against such tax. 74732

(b) A corporation satisfying the description in division 74733
(E)(5), (6), (7), (8), or (10) of section 5751.01 of the Revised 74734
Code that is not a financial institution, insurance company, or 74735
dealer in intangibles is subject to the taxes imposed under this 74736
chapter as a corporation and not subject to tax as a financial 74737
institution, and shall pay the greater of the minimum payment 74738
required under division (E) of section 5733.06 of the Revised Code 74739
or the difference between all the taxes charged under this 74740
chapter, without regard to division (G)(2) of this section, less 74741
any credits allowable against such tax. 74742

(2) For all corporations other than those persons described 74743
in division (G)(1)(a) or (b) of this section, the amount under 74744
division (G)(2)(a) of this section applicable to the tax year 74745
specified less the amount under division (G)(2)(b) of this 74746
section: 74747

(a)(i) For tax year 2005, the greater of the minimum payment 74748
required under division (E) of section 5733.06 of the Revised Code 74749
or the difference between all taxes charged the corporation under 74750
this chapter and any credits allowable against such tax; 74751

(ii) For tax year 2006, the greater of the minimum payment 74752
required under division (E) of section 5733.06 of the Revised Code 74753
or four-fifths of the difference between all taxes charged the 74754
corporation under this chapter and any credits allowable against 74755
such tax except the qualifying pass-through entity tax credit 74756
described in division (A)(30) and the refundable credits described 74757
in divisions (A)(31), (32), and (33) of section 5733.98 of the 74758
Revised Code; 74759

(iii) For tax year 2007, the greater of the minimum payment 74760
required under division (E) of section 5733.06 of the Revised Code 74761
or three-fifths of the difference between all taxes charged the 74762
corporation under this chapter and any credits allowable against 74763
such tax except the qualifying pass-through entity tax credit 74764
described in division (A)(30) and the refundable credits described 74765
in divisions (A)(31), (32), and (33) of section 5733.98 of the 74766
Revised Code; 74767

(iv) For tax year 2008, the greater of the minimum payment 74768
required under division (E) of section 5733.06 of the Revised Code 74769
or two-fifths of the difference between all taxes charged the 74770
corporation under this chapter and any credits allowable against 74771
such tax except the qualifying pass-through entity tax credit 74772
described in division (A)(30) and the refundable credits described 74773
in divisions (A)(31), (32), and (33) of section 5733.98 of the 74774

Revised Code; 74775

(v) For tax year 2009, the greater of the minimum payment 74776
required under division (E) of section 5733.06 of the Revised Code 74777
or one-fifth of the difference between all taxes charged the 74778
corporation under this chapter and any credits allowable against 74779
such tax except the qualifying pass-through entity tax credit 74780
described in division (A)(30) and the refundable credits described 74781
in divisions (A)(31), (32), and (33) of section 5733.98 of the 74782
Revised Code; 74783

(vi) For tax year 2010 and each tax year thereafter, no tax. 74784

(b) A corporation shall subtract from the amount calculated 74785
under division (G)(2)(a)(ii), (iii), (iv), or (v) of this section 74786
any qualifying pass-through entity tax credit described in 74787
division (A)(30) and any refundable credits described in divisions 74788
(A)(31), (32), and (33) of section 5733.98 of the Revised Code to 74789
which the corporation is entitled. Any unused qualifying 74790
pass-through entity tax credit is not refundable. 74791

(c) For the purposes of computing the amount of a credit that 74792
may be carried forward to a subsequent tax year under division 74793
(G)(2) of this section, a credit is utilized against the tax for a 74794
tax year to the extent the credit applies against the tax for that 74795
tax year, even if the difference is then multiplied by the 74796
applicable fraction under division (G)(2)(a) of this section. 74797

(3) Nothing in division (G) of this section eliminates or 74798
reduces the tax imposed by section 5733.41 of the Revised Code on 74799
a qualifying pass-through entity. 74800

Sec. 5733.065. (A) As used in this section, "litter stream 74801
products" means: 74802

(1) Intoxicating liquor, beer, wine, mixed beverages, or 74803
spirituous liquor as defined in section 4301.01 of the Revised 74804

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|---|-------|
| Code; | 74805 |
| (2) Soft drinks as defined in section 913.22 of the Revised Code; | 74806 |
| (3) Glass, metal, plastic, or fiber containers with a capacity of less than two gallons sold for the purpose of being incorporated into or becoming a part of a product enumerated in divisions (A)(1) and (2) of this section; | 74807 |
| (4) Container crowns and closures sold for the purpose of being incorporated into or becoming a part of a product enumerated in divisions (A)(1) and (2) of this section; | 74808 |
| (5) Packaging materials transferred or intended for transfer of use or possession in conjunction with retail sales of products enumerated in divisions (A)(1) and (2) of this section; | 74809 |
| (6) Packaging materials in the finished form in which they are to be used, including sacks, bags, cups, lids, straws, plates, wrappings, boxes, or containers of any type used in the packaging or serving of food or beverages, when the food or beverages are prepared for human consumption by a restaurant or take-out food outlet at the premises where sold at retail and are delivered to a purchaser for consumption off the premises where the food or beverages are sold; | 74810 |
| (7) Cigarettes, cigars, tobacco, matches, candy, and gum. | 74811 |
| (B) For the purpose of providing additional funding for the division of recycling and litter prevention under Chapter 1502. of the Revised Code, there is hereby levied an additional tax on corporations for the privilege of manufacturing or selling litter stream products in this state. The tax imposed by this section is in addition to the tax charged under section 5733.06 of the Revised Code, computed at the rate prescribed by section 5733.066 of the Revised Code. This section does not apply for tax year 1981 to a corporation whose taxable year for tax year 1981 ended on or | 74812 |
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~~before June 30, 1980.~~ 74836

(C) The tax shall be imposed upon each corporation subject to 74837
the tax imposed by section 5733.06 of the Revised Code that 74838
manufactures or sells litter stream products in this state. The 74839
tax for each year shall be in an amount equal to the greater of 74840
either: 74841

(1) Twenty-two hundredths of one per cent upon the value of 74842
that portion of the taxpayer's issued and outstanding shares of 74843
stock as determined under division (B) of section 5733.05 of the 74844
Revised Code that is subject to the rate contained in division (B) 74845
of section 5733.06 of the Revised Code; 74846

(2) Fourteen one-hundredths of a mill times the value of the 74847
taxpayer's issued and outstanding shares of stock as determined 74848
under division (C) of section 5733.05 of the Revised Code. 74849

The additional tax charged any taxpayer or group of combined 74850
taxpayers pursuant to this section for any tax year shall not 74851
exceed five thousand dollars. 74852

(D)(1) In the case of a corporation engaged in the business 74853
of manufacturing litter stream products, no tax shall be due under 74854
this section unless the sale of litter stream products in this 74855
state during the taxable year exceeds five per cent of the total 74856
sales in this state of the corporation during that period or 74857
unless the total sales in this state of litter stream products by 74858
the corporation during the taxable year exceed ten million 74859
dollars. 74860

(2) In the case of a corporation engaged in the business of 74861
selling litter stream products in the form in which the item is or 74862
is to be received, no tax shall be due under this section unless 74863
the corporation's sales of litter stream products in this state 74864
during the taxable year constitute more than five per cent of its 74865
total sales in this state during that period. 74866

(3) In the case of a corporation transferring possession of litter stream products included in division (A)(6) of this section, in which food or beverages prepared for human consumption are placed, when the food or beverages are prepared for retail sale at the premises where sold and are delivered to a purchaser for consumption off the premises where the food or beverages are sold, no tax shall be due under this section unless such sales for off-premises consumption during the taxable year exceed five per cent of the corporation's total annual sales during the taxable year.

(E)(1) The tax imposed by this section is due in the proportions and on the dates on which the tax imposed by section 5733.06 of the Revised Code may be paid without penalty.

(2) Payment of the tax and any reports or returns required to enable the tax commissioner to determine the correct amount of the tax shall be submitted with and are due at the same time as payments and reports required to be submitted under this chapter.

(3) If the tax is not paid in full on or before the date required by division (E)(1) of this section, the unpaid portion of the tax due and unpaid shall be subject to all provisions of this chapter for the collection of unpaid, delinquent taxes imposed by section 5733.06 of the Revised Code, except that all such taxes, interest, and penalties, when collected, shall be treated as proceeds arising from the tax imposed by this section and shall be deposited in the general revenue fund.

The tax levied on corporations under this section does not prohibit or otherwise limit the authority of municipal corporations to impose an income tax on the income of such corporations.

Sec. 5733.066. There shall be added to the rates contained in section 5733.06 of the Revised Code the following:

(A) To the rate in division (A) of that section upon that 74898
portion of the value of the taxpayer's issued and outstanding 74899
shares of stock as determined under division (B) of section 74900
5733.05 of the Revised Code that is subject to such rate, an 74901
additional eleven-hundredths per cent upon that value to provide 74902
funding for ~~the division of~~ recycling and litter prevention ~~under~~ 74903
~~Chapter 1502. of the Revised Code;~~ 74904

(B) To the rate in division (B) of that section upon that 74905
portion of the value so determined that is subject to that rate, 74906
an additional twenty-two-hundredths per cent upon that value to 74907
provide funding for ~~the division~~ recycling and litter prevention 74908
~~under Chapter 1502. of the Revised Code;~~ 74909

(C) To the rate in division (C) of that section times that 74910
portion of the value of the taxpayer's issued and outstanding 74911
shares of stock as determined under division (C) of section 74912
5733.05 of the Revised Code, an additional fourteen one-hundredths 74913
mills times that value to provide funding for ~~the division of~~ 74914
recycling and litter prevention ~~under Chapter 1502. of the Revised~~ 74915
~~Code.~~ 74916

The additional tax charged any taxpayer or group of combined 74917
taxpayers pursuant to this section for any tax year shall not 74918
exceed five thousand dollars. 74919

This section does not apply to any family farm corporation as 74920
defined in section 4123.01 of the Revised Code. 74921

The tax levied on corporations under this section does not 74922
prohibit or otherwise limit the authority of municipal 74923
corporations to impose an income tax on the income of such 74924
corporations. 74925

Sec. 5733.33. (A) As used in this section: 74926

(1) "Manufacturing machinery and equipment" means engines and 74927

machinery, and tools and implements, of every kind used, or 74928
designed to be used, in refining and manufacturing. "Manufacturing 74929
machinery and equipment" does not include property acquired after 74930
December 31, 1999, that is used: 74931

(a) For the transmission and distribution of electricity; 74932

(b) For the generation of electricity, if fifty per cent or 74933
more of the electricity that the property generates is consumed, 74934
during the one-hundred-twenty-month period commencing with the 74935
date the property is placed in service, by persons that are not 74936
related members to the person who generates the electricity. 74937

(2) "New manufacturing machinery and equipment" means 74938
manufacturing machinery and equipment, the original use in this 74939
state of which commences with the taxpayer or with a partnership 74940
of which the taxpayer is a partner. "New manufacturing machinery 74941
and equipment" does not include property acquired after December 74942
31, 1999, that is used: 74943

(a) For the transmission and distribution of electricity; 74944

(b) For the generation of electricity, if fifty per cent or 74945
more of the electricity that the property generates is consumed, 74946
during the one-hundred-twenty-month period commencing with the 74947
date the property is placed in service, by persons that are not 74948
related members to the person who generates the electricity. 74949

(3)(a) "Purchase" has the same meaning as in section 74950
179(d)(2) of the Internal Revenue Code. 74951

(b) For purposes of this section, any property that is not 74952
manufactured or assembled primarily by the taxpayer is considered 74953
purchased at the time the agreement to acquire the property 74954
becomes binding. Any property that is manufactured or assembled 74955
primarily by the taxpayer is considered purchased at the time the 74956
taxpayer places the property in service in the county for which 74957
the taxpayer will calculate the county excess amount. 74958

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

(4) "Qualifying period" means the period that begins July 1, 1995, and ends ~~December 31, 2015~~ June 30, 2005.

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

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

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

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

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

(8) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county that meets two of the following criteria of economic distress, or a

municipal corporation the majority of the population of which is situated in such a county: 74990
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(a) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period; 74992
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(b) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau; 74996
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(c)(i) In the case of a municipal corporation, at least twenty per cent of the residents have a total income for the most recent census year that is below the official poverty line; 75000
75001
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(ii) In the case of a county, in intercensal years, the county has a ratio of transfer payment income to total county income equal to or greater than twenty-five per cent. 75003
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(9) "Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area. 75006
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(10) "Inner city area" means, in a municipal corporation that has a population of at least one hundred thousand and does not meet the criteria of a labor surplus area or a distressed area, targeted investment areas established by the municipal corporation within its boundaries that are comprised of the most recent census block tracts that individually have at least twenty per cent of their population at or below the state poverty level or other census block tracts contiguous to such census block tracts. 75008
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(11) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor. 75016
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(12) "Official poverty line" has the same meaning as in division (A) of section 3923.51 of the Revised Code. 75018
75019

(13) "Situational distress area" means a county or a 75020
municipal corporation that has experienced or is experiencing a 75021
closing or downsizing of a major employer, that will adversely 75022
affect the county's or municipal corporation's economy. In order 75023
to be designated as a situational distress area for a period not 75024
to exceed thirty-six months, the county or municipal corporation 75025
may petition the director of development. The petition shall 75026
include written documentation that demonstrates all of the 75027
following adverse effects on the local economy: 75028

(a) The number of jobs lost by the closing or downsizing; 75029

(b) The impact that the job loss has on the county's or 75030
municipal corporation's unemployment rate as measured by the state 75031
director of job and family services; 75032

(c) The annual payroll associated with the job loss; 75033

(d) The amount of state and local taxes associated with the 75034
job loss; 75035

(e) The impact that the closing or downsizing has on the 75036
suppliers located in the county or municipal corporation. 75037

(14) "Cost" has the same meaning and limitation as in section 75038
179(d)(3) of the Internal Revenue Code. 75039

(15) "Baseline years" means: 75040

(a) Calendar years 1992, 1993, and 1994, with regard to a 75041
credit claimed for the purchase during calendar year 1995, 1996, 75042
1997, or 1998 of new manufacturing machinery and equipment; 75043

(b) Calendar years 1993, 1994, and 1995, with regard to a 75044
credit claimed for the purchase during calendar year 1999 of new 75045
manufacturing machinery and equipment; 75046

(c) Calendar years 1994, 1995, and 1996, with regard to a 75047
credit claimed for the purchase during calendar year 2000 of new 75048
manufacturing machinery and equipment; 75049

| | |
|--|----------------------------------|
| (d) Calendar years 1995, 1996, and 1997, with regard to a credit claimed for the purchase during calendar year 2001 of new manufacturing machinery and equipment; | 75050 75051 75052 |
| (e) Calendar years 1996, 1997, and 1998, with regard to a credit claimed for the purchase during calendar year 2002 of new manufacturing machinery and equipment; | 75053 75054 75055 |
| (f) Calendar years 1997, 1998, and 1999, with regard to a credit claimed for the purchase during calendar year 2003 of new manufacturing machinery and equipment; | 75056 75057 75058 |
| (g) Calendar years 1998, 1999, and 2000, with regard to a credit claimed for the purchase during calendar year 2004 of new manufacturing machinery and equipment; | 75059 75060 75061 |
| (h) Calendar years 1999, 2000, and 2001, with regard to a credit claimed for the purchase during calendar year 2005 <u>on or after January 1, 2005, and on or before June 30, 2005,</u> of new manufacturing machinery and equipment; | 75062 75063 75064 75065 |
| (i) Calendar years 2000, 2001, and 2002, with regard to a credit claimed for the purchase during calendar year 2006 of new manufacturing machinery and equipment; | 75066 75067 75068 |
| (j) Calendar years 2001, 2002, and 2003, with regard to a credit claimed for the purchase during calendar year 2007 of new manufacturing machinery and equipment; | 75069 75070 75071 |
| (k) Calendar years 2002, 2003, and 2004, with regard to a credit claimed for the purchase during calendar year 2008 of new manufacturing machinery and equipment; | 75072 75073 75074 |
| (l) Calendar years 2003, 2004, and 2005, with regard to a credit claimed for the purchase during calendar year 2009 of new manufacturing machinery and equipment; | 75075 75076 75077 |
| (m) Calendar years 2004, 2005, and 2006, with regard to a credit claimed for the purchase during calendar year 2010 of new | 75078 75079 |

~~manufacturing machinery and equipment;~~ 75080

~~(n) Calendar years 2005, 2006, and 2007, with regard to a~~ 75081
~~credit claimed for the purchase during calendar year 2011 of new~~ 75082
~~manufacturing machinery and equipment;~~ 75083

~~(o) Calendar years 2006, 2007, and 2008, with regard to a~~ 75084
~~credit claimed for the purchase during calendar year 2012 of new~~ 75085
~~manufacturing machinery and equipment;~~ 75086

~~(p) Calendar years 2007, 2008, and 2009, with regard to a~~ 75087
~~credit claimed for the purchase during calendar year 2013 of new~~ 75088
~~manufacturing machinery and equipment;~~ 75089

~~(q) Calendar years 2008, 2009, and 2010, with regard to a~~ 75090
~~credit claimed for the purchase during calendar year 2014 of new~~ 75091
~~manufacturing machinery and equipment;~~ 75092

~~(r) Calendar years 2009, 2010, and 2011, with regard to a~~ 75093
~~credit claimed for the purchase during calendar year 2015 of new~~ 75094
~~manufacturing machinery and equipment.~~ 75095

(16) "Related member" has the same meaning as in section 75096
5733.042 of the Revised Code. 75097

(B)(1) Subject to division (I) of this section, a 75098
nonrefundable credit is allowed against the tax imposed by section 75099
5733.06 of the Revised Code for a taxpayer that purchases new 75100
manufacturing machinery and equipment during the qualifying 75101
period, provided that the new manufacturing machinery and 75102
equipment are installed in this state no later than ~~December 31,~~ 75103
2016 June 30, 2006. No credit shall be allowed under this section 75104
or section 5747.31 of the Revised Code for taxable years ending on 75105
or after July 1, 2005. The elimination of the credit for those 75106
taxable years includes the elimination of any remaining 75107
one-sevenths of credit amounts for which a portion was allowed for 75108
prior taxable years and the elimination of any credit 75109
carry-forward, but the purchases on which the credits were based 75110

remain subject to grants under section 122.173 of the Revised Code 75111
for those remaining one-seventh amounts or carry-forward amounts. 75112

(2)(a) Except as otherwise provided in division (B)(2)(b) of 75113
this section, a credit may be claimed under this section in excess 75114
of one million dollars only if the cost of all manufacturing 75115
machinery and equipment owned in this state by the taxpayer 75116
claiming the credit on the last day of the calendar year exceeds 75117
the cost of all manufacturing machinery and equipment owned in 75118
this state by the taxpayer on the first day of that calendar year. 75119

As used in division (B)(2)(a) of this section, "calendar 75120
year" means the calendar year in which the machinery and equipment 75121
for which the credit is claimed was purchased. 75122

(b) Division (B)(2)(a) of this section does not apply if the 75123
taxpayer claiming the credit applies for and is issued a waiver of 75124
the requirement of that division. A taxpayer may apply to the 75125
director of development for such a waiver in the manner prescribed 75126
by the director, and the director may issue such a waiver if the 75127
director determines that granting the credit is necessary to 75128
increase or retain employees in this state, and that the credit 75129
has not caused relocation of manufacturing machinery and equipment 75130
among counties within this state for the primary purpose of 75131
qualifying for the credit. 75132

(C)(1) Except as otherwise provided in division (C)(2) and 75133
division (I) of this section, the credit amount is equal to seven 75134
and one-half per cent of the excess of the cost of the new 75135
manufacturing machinery and equipment purchased during the 75136
calendar year for use in a county over the county average new 75137
manufacturing machinery and equipment investment for that county. 75138

(2) Subject to division (I) of this section, as used in 75139
division (C)(2) of this section "county excess" means the 75140
taxpayer's excess cost for a county as computed under division 75141

(C)(1) of this section. 75142

Subject to division (I) of this section, a taxpayer with a 75143
county excess, whose purchases included purchases for use in any 75144
eligible area in the county, the credit amount is equal to 75145
thirteen and one-half per cent of the cost of the new 75146
manufacturing machinery and equipment purchased during the 75147
calendar year for use in the eligible areas in the county, 75148
provided that the cost subject to the thirteen and one-half per 75149
cent rate shall not exceed the county excess. If the county excess 75150
is greater than the cost of the new manufacturing machinery and 75151
equipment purchased during the calendar year for use in eligible 75152
areas in the county, the credit amount also shall include an 75153
amount equal to seven and one-half per cent of the amount of the 75154
difference. 75155

(3) If a taxpayer is allowed a credit for purchases of new 75156
manufacturing machinery and equipment in more than one county or 75157
eligible area, it shall aggregate the amount of those credits each 75158
year. 75159

(4) The taxpayer shall claim one-seventh of the credit amount 75160
for the tax year immediately following the calendar year in which 75161
the new manufacturing machinery and equipment is purchased for use 75162
in the county by the taxpayer or partnership. One-seventh of the 75163
taxpayer credit amount is allowed for each of the six ensuing tax 75164
years. Except for carried-forward amounts, the taxpayer is not 75165
allowed any credit amount remaining if the new manufacturing 75166
machinery and equipment is sold by the taxpayer or partnership or 75167
is transferred by the taxpayer or partnership out of the county 75168
before the end of the seven-year period unless, at the time of the 75169
sale or transfer, the new manufacturing machinery and equipment 75170
has been fully depreciated for federal income tax purposes. 75171

(5)(a) A taxpayer that acquires manufacturing machinery and 75172
equipment as a result of a merger with the taxpayer with whom 75173

commenced the original use in this state of the manufacturing 75174
machinery and equipment, or with a taxpayer that was a partner in 75175
a partnership with whom commenced the original use in this state 75176
of the manufacturing machinery and equipment, is entitled to any 75177
remaining or carried-forward credit amounts to which the taxpayer 75178
was entitled. 75179

(b) A taxpayer that enters into an agreement under division 75180
(C)(3) of section 5709.62 of the Revised Code and that acquires 75181
manufacturing machinery or equipment as a result of purchasing a 75182
large manufacturing facility, as defined in section 5709.61 of the 75183
Revised Code, from another taxpayer with whom commenced the 75184
original use in this state of the manufacturing machinery or 75185
equipment, and that operates the large manufacturing facility so 75186
purchased, is entitled to any remaining or carried-forward credit 75187
amounts to which the other taxpayer who sold the facility would 75188
have been entitled under this section had the other taxpayer not 75189
sold the manufacturing facility or equipment. 75190

(c) New manufacturing machinery and equipment is not 75191
considered sold if a pass-through entity transfers to another 75192
pass-through entity substantially all of its assets as part of a 75193
plan of reorganization under which substantially all gain and loss 75194
is not recognized by the pass-through entity that is transferring 75195
the new manufacturing machinery and equipment to the transferee 75196
and under which the transferee's basis in the new manufacturing 75197
machinery and equipment is determined, in whole or in part, by 75198
reference to the basis of the pass-through entity which 75199
transferred the new manufacturing machinery and equipment to the 75200
transferee. 75201

(d) Division (C)(5) of this section shall apply only if the 75202
acquiring taxpayer or transferee does not sell the new 75203
manufacturing machinery and equipment or transfer the new 75204
manufacturing machinery and equipment out of the county before the 75205

end of the seven-year period to which division (C)(4) of this section refers. 75206
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(e) Division (C)(5)(b) of this section applies only to the extent that the taxpayer that sold the manufacturing machinery or equipment, upon request, timely provides to the tax commissioner any information that the tax commissioner considers to be necessary to ascertain any remaining or carried-forward amounts to which the taxpayer that sold the facility would have been entitled under this section had the taxpayer not sold the manufacturing machinery or equipment. Nothing in division (C)(5)(b) or (e) of this section shall be construed to allow a taxpayer to claim any credit amount with respect to the acquired manufacturing machinery or equipment that is greater than the amount that would have been available to the other taxpayer that sold the manufacturing machinery or equipment had the other taxpayer not sold the manufacturing machinery or equipment. 75208
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(D) The taxpayer shall claim the credit in the order required under section 5733.98 of the Revised Code. Each year, any credit amount in excess of the tax due under section 5733.06 of the Revised Code after allowing for any other credits that precede the credit under this section in that order may be carried forward for three tax years. 75222
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(E) A taxpayer purchasing new manufacturing machinery and equipment and intending to claim the credit shall file, with the department of development, a notice of intent to claim the credit on a form prescribed by the department of development. The department of development shall inform the tax commissioner of the notice of intent to claim the credit. No credit may be claimed under this section for any manufacturing machinery and equipment with respect to which a notice was not filed by the date of a timely filed return, including extensions, for the taxable year that includes September 30, 2005. 75228
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(F) The director of development shall annually certify, by 75238
the first day of January of each year during the qualifying 75239
period, the eligible areas for the tax credit for the calendar 75240
year that includes that first day of January. The director shall 75241
send a copy of the certification to the tax commissioner. 75242

(G) New manufacturing machinery and equipment for which a 75243
taxpayer claims the credit under section 5733.31, 5733.311, 75244
5747.26, or 5747.261 of the Revised Code shall not be considered 75245
new manufacturing machinery and equipment for purposes of the 75246
credit under this section. 75247

(H)(1) Notwithstanding sections 5733.11 and 5747.13 of the 75248
Revised Code, but subject to division (H)(2) of this section, the 75249
tax commissioner may issue an assessment against a person with 75250
respect to a credit claimed under this section for new 75251
manufacturing machinery and equipment described in division 75252
(A)(1)(b) or (2)(b) of this section, if the machinery or equipment 75253
subsequently does not qualify for the credit. 75254

(2) Division (H)(1) of this section shall not apply after the 75255
twenty-fourth month following the last day of the period described 75256
in divisions (A)(1)(b) and (2)(b) of this section. 75257

(I) Notwithstanding any other provision of this section to 75258
the contrary, in the case of a qualifying controlled group, the 75259
credit available under this section to a taxpayer or taxpayers in 75260
the qualifying controlled group shall be computed as if all 75261
corporations in the group were a single corporation. The credit 75262
shall be allocated to such a taxpayer or taxpayers in the group in 75263
any amount elected for the taxable year by the group. Such 75264
election shall be revocable and amendable during the period 75265
described in division (B) of section 5733.12 of the Revised Code. 75266

This division applies to all purchases of new manufacturing 75267
machinery and equipment made on or after January 1, 2001, and to 75268

all baseline years used to compute any credit attributable to such purchases; provided, that this division may be applied solely at the election of the qualifying controlled group with respect to all purchases of new manufacturing machinery and equipment made before that date, and to all baseline years used to compute any credit attributable to such purchases. The qualifying controlled group at any time may elect to apply this division to purchases made prior to January 1, 2001, subject to the following:

(1) The election is irrevocable;

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

Sec. 5733.351. (A) As used in this section, "qualified research expenses" has the same meaning as in section 41 of the Internal Revenue Code.

(B)(1) A nonrefundable credit is allowed against the tax imposed by section 5733.06 of the Revised Code for tax year 2002 for a taxpayer whose taxable year for tax year 2002 ended before July 1, 2001. The credit shall equal seven per cent of the excess of qualified research expenses incurred in this state by the taxpayer between January 1, 2001, and the end of the taxable year, over the taxpayer's average annual qualified research expenses incurred in this state for the three preceding taxable years.

(2) A nonrefundable credit also is allowed against the tax imposed by section 5733.06 of the Revised Code for each tax year, commencing with tax year 2004, and in the case of a corporation subject to division (G)(2) of section 5733.01 of the Revised Code ending with tax year 2008. The credit shall equal seven per cent of the excess of qualified research expenses incurred in this

state by the taxpayer for the taxable year over the taxpayer's 75300
average annual qualified research expenses incurred in this state 75301
for the three preceding taxable years. 75302

(3) The taxpayer shall claim the credit allowed under 75303
division (B)(1) or (2) of this section in the order required by 75304
section 5733.98 of the Revised Code. Any credit amount in excess 75305
of the tax due under section 5733.06 of the Revised Code, after 75306
allowing for any other credits that precede the credit under this 75307
section in the order required under section 5733.98 of the Revised 75308
Code, may be carried forward for seven taxable years, but the 75309
amount of the excess credit allowed in any such year shall be 75310
deducted from the balance carried forward to the next year. A 75311
corporation subject to division (G)(2) of section 5733.01 of the 75312
Revised Code may carry forward any credit not fully utilized by 75313
tax year 2008 and apply it against the tax levied by Chapter 5751. 75314
of the Revised Code to the extent allowed under section 5751.51 of 75315
the Revised Code, provided that the total number of taxable years 75316
under this section and calendar years under Chapter 5751. of the 75317
Revised Code for which the credit is carried forward shall not 75318
exceed seven. 75319

(C) In the case of a qualifying controlled group, the credit 75320
allowed under division (B)(1) or (2) of this section to taxpayers 75321
in the qualifying controlled group shall be computed as if all 75322
corporations in the qualifying controlled group were a 75323
consolidated, single taxpayer. The credit shall be allocated to 75324
such taxpayers in any amount elected for the taxable year by the 75325
qualifying controlled group. The election shall be revocable and 75326
amendable during the period prescribed by division (B) of section 75327
5733.12 of the Revised Code. 75328

Sec. 5733.352. (A) As used in this section: 75329

(1) "Borrower" means any person that receives a loan from the 75330

director of development under section 166.21 of the Revised Code, 75331
regardless of whether the borrower is subject to the taxes imposed 75332
by sections 5733.06, 5733.065, and 5733.066 of the Revised Code. 75333

(2) "Related member" has the same meaning as in section 75334
5733.042 of the Revised Code. 75335

(3) "Qualified research and development loan payments" has 75336
the same meaning as in division (D) of section 166.21 of the 75337
Revised Code. 75338

(B) Beginning ~~in~~ with tax year 2004, and in the case of a 75339
corporation subject to division (G)(2) of section 5733.01 of the 75340
Revised Code ending with tax year 2008, a nonrefundable credit is 75341
allowed against the taxes imposed by sections 5733.06, 5733.065, 75342
and 5733.066 of the Revised Code equal to a borrower's qualified 75343
research and development loan payments made during the calendar 75344
year immediately preceding the tax year for which the credit is 75345
claimed. The amount of the credit for a tax year shall not exceed 75346
one hundred fifty thousand dollars. No taxpayer is entitled to 75347
claim a credit under this section unless it has obtained a 75348
certificate issued by the director of development under division 75349
(D) of section 166.21 of the Revised Code. The credit shall be 75350
claimed in the order required under section 5733.98 of the Revised 75351
Code. The credit, to the extent it exceeds the taxpayer's tax 75352
liability for the tax year after allowance for any other credits 75353
that precede the credit under this section in that order, shall be 75354
carried forward to the next succeeding tax year or years until 75355
fully used. A corporation subject to division (G)(2) of section 75356
5733.01 of the Revised Code may carry forward any credit not fully 75357
utilized by tax year 2008 and apply it against the tax levied by 75358
Chapter 5751. of the Revised Code to the extent allowed under 75359
section 5751.52 of the Revised Code. 75360

(C) A borrower entitled to a credit under this section may 75361
assign the credit, or a portion thereof, to any of the following: 75362

(1) A related member of that borrower; 75363

(2) The owner or lessee of the eligible research and 75364
development project; 75365

(3) A related member of the owner or lessee of the eligible 75366
research and development project. 75367

A borrower making an assignment under this division shall 75368
provide written notice of the assignment to the tax commissioner 75369
and the director of development, in such form as the tax 75370
commissioner prescribes, before the credit that was assigned is 75371
used. The assignor may not claim the credit to the extent it was 75372
assigned to an assignee. The assignee may claim the credit only to 75373
the extent the assignor has not claimed it. 75374

(D) If any taxpayer is a partner in a partnership or a member 75375
in a limited liability company treated as a partnership for 75376
federal income tax purposes, the taxpayer shall be allowed the 75377
taxpayer's distributive or proportionate share of the credit 75378
available through the partnership or limited liability company. 75379

(E) The aggregate credit against the taxes imposed by 75380
sections 5733.06, 5733.065, 5733.066, and 5747.02 of the Revised 75381
Code that may be claimed under this section and section 5747.331 75382
of the Revised Code by a borrower as a result of qualified 75383
research and development loan payments attributable during a 75384
calendar year to any one loan shall not exceed one hundred fifty 75385
thousand dollars. 75386

Sec. 5733.40. As used in sections 5733.40 and 5733.41 and 75387
Chapter 5747. of the Revised Code: 75388

(A)(1) "Adjusted qualifying amount" means either of the 75389
following: 75390

(a) The sum of a each qualifying investor's distributive 75391
share of the income, gain, expense, or loss of a qualifying 75392

pass-through entity for the qualifying taxable year of the 75393
qualifying pass-through entity multiplied by the apportionment 75394
fraction defined in division (B) of this section, subject to 75395
section 5733.401 of the Revised Code and divisions (A)(2) to (7) 75396
of this section; 75397

(b) The sum of a each qualifying beneficiary's share of the 75398
qualifying net income and qualifying net gain distributed by a 75399
qualifying trust for the qualifying taxable year of the qualifying 75400
trust multiplied by the apportionment fraction defined in division 75401
(B) of this section, subject to section 5733.401 of the Revised 75402
Code and divisions (A)(2) to ~~(6)~~(7) of this section. 75403

(2) The sum shall exclude any amount which, pursuant to the 75404
Constitution of the United States, the Constitution of Ohio, or 75405
any federal law is not subject to a tax on or measured by net 75406
income. 75407

(3) ~~The sum shall be increased by~~ For the purposes of 75408
Chapters 5733. and 5747. of the Revised Code, the profit or net 75409
income of the qualifying entity shall be increased by disallowing 75410
all amounts representing expenses, other than amounts described in 75411
division (A)(7) of this section, that the qualifying entity paid 75412
to or incurred with respect to direct or indirect transactions 75413
with one or more related members, excluding the cost of goods sold 75414
calculated in accordance with section 263A of the Internal Revenue 75415
Code and United States department of the treasury regulations 75416
issued thereunder. Nothing in division (A)(3) of this section 75417
shall be construed to limit solely to this chapter the application 75418
of section 263A of the Internal Revenue Code and United States 75419
department of the treasury regulations issued thereunder. 75420

(4) ~~The sum shall be increased by~~ For the purposes of 75421
Chapters 5733. and 5747. of the Revised Code, the profit or net 75422
income of the qualifying entity shall be increased by disallowing 75423
all recognized losses, other than losses from sales of inventory 75424

the cost of which is calculated in accordance with section 263A of 75425
the Internal Revenue Code and United States department of the 75426
treasury regulations issued thereunder, with respect to all direct 75427
or indirect transactions with one or more related members. ~~Losses~~ 75428
For the purposes of Chapters 5733. and 5747. of the Revised Code, 75429
losses from the sales of such inventory shall be allowed only to 75430
the extent calculated in accordance with section 482 of the 75431
Internal Revenue Code and United States department of the treasury 75432
regulations issued thereunder. Nothing in division (A)(4) of this 75433
section shall be construed to limit solely to this section the 75434
application of section 263A and section 482 of the Internal 75435
Revenue Code and United States department of the treasury 75436
regulations issued thereunder. 75437

(5) The sum shall be increased or decreased by an amount 75438
equal to the qualifying investor's or qualifying beneficiary's 75439
distributive or proportionate share of the amount that the 75440
qualifying entity would be required to add or deduct under 75441
divisions (A)(20) and (21) of section 5747.01 of the Revised Code 75442
if the qualifying entity were a taxpayer for the purposes of 75443
Chapter 5747. of the Revised Code. 75444

(6) The sum shall be computed without regard to section 75445
5733.051 or division (D) of section 5733.052 of the Revised Code. 75446

(7) For the purposes of Chapters 5733. and 5747. of the 75447
Revised Code, guaranteed payments or compensation paid to 75448
investors by a qualifying entity that is not subject to the tax 75449
imposed by section 5733.06 of the Revised Code shall be considered 75450
a distributive share of income of the qualifying entity. Division 75451
(A)(7) of this section applies only to such payments or such 75452
compensation paid to an investor who at any time during the 75453
qualifying entity's taxable year holds at least a twenty per cent 75454
direct or indirect interest in the profits or capital of the 75455
qualifying entity. 75456

(B) "Apportionment fraction" means: 75457

(1) With respect to a qualifying pass-through entity other 75458
than a financial institution, the fraction calculated pursuant to 75459
division (B)(2) of section 5733.05 of the Revised Code as if the 75460
qualifying pass-through entity were a corporation subject to the 75461
tax imposed by section 5733.06 of the Revised Code; 75462

(2) With respect to a qualifying pass-through entity that is 75463
a financial institution, the fraction calculated pursuant to 75464
division (C) of section 5733.056 of the Revised Code as if the 75465
qualifying pass-through entity were a financial institution 75466
subject to the tax imposed by section 5733.06 of the Revised Code. 75467

(3) With respect to a qualifying trust, the fraction 75468
calculated pursuant to division (B)(2) of section 5733.05 of the 75469
Revised Code as if the qualifying trust were a corporation subject 75470
to the tax imposed by section 5733.06 of the Revised Code, except 75471
that the property, payroll, and sales fractions shall be 75472
calculated by including in the numerator and denominator of the 75473
fractions only the property, payroll, and sales, respectively, 75474
directly related to the production of income or gain from 75475
acquisition, ownership, use, maintenance, management, or 75476
disposition of tangible personal property located in this state at 75477
any time during the qualifying trust's qualifying taxable year or 75478
of real property located in this state. 75479

(C) "Qualifying beneficiary" means any individual that, 75480
during the qualifying taxable year of a qualifying trust, is a 75481
beneficiary of that trust, but does not include an individual who 75482
is a resident taxpayer for the purposes of Chapter 5747. of the 75483
Revised Code for the entire qualifying taxable year of the 75484
qualifying trust. 75485

(D) "Fiscal year" means an accounting period ending on any 75486
day other than the thirty-first day of December. 75487

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| (E) "Individual" means a natural person. | 75488 |
| (F) "Month" means a calendar month. | 75489 |
| (G) "Partnership" has the same meaning as in section 5747.01 of the Revised Code. | 75490 75491 |
| (H) "Investor" means any person that, during any portion of a taxable year of a qualifying pass-through entity, is a partner, member, shareholder, or investor in that qualifying pass-through entity. | 75492 75493 75494 75495 |
| (I) Except as otherwise provided in section 5733.402 or 5747.401 of the Revised Code, "qualifying investor" means any investor except those described in divisions (I)(1) to (9) of this section. | 75496 75497 75498 75499 |
| (1) An investor satisfying one of the descriptions under section 501(a) or (c) of the Internal Revenue Code, a partnership with equity securities registered with the United States securities and exchange commission under section 12 of the "Securities Exchange Act of 1934," as amended, or an investor described in division (F) of section 3334.01, or division (A) or (C) of section 5733.09 of the Revised Code for the entire qualifying taxable year of the qualifying pass-through entity. | 75500 75501 75502 75503 75504 75505 75506 75507 |
| (2) An investor who is either an individual or an estate and is a resident taxpayer for the purposes of section 5747.01 of the Revised Code for the entire qualifying taxable year of the qualifying pass-through entity. | 75508 75509 75510 75511 |
| (3) An investor who is an individual for whom the qualifying pass-through entity makes a good faith and reasonable effort to comply fully and timely with the filing and payment requirements set forth in division (D) of section 5747.08 of the Revised Code and section 5747.09 of the Revised Code with respect to the individual's adjusted qualifying amount for the entire qualifying taxable year of the qualifying pass-through entity. | 75512 75513 75514 75515 75516 75517 75518 |

(4) An investor that is another qualifying pass-through entity having only investors described in division (I)(1), (2), (3), or (6) of this section during the three-year period beginning twelve months prior to the first day of the qualifying taxable year of the qualifying pass-through entity.

(5) An investor that is another pass-through entity having no investors other than individuals and estates during the qualifying taxable year of the qualifying pass-through entity in which it is an investor, and that makes a good faith and reasonable effort to comply fully and timely with the filing and payment requirements set forth in division (D) of section 5747.08 of the Revised Code and section 5747.09 of the Revised Code with respect to investors that are not resident taxpayers of this state for the purposes of Chapter 5747. of the Revised Code for the entire qualifying taxable year of the qualifying pass-through entity in which it is an investor.

(6) An investor that is a financial institution required to calculate the tax in accordance with division ~~(D)~~(E) of section 5733.06 of the Revised Code on the first day of January of the calendar year immediately following the last day of the financial institution's calendar or fiscal year in which ends the taxpayer's taxable year.

(7) An investor other than an individual that satisfies all the following:

(a) The investor submits a written statement to the qualifying pass-through entity stating that the investor irrevocably agrees that the investor has nexus with this state under the Constitution of the United States and is subject to and liable for the tax calculated under division (A) or (B) of section 5733.06 of the Revised Code with respect to the investor's adjusted qualifying amount for the entire qualifying taxable year of the qualifying pass-through entity. The statement is subject to

the penalties of perjury, shall be retained by the qualifying 75551
pass-through entity for no fewer than seven years, and shall be 75552
delivered to the tax commissioner upon request. 75553

(b) The investor makes a good faith and reasonable effort to 75554
comply timely and fully with all the reporting and payment 75555
requirements set forth in Chapter 5733. of the Revised Code with 75556
respect to the investor's adjusted qualifying amount for the 75557
entire qualifying taxable year of the qualifying pass-through 75558
entity. 75559

(c) Neither the investor nor the qualifying pass-through 75560
entity in which it is an investor, before, during, or after the 75561
qualifying pass-through entity's qualifying taxable year, carries 75562
out any transaction or transactions with one or more related 75563
members of the investor or the qualifying pass-through entity 75564
resulting in a reduction or deferral of tax imposed by Chapter 75565
5733. of the Revised Code with respect to all or any portion of 75566
the investor's adjusted qualifying amount for the qualifying 75567
pass-through entity's taxable year, or that constitute a sham, 75568
lack economic reality, or are part of a series of transactions the 75569
form of which constitutes a step transaction or transactions or 75570
does not reflect the substance of those transactions. 75571

(8) Any other investor that the tax commissioner may 75572
designate by rule. The tax commissioner may adopt rules including 75573
a rule defining "qualifying investor" or "qualifying beneficiary" 75574
and governing the imposition of the withholding tax imposed by 75575
section 5747.41 of the Revised Code with respect to an individual 75576
who is a resident taxpayer for the purposes of Chapter 5747. of 75577
the Revised Code for only a portion of the qualifying taxable year 75578
of the qualifying entity. 75579

(9) An investor that is a trust or fund the beneficiaries of 75580
which, during the qualifying taxable year of the qualifying 75581
pass-through entity, are limited to the following: 75582

(a) A person that is or may be the beneficiary of a trust 75583
subject to Subchapter D of Chapter 1 of Subtitle A of the Internal 75584
Revenue Code. 75585

(b) A person that is or may be the beneficiary of or the 75586
recipient of payments from a trust or fund that is a nuclear 75587
decommissioning reserve fund, a designated settlement fund, or any 75588
other trust or fund established to resolve and satisfy claims that 75589
may otherwise be asserted by the beneficiary or a member of the 75590
beneficiary's family. Sections 267(c)(4), 468A(e), and 468B(d)(2) 75591
of the Internal Revenue Code apply to the determination of whether 75592
such a person satisfies division (I)(9) of this section. 75593

(c) A person who is or may be the beneficiary of a trust 75594
that, under its governing instrument, is not required to 75595
distribute all of its income currently. Division (I)(9)(c) of this 75596
section applies only if the trust, prior to the due date for 75597
filing the qualifying pass-through entity's return for taxes 75598
imposed by section 5733.41 and sections 5747.41 to 5747.453 of the 75599
Revised Code, irrevocably agrees in writing that for the taxable 75600
year during or for which the trust distributes any of its income 75601
to any of its beneficiaries, the trust is a qualifying trust and 75602
will pay the estimated tax, and will withhold and pay the withheld 75603
tax, as required under sections 5747.40 to 5747.453 of the Revised 75604
Code. 75605

For the purposes of division (I)(9) of this section, a trust 75606
or fund shall be considered to have a beneficiary other than 75607
persons described under divisions (I)(9)(a) to (c) of this section 75608
if a beneficiary would not qualify under those divisions under the 75609
doctrines of "economic reality," "sham transaction," "step 75610
doctrine," or "substance over form." A trust or fund described in 75611
division (I)(9) of this section bears the burden of establishing 75612
by a preponderance of the evidence that any transaction giving 75613
rise to the tax benefits provided under division (I)(9) of this 75614

section does not have as a principal purpose a claim of those tax 75615
benefits. Nothing in this section shall be construed to limit 75616
solely to this section the application of the doctrines referred 75617
to in this paragraph. 75618

(J) "Qualifying net gain" means any recognized net gain with 75619
respect to the acquisition, ownership, use, maintenance, 75620
management, or disposition of tangible personal property located 75621
in this state at any time during a trust's qualifying taxable year 75622
or real property located in this state. 75623

(K) "Qualifying net income" means any recognized income, net 75624
of related deductible expenses, other than distributions 75625
deductions with respect to the acquisition, ownership, use, 75626
maintenance, management, or disposition of tangible personal 75627
property located in this state at any time during the trust's 75628
qualifying taxable year or real property located in this state. 75629

(L) "Qualifying entity" means a qualifying pass-through 75630
entity or a qualifying trust. 75631

(M) "Qualifying trust" means a trust subject to subchapter J 75632
of the Internal Revenue Code that, during any portion of the 75633
trust's qualifying taxable year, has income or gain from the 75634
acquisition, management, ownership, use, or disposition of 75635
tangible personal property located in this state at any time 75636
during the trust's qualifying taxable year or real property 75637
located in this state. "Qualifying trust" does not include a 75638
person described in section 501(c) of the Internal Revenue Code or 75639
a person described in division (C) of section 5733.09 of the 75640
Revised Code. 75641

(N) "Qualifying pass-through entity" means a pass-through 75642
entity as defined in section 5733.04 of the Revised Code, 75643
excluding: a person described in section 501(c) of the Internal 75644
Revenue Code; a partnership with equity securities registered 75645

with the United States securities and exchange commission under 75646
section 12 of the Securities Exchange Act of 1934, as amended⁷ⁱ or 75647
a person described in division (C) of section 5733.09 of the 75648
Revised Code. 75649

(O) "Quarter" means the first three months, the second three 75650
months, the third three months, or the last three months of a 75651
qualifying entity's qualifying taxable year. 75652

(P) "Related member" has the same meaning as in division 75653
(A)(6) of section 5733.042 of the Revised Code without regard to 75654
division (B) of that section. However, for the purposes of 75655
divisions (A)(3) and (4) of this section only, "related member" 75656
has the same meaning as in division (A)(6) of section 5733.042 of 75657
the Revised Code without regard to division (B) of that section, 75658
but shall be applied by substituting "forty per cent" for "twenty 75659
per cent" wherever "twenty per cent" appears in division (A) of 75660
that section. 75661

(Q) "Return" or "report" means the notifications and reports 75662
required to be filed pursuant to sections 5747.42 to 5747.45 of 75663
the Revised Code for the purpose of reporting the tax imposed 75664
under section 5733.41 or 5747.41 of the Revised Code, and included 75665
declarations of estimated tax when so required. 75666

(R) "Qualifying taxable year" means the calendar year or the 75667
qualifying entity's fiscal year ending during the calendar year, 75668
or fractional part thereof, for which the adjusted qualifying 75669
amount is calculated pursuant to sections 5733.40 and 5733.41 or 75670
sections 5747.40 to 5747.453 of the Revised Code. 75671

(S) "Distributive share" includes the sum of the income, 75672
gain, expense, or loss of a disregarded entity or qualified 75673
subchapter S subsidiary. 75674

Sec. 5733.41. The purpose of the tax imposed by this section 75675

is to complement and to reinforce the tax imposed under section 75676
5733.06 of the Revised Code. 75677

For the same purposes for which the tax is levied under 75678
section 5733.06 of the Revised Code, there is hereby levied a tax 75679
on every qualifying pass-through entity having at least one 75680
qualifying investor that is not an individual. The tax imposed by 75681
this section is imposed on the sum of the adjusted qualifying 75682
amounts of the qualifying pass-through entity's qualifying 75683
investors that are not individuals as follows: for qualifying 75684
investors subject to division (G)(2) of section 5733.01 of the 75685
Revised Code, at six and eight-tenths per cent for the entity's 75686
taxable year ending in 2005, at five and one-tenth per cent for 75687
the entity's taxable year ending in 2006, at three and four-tenths 75688
per cent for the entity's taxable year ending in 2007, at one and 75689
seven-tenths per cent for the entity's taxable year ending in 75690
2008, and at zero per cent for the entity's taxable year ending in 75691
2009 or in subsequent years; and for all other qualifying 75692
investors that are not individuals, at the rate specified in 75693
division (B) of section 5733.06 of the Revised Code that is in 75694
effect on the last day of the entity's taxable year. 75695

The tax imposed by this section applies only if the 75696
qualifying entity has nexus with this state under the Constitution 75697
of the United States for any portion of the qualifying entity's 75698
qualifying taxable year, and the sum of the qualifying entity's 75699
adjusted qualifying amounts exceeds one thousand dollars for the 75700
qualifying entity's qualifying taxable year. This section does not 75701
apply to a pass-through entity if all of the partners, 75702
shareholders, members, or investors of the pass-through entity are 75703
taxpayers for the purposes of section 5733.04 of the Revised Code 75704
without regard to section 5733.09 of the Revised Code for the 75705
entire qualifying taxable year of the pass-through entity. 75706

If, prior to the due date of the return, a qualifying 75707

pass-through entity receives from an investor a written 75708
representation, under penalties of perjury, that the investor is 75709
described in division (I)(1), (2), (6), (7), (8), or (9) of 75710
section 5733.40 of the Revised Code for the qualifying 75711
pass-through entity's entire qualifying taxable year, the 75712
qualifying pass-through entity is not required to withhold or pay 75713
the taxes or estimated taxes imposed under this section or 75714
sections 5747.41 to 5747.453 of the Revised Code with respect to 75715
that investor for that qualifying taxable year, and is not subject 75716
to any interest or interest penalties for failure to withhold or 75717
pay those taxes or estimated taxes with respect to that investor 75718
for that qualifying taxable year. 75719

If, prior to the due date of the return, a qualifying trust 75720
receives from a beneficiary of that trust a written 75721
representation, under penalties of perjury, that the beneficiary 75722
is a resident taxpayer for the purposes of Chapter 5747. of the 75723
Revised Code for the qualifying trust's entire qualifying taxable 75724
year, the qualifying trust is not required to withhold or pay the 75725
taxes or estimated taxes imposed under this section or sections 75726
5747.41 to 5747.453 of the Revised Code with respect to that 75727
beneficiary for that qualifying taxable year, and is not subject 75728
to any interest or interest penalties for failure to withhold or 75729
pay those taxes or estimated taxes with respect to that 75730
beneficiary for that qualifying taxable year. 75731

The tax commissioner may adopt rules for the purpose of the 75732
tax levied by this section or section 5747.41 of the Revised Code, 75733
including a rule defining "qualifying investor" or "qualifying 75734
beneficiary", and a rule requiring or permitting a qualifying 75735
entity to combine its income with related members and to pay the 75736
tax and estimated tax on a combined basis. 75737

Sections 5747.10 to 5747.19 and 5747.42 to 5747.453 of the 75738
Revised Code apply to a qualifying entity subject to the tax 75739

imposed under this section. 75740

The levy of the tax under this section does not prevent a 75741
municipal corporation or a joint economic development district 75742
created under section 715.70 or 715.71 or sections 715.72 to 75743
715.81 of the Revised Code from levying a tax on income. 75744

Sec. 5733.49. (A) Upon the issuance of a tax credit 75745
certificate by the Ohio venture capital authority under section 75746
150.07 of the Revised Code, a credit may be claimed against the 75747
tax imposed by section 5733.06 of the Revised Code. The credit 75748
shall be claimed for the tax year specified in the certificate 75749
issued by the authority and in the order required under section 75750
5733.98 of the Revised Code. 75751

(B) If the taxpayer elected a refundable credit under section 75752
150.07 of the Revised Code and the amount of the credit shown on 75753
the certificate does not exceed the tax otherwise due under 75754
section 5733.06, 5733.065, and 5733.066 of the Revised Code after 75755
all nonrefundable credits are deducted, then the taxpayer shall 75756
claim a refundable credit equal to the amount of the credit shown 75757
on the certificate. 75758

(C) If the taxpayer elected a refundable credit under section 75759
150.07 of the Revised Code, and the amount of the credit shown on 75760
the certificate exceeds the tax otherwise due under sections 75761
5733.06, 5733.065, and 5733.066 of the Revised Code after all 75762
nonrefundable credits, including the credit allowed under this 75763
section, are deducted in that order, the taxpayer shall receive a 75764
refund equal to seventy five per cent of that excess. If the 75765
taxpayer elected a nonrefundable credit, the amount of the credit, 75766
elaimed in that order, shall not exceed the tax otherwise due 75767
under those sections after all the taxpayer's credits are deducted 75768
in that order. If claim a refundable credit equal to the sum of 75769
the following: 75770

(1) The amount, if any, of the tax otherwise due under sections 5733.06, 5733.065, and 5733.066 of the Revised Code after all nonrefundable credits are deducted; 75771
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(2) Seventy-five per cent of the difference between the amount of the refundable credit shown on the certificate and the tax otherwise due under sections 5733.06, 5733.065, and 5733.066 of the Revised Code after all nonrefundable credits are deducted. 75774
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(D) If the taxpayer elected a nonrefundable credit and the credit to which the taxpayer would otherwise be entitled under this section for any tax year is greater than the tax otherwise due under sections 5733.06, 5733.065, and 5733.066 of the Revised Code, after allowing for any other credits that, under section 5733.98 of the Revised Code, precede the credit allowed under this section, the excess shall be allowed as a nonrefundable credit in each of the ensuing ten tax years, but the amount of any excess credit allowed in the ensuing tax year shall be deducted from the balance carried forward to the next tax year. 75778
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Sec. 5733.98. (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5733.06 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits to which it is entitled in the following order, except as otherwise provided in section 5733.058 of the Revised Code: 75788
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(1) The For tax year 2005, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code; 75794
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(2) The credit allowed for financial institutions under section 5733.45 of the Revised Code; 75797
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(3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code; 75799
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| (4) The subsidiary corporation credit under section 5733.067 of the Revised Code; | 75801 75802 |
| (5) The savings and loan assessment credit under section 5733.063 of the Revised Code; | 75803 75804 |
| (6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code; | 75805 75806 |
| (7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code; | 75807 75808 |
| (8) The credit for employers that reimburse employee child care expenses under section 5733.38 of the Revised Code; | 75809 75810 |
| (9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code; | 75811 75812 |
| (10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code; | 75813 75814 |
| (11) The job retention credit under division (B) of section 5733.0610 of the Revised Code; | 75815 75816 |
| (12) The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code; | 75817 75818 75819 75820 |
| (13) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code; | 75821 75822 75823 |
| (14) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code; | 75824 75825 |
| (15) The job training credit under section 5733.42 of the Revised Code; | 75826 75827 |
| (16) The credit for qualified research expenses under section 5733.351 of the Revised Code; | 75828 75829 |

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| (17) The enterprise zone credit under section 5709.66 of the Revised Code; | 75830 75831 |
| (18) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code; | 75832 75833 |
| (19) The credit for employers that establish on-site child day-care centers under section 5733.37 of the Revised Code; | 75834 75835 |
| (20) The ethanol plant investment credit under section 5733.46 of the Revised Code; | 75836 75837 |
| (21) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code; | 75838 75839 |
| (22) The export sales credit under section 5733.069 of the Revised Code; | 75840 75841 |
| (23) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code; | 75842 75843 |
| (24) The enterprise zone credits under section 5709.65 of the Revised Code; | 75844 75845 |
| (25) The credit for using Ohio coal under section 5733.39 of the Revised Code; | 75846 75847 |
| (26) The research and development credit under section 5733.352 of the Revised Code; | 75848 75849 |
| (27) The credit for small telephone companies under section 5733.57 of the Revised Code; | 75850 75851 |
| (28) <u>(27)</u> The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code; | 75852 75853 |
| (29) <u>(28)</u> The credit for providing programs to aid the communicatively impaired under section 5733.56 of the Revised Code; | 75854 75855 75856 |
| (30) <u>(29)</u> <u>The research and development credit under section 5733.352 of the Revised Code;</u> | 75857 75858 |

(30) For tax years 2006 and subsequent tax years, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code; 75859
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(31) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code; 75862
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~~(31)~~(32) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code; 75864
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~~(32)~~(33) The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under section 150.07 of the Revised Code. 75866
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(B) For any credit except the credits enumerated in divisions (A)~~(30)~~, (31), ~~and (32)~~, and (33) of this section, the amount of the credit for a tax year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. 75870
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Sec. 5737.03. An annual excise tax is hereby levied on the handling of grain, in lieu of all taxes on grain as property of any person engaged in such business, for all the purposes for which taxes would otherwise be levied on such grain as property in the taxing district in which any such business is carried on, measured as follows: 75877
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~~One-half~~ (A) For the statement due in 2005, one-half mill per bushel upon all wheat and flax handled at one or more places in this state in any such business during the taxable year, as defined in section 5737.04 of the Revised Code, and one-fourth mill per bushel upon all other grain handled. ~~The~~ 75883
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(B) For the statement due in 2006, one-fourth mill per bushel 75888

upon all wheat and flax handled at one or more places in this 75889
state in any such business during the taxable year, as defined in 75890
section 5737.04 of the Revised Code, and one-eighth mill per 75891
bushel upon all other grain handled. 75892

(C) No statement or tax is due in 2007 or any year 75893
thereafter. 75894

The tax imposed by this section shall not be paid by a track 75895
buyer, who shall be liable for the personal property taxes only, 75896
as levied by sections 5711.01 to 5711.36, inclusive, of the 75897
Revised Code. 75898

All grain included in the statements required by section 75899
5737.04 of the Revised Code, upon the handling of which a tax is 75900
imposed by this section, is exempt from taxation as personal 75901
property. Any grain that would be included in such statements for 75902
taxable year 2007 or any year thereafter is exempt from taxation 75903
as personal property. 75904

Sec. 5739.01. As used in this chapter: 75905

(A) "Person" includes individuals, receivers, assignees, 75906
trustees in bankruptcy, estates, firms, partnerships, 75907
associations, joint-stock companies, joint ventures, clubs, 75908
societies, corporations, the state and its political subdivisions, 75909
and combinations of individuals of any form. 75910

(B) "Sale" and "selling" include all of the following 75911
transactions for a consideration in any manner, whether absolutely 75912
or conditionally, whether for a price or rental, in money or by 75913
exchange, and by any means whatsoever: 75914

(1) All transactions by which title or possession, or both, 75915
of tangible personal property, is or is to be transferred, or a 75916
license to use or consume tangible personal property is or is to 75917
be granted; 75918

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| (2) All transactions by which lodging by a hotel is or is to be furnished to transient guests; | 75919 75920 |
| (3) All transactions by which: | 75921 |
| (a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code; | 75922 75923 75924 |
| (b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service; | 75925 75926 75927 75928 75929 75930 |
| (c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished; | 75931 75932 |
| (d) Until August 1, 2003, industrial laundry cleaning services are or are to be provided and, on and after August 1, 2003, laundry and dry cleaning services are or are to be provided; | 75933 75934 75935 |
| (e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An affiliated group means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with stock, one corporation owns or controls another if it owns more than fifty per cent of | 75936 75937 75938 75939 75940 75941 75942 75943 75944 75945 75946 75947 75948 75949 |

the other corporation's common stock with voting rights. 75950

(f) Telecommunications service, ~~other than mobile~~ 75951
~~telecommunications service after July 31, 2002 including prepaid~~ 75952
~~calling service, prepaid wireless calling service, or ancillary~~ 75953
~~service~~, is or is to be provided, but ~~does not include~~ 75954
~~transactions by which local telecommunications service is obtained~~ 75955
~~from a including~~ coin-operated telephone ~~and paid for by using~~ 75956
~~coin service;~~ 75957

(g) Landscaping and lawn care service is or is to be 75958
provided; 75959

(h) Private investigation and security service is or is to be 75960
provided; 75961

(i) Information services or tangible personal property is 75962
provided or ordered by means of a nine hundred telephone call; 75963

(j) Building maintenance and janitorial service is or is to 75964
be provided; 75965

(k) Employment service is or is to be provided; 75966

(l) Employment placement service is or is to be provided; 75967

(m) Exterminating service is or is to be provided; 75968

(n) Physical fitness facility service is or is to be 75969
provided; 75970

(o) Recreation and sports club service is or is to be 75971
provided. 75972

(p) ~~After July 31, 2002, mobile telecommunications service is~~ 75973
~~or is to be provided when that service is situated to this state~~ 75974
~~pursuant to the "Mobile Telecommunications Sourcing Act," Pub. L.~~ 75975
~~No. 106-252, 114 Stat. 626 to 632 (2000), 4 U.S.C.A. 116 to 126,~~ 75976
~~as amended.~~ 75977

~~(q)~~ On and after August 1, 2003, satellite broadcasting 75978

service is or is to be provided; 75979

~~(r)~~(q) On and after August 1, 2003, personal care service is 75980
or is to be provided to an individual. As used in this division, 75981
"personal care service" includes skin care, the application of 75982
cosmetics, manicuring, pedicuring, hair removal, tattooing, body 75983
piercing, tanning, massage, and other similar services. "Personal 75984
care service" does not include a service provided by or on the 75985
order of a licensed physician or licensed chiropractor, or the 75986
cutting, coloring, or styling of an individual's hair. 75987

~~(s)~~(r) On and after August 1, 2003, the transportation of 75988
persons by motor vehicle or aircraft is or is to be provided, when 75989
the transportation is entirely within this state, except for 75990
transportation provided by an ambulance service, by a transit bus, 75991
as defined in section 5735.01 of the Revised Code, and 75992
transportation provided by a citizen of the United States holding 75993
a certificate of public convenience and necessity issued under 49 75994
U.S.C. 41102; 75995

~~(t)~~(s) On and after August 1, 2003, motor vehicle towing 75996
service is or is to be provided. As used in this division, "motor 75997
vehicle towing service" means the towing or conveyance of a 75998
wrecked, disabled, or illegally parked motor vehicle. 75999

~~(u)~~(t) On and after August 1, 2003, snow removal service is 76000
or is to be provided. As used in this division, "snow removal 76001
service" means the removal of snow by any mechanized means, but 76002
does not include the providing of such service by a person that 76003
has less than five thousand dollars in sales of such service 76004
during the calendar year. 76005

(4) All transactions by which printed, imprinted, 76006
overprinted, lithographic, multilithic, blueprinted, photostatic, 76007
or other productions or reproductions of written or graphic matter 76008
are or are to be furnished or transferred; 76009

(5) The production or fabrication of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production of fabrication work; and include the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. Except as provided in section 5739.03 of the Revised Code, a construction contract pursuant to which tangible personal property is or is to be incorporated into a structure or improvement on and becoming a part of real property is not a sale of such tangible personal property. The construction contractor is the consumer of such tangible personal property, provided that the sale and installation of carpeting, the sale and installation of agricultural land tile, the sale and erection or installation of portable grain bins, or the provision of landscaping and lawn care service and the transfer of property as part of such service is never a construction contract.

As used in division (B)(5) of this section:

(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used directly in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.

(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.

(6) All transactions in which all of the shares of stock of a
closely held corporation are transferred, if the corporation is
not engaging in business and its entire assets consist of boats,
planes, motor vehicles, or other tangible personal property
operated primarily for the use and enjoyment of the shareholders;

(7) All transactions in which a warranty, maintenance or
service contract, or similar agreement by which the vendor of the
warranty, contract, or agreement agrees to repair or maintain the
tangible personal property of the consumer is or is to be
provided;

(8) ~~;~~ ~~(9)~~ The transfer of copyrighted motion picture films
used solely for advertising purposes, except that the transfer of
such films for exhibition purposes is not a sale.

(9) On and after August 1, 2003, all transactions by which
tangible personal property is or is to be stored, except such
property that the consumer of the storage holds for sale in the
regular course of business.

Except ~~other than~~ as provided in this section, "sale" and
"selling" do not include transfers of interest in leased property
where the original lessee and the terms of the original lease
agreement remain unchanged, or professional, insurance, or
personal service transactions that involve the transfer of
tangible personal property as an inconsequential element, for
which no separate charges are made.

(C) "Vendor" means the person providing the service or by
whom the transfer effected or license given by a sale is or is to
be made or given and, for sales described in division (B)(3)(i) of
this section, the telecommunications service vendor that provides
the nine hundred telephone service; if two or more persons are
engaged in business at the same place of business under a single
trade name in which all collections on account of sales by each

are made, such persons shall constitute a single vendor. 76073

Physicians, dentists, hospitals, and veterinarians who are 76074
engaged in selling tangible personal property as received from 76075
others, such as eyeglasses, mouthwashes, dentifrices, or similar 76076
articles, are vendors. Veterinarians who are engaged in 76077
transferring to others for a consideration drugs, the dispensing 76078
of which does not require an order of a licensed veterinarian or 76079
physician under federal law, are vendors. 76080

(D)(1) "Consumer" means the person for whom the service is 76081
provided, to whom the transfer effected or license given by a sale 76082
is or is to be made or given, to whom the service described in 76083
division (B)(3)(f) or (i) of this section is charged, or to whom 76084
the admission is granted. 76085

(2) Physicians, dentists, hospitals, and blood banks operated 76086
by nonprofit institutions and persons licensed to practice 76087
veterinary medicine, surgery, and dentistry are consumers of all 76088
tangible personal property and services purchased by them in 76089
connection with the practice of medicine, dentistry, the rendition 76090
of hospital or blood bank service, or the practice of veterinary 76091
medicine, surgery, and dentistry. In addition to being consumers 76092
of drugs administered by them or by their assistants according to 76093
their direction, veterinarians also are consumers of drugs that 76094
under federal law may be dispensed only by or upon the order of a 76095
licensed veterinarian or physician, when transferred by them to 76096
others for a consideration to provide treatment to animals as 76097
directed by the veterinarian. 76098

(3) A person who performs a facility management, or similar 76099
service contract for a contractee is a consumer of all tangible 76100
personal property and services purchased for use in connection 76101
with the performance of such contract, regardless of whether title 76102
to any such property vests in the contractee. The purchase of such 76103
property and services is not subject to the exception for resale 76104

under division (E)(1) of this section. 76105

(4)(a) In the case of a person who purchases printed matter 76106
for the purpose of distributing it or having it distributed to the 76107
public or to a designated segment of the public, free of charge, 76108
that person is the consumer of that printed matter, and the 76109
purchase of that printed matter for that purpose is a sale. 76110

(b) In the case of a person who produces, rather than 76111
purchases, printed matter for the purpose of distributing it or 76112
having it distributed to the public or to a designated segment of 76113
the public, free of charge, that person is the consumer of all 76114
tangible personal property and services purchased for use or 76115
consumption in the production of that printed matter. That person 76116
is not entitled to claim exemption under division (B)~~(43)~~(42)(f) 76117
of section 5739.02 of the Revised Code for any material 76118
incorporated into the printed matter or any equipment, supplies, 76119
or services primarily used to produce the printed matter. 76120

(c) The distribution of printed matter to the public or to a 76121
designated segment of the public, free of charge, is not a sale to 76122
the members of the public to whom the printed matter is 76123
distributed or to any persons who purchase space in the printed 76124
matter for advertising or other purposes. 76125

(5) A person who makes sales of any of the services listed in 76126
division (B)(3) of this section is the consumer of any tangible 76127
personal property used in performing the service. The purchase of 76128
that property is not subject to the resale exception under 76129
division (E)(1) of this section. 76130

(6) A person who engages in highway transportation for hire 76131
is the consumer of all packaging materials purchased by that 76132
person and used in performing the service, except for packaging 76133
materials sold by such person in a transaction separate from the 76134
service. 76135

(E) "Retail sale" and "sales at retail" include all sales, 76136
except those in which the purpose of the consumer is to resell the 76137
thing transferred or benefit of the service provided, by a person 76138
engaging in business, in the form in which the same is, or is to 76139
be, received by the person. 76140

(F) "Business" includes any activity engaged in by any person 76141
with the object of gain, benefit, or advantage, either direct or 76142
indirect. "Business" does not include the activity of a person in 76143
managing and investing the person's own funds. 76144

(G) "Engaging in business" means commencing, conducting, or 76145
continuing in business, and liquidating a business when the 76146
liquidator thereof holds itself out to the public as conducting 76147
such business. Making a casual sale is not engaging in business. 76148

(H)(1)(a) "Price," except as provided in divisions (H)(2) and 76149
(3) of this section, means the total amount of consideration, 76150
including cash, credit, property, and services, for which tangible 76151
personal property or services are sold, leased, or rented, valued 76152
in money, whether received in money or otherwise, without any 76153
deduction for any of the following: 76154

(i) The vendor's cost of the property sold; 76155

(ii) The cost of materials used, labor or service costs, 76156
interest, losses, all costs of transportation to the vendor, all 76157
taxes imposed on the vendor, including the tax imposed under 76158
Chapter 5751. of the Revised Code, and any other expense of the 76159
vendor; 76160

(iii) Charges by the vendor for any services necessary to 76161
complete the sale; 76162

(iv) On and after August 1, 2003, delivery charges. As used 76163
in this division, "delivery charges" means charges by the vendor 76164
for preparation and delivery to a location designated by the 76165
consumer of tangible personal property or a service, including 76166

transportation, shipping, postage, handling, crating, and packing. 76167

(v) Installation charges; 76168

(vi) ~~The value of exempt tangible personal property given to~~ 76169

~~the consumer where taxable and exempt tangible personal property~~ 76170

~~have been bundled together and sold by the vendor as a single~~ 76171

~~product or piece of merchandise~~ Credit for any trade-in. 76172

(b) "Price" includes consideration received by the vendor 76173

from a third party, if the vendor actually receives the 76174

consideration from a party other than the consumer, and the 76175

consideration is directly related to a price reduction or discount 76176

on the sale; the vendor has an obligation to pass the price 76177

reduction or discount through to the consumer; the amount of the 76178

consideration attributable to the sale is fixed and determinable 76179

by the vendor at the time of the sale of the item to the consumer; 76180

and one of the following criteria is met: 76181

(i) The consumer presents a coupon, certificate, or other 76182

document to the vendor to claim a price reduction or discount 76183

where the coupon, certificate, or document is authorized, 76184

distributed, or granted by a third party with the understanding 76185

that the third party will reimburse any vendor to whom the coupon, 76186

certificate, or document is presented; 76187

(ii) The consumer identifies the consumer's self to the 76188

seller as a member of a group or organization entitled to a price 76189

reduction or discount. A preferred customer card that is available 76190

to any patron does not constitute membership in such a group or 76191

organization. 76192

(iii) The price reduction or discount is identified as a 76193

third party price reduction or discount on the invoice received by 76194

the consumer, or on a coupon, certificate, or other document 76195

presented by the consumer. 76196

(c) "Price" does not include any of the following: 76197

(i) Discounts, including cash, term, or coupons that are not 76198
reimbursed by a third party that are allowed by a vendor and taken 76199
by a consumer on a sale; 76200

(ii) Interest, financing, and carrying charges from credit 76201
extended on the sale of tangible personal property or services, if 76202
the amount is separately stated on the invoice, bill of sale, or 76203
similar document given to the purchaser; 76204

(iii) Any taxes legally imposed directly on the consumer that 76205
are separately stated on the invoice, bill of sale, or similar 76206
document given to the consumer. For the purpose of this division, 76207
the tax imposed under Chapter 5751. of the Revised Code is not a 76208
tax directly on the consumer, even if the tax or a portion thereof 76209
is separately stated. 76210

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this 76211
section, any discount allowed by an automobile manufacturer to its 76212
employee, or to the employee of a supplier, on the purchase of a 76213
new motor vehicle from a new motor vehicle dealer in this state. 76214

(2) In the case of a sale of any new motor vehicle by a new 76215
motor vehicle dealer, as defined in section 4517.01 of the Revised 76216
Code, in which another motor vehicle is accepted by the dealer as 76217
part of the consideration received, "price" has the same meaning 76218
as in division (H)(1) of this section, reduced by the credit 76219
afforded the consumer by the dealer for the motor vehicle received 76220
in trade. 76221

(3) In the case of a sale of any watercraft or outboard motor 76222
by a watercraft dealer licensed in accordance with section 76223
1547.543 of the Revised Code, in which another watercraft, 76224
watercraft and trailer, or outboard motor is accepted by the 76225
dealer as part of the consideration received, "price" has the same 76226
meaning as in division (H)(1) of this section, reduced by the 76227
credit afforded the consumer by the dealer for the watercraft, 76228

watercraft and trailer, or outboard motor received in trade. As 76229
used in this division, "watercraft" includes an outdrive unit 76230
attached to the watercraft. 76231

~~(4) In the case of a transaction in which telecommunications 76232
service, mobile telecommunications service, or cable television 76233
service is sold in a bundled transaction with other distinct 76234
services for a single price that is not itemized, the entire price 76235
is subject to the taxes levied under sections 5739.02, 5739.021, 76236
5739.023, and 5739.026 of the Revised Code, unless the vendor can 76237
reasonably identify the nontaxable portion from its books and 76238
records kept in the regular course of business. Upon the request 76239
of the consumer, the vendor shall disclose to the consumer the 76240
selling price for the taxable services included in the selling 76241
price for the taxable and nontaxable services billed on an 76242
aggregated basis. The burden of proving any nontaxable charges is 76243
on the vendor. 76244~~

(I) "Receipts" means the total amount of the prices of the 76245
sales of vendors, provided that cash discounts allowed and taken 76246
on sales at the time they are consummated are not included, minus 76247
any amount deducted as a bad debt pursuant to section 5739.121 of 76248
the Revised Code. "Receipts" does not include the sale price of 76249
property returned or services rejected by consumers when the full 76250
sale price and tax are refunded either in cash or by credit. 76251

(J) "Place of business" means any location at which a person 76252
engages in business. 76253

(K) "Premises" includes any real property or portion thereof 76254
upon which any person engages in selling tangible personal 76255
property at retail or making retail sales and also includes any 76256
real property or portion thereof designated for, or devoted to, 76257
use in conjunction with the business engaged in by such person. 76258

(L) "Casual sale" means a sale of an item of tangible 76259

personal property that was obtained by the person making the sale, 76260
through purchase or otherwise, for the person's own use and was 76261
previously subject to any state's taxing jurisdiction on its sale 76262
or use, and includes such items acquired for the seller's use that 76263
are sold by an auctioneer employed directly by the person for such 76264
purpose, provided the location of such sales is not the 76265
auctioneer's permanent place of business. As used in this 76266
division, "permanent place of business" includes any location 76267
where such auctioneer has conducted more than two auctions during 76268
the year. 76269

(M) "Hotel" means every establishment kept, used, maintained, 76270
advertised, or held out to the public to be a place where sleeping 76271
accommodations are offered to guests, in which five or more rooms 76272
are used for the accommodation of such guests, whether the rooms 76273
are in one or several structures. 76274

(N) "Transient guests" means persons occupying a room or 76275
rooms for sleeping accommodations for less than thirty consecutive 76276
days. 76277

(O) "Making retail sales" means the effecting of transactions 76278
wherein one party is obligated to pay the price and the other 76279
party is obligated to provide a service or to transfer title to or 76280
possession of the item sold. "Making retail sales" does not 76281
include the preliminary acts of promoting or soliciting the retail 76282
sales, other than the distribution of printed matter which 76283
displays or describes and prices the item offered for sale, nor 76284
does it include delivery of a predetermined quantity of tangible 76285
personal property or transportation of property or personnel to or 76286
from a place where a service is performed, regardless of whether 76287
the vendor is a delivery vendor. 76288

(P) "Used directly in the rendition of a public utility 76289
service" means that property that is to be incorporated into and 76290
will become a part of the consumer's production, transmission, 76291

transportation, or distribution system and that retains its 76292
classification as tangible personal property after such 76293
incorporation; fuel or power used in the production, transmission, 76294
transportation, or distribution system; and tangible personal 76295
property used in the repair and maintenance of the production, 76296
transmission, transportation, or distribution system, including 76297
only such motor vehicles as are specially designed and equipped 76298
for such use. Tangible personal property and services used 76299
primarily in providing highway transportation for hire are not 76300
used directly in the rendition of a public utility service. 76301

(Q) "Refining" means removing or separating a desirable 76302
product from raw or contaminated materials by distillation or 76303
physical, mechanical, or chemical processes. 76304

(R) "Assembly" and "assembling" mean attaching or fitting 76305
together parts to form a product, but do not include packaging a 76306
product. 76307

(S) "Manufacturing operation" means a process in which 76308
materials are changed, converted, or transformed into a different 76309
state or form from which they previously existed and includes 76310
refining materials, assembling parts, and preparing raw materials 76311
and parts by mixing, measuring, blending, or otherwise committing 76312
such materials or parts to the manufacturing process. 76313
"Manufacturing operation" does not include packaging. 76314

(T) "Fiscal officer" means, with respect to a regional 76315
transit authority, the secretary-treasurer thereof, and with 76316
respect to a county that is a transit authority, the fiscal 76317
officer of the county transit board if one is appointed pursuant 76318
to section 306.03 of the Revised Code or the county auditor if the 76319
board of county commissioners operates the county transit system. 76320

(U) "Transit authority" means a regional transit authority 76321
created pursuant to section 306.31 of the Revised Code or a county 76322

in which a county transit system is created pursuant to section 76323
306.01 of the Revised Code. For the purposes of this chapter, a 76324
transit authority must extend to at least the entire area of a 76325
single county. A transit authority that includes territory in more 76326
than one county must include all the area of the most populous 76327
county that is a part of such transit authority. County population 76328
shall be measured by the most recent census taken by the United 76329
States census bureau. 76330

(V) "Legislative authority" means, with respect to a regional 76331
transit authority, the board of trustees thereof, and with respect 76332
to a county that is a transit authority, the board of county 76333
commissioners. 76334

(W) "Territory of the transit authority" means all of the 76335
area included within the territorial boundaries of a transit 76336
authority as they from time to time exist. Such territorial 76337
boundaries must at all times include all the area of a single 76338
county or all the area of the most populous county that is a part 76339
of such transit authority. County population shall be measured by 76340
the most recent census taken by the United States census bureau. 76341

(X) "Providing a service" means providing or furnishing 76342
anything described in division (B)(3) of this section for 76343
consideration. 76344

(Y)(1)(a) "Automatic data processing" means processing of 76345
others' data, including keypunching or similar data entry services 76346
together with verification thereof, or providing access to 76347
computer equipment for the purpose of processing data. 76348

(b) "Computer services" means providing services consisting 76349
of specifying computer hardware configurations and evaluating 76350
technical processing characteristics, computer programming, and 76351
training of computer programmers and operators, provided in 76352
conjunction with and to support the sale, lease, or operation of 76353

taxable computer equipment or systems. 76354

(c) "Electronic information services" means providing access 76355
to computer equipment by means of telecommunications equipment for 76356
the purpose of either of the following: 76357

(i) Examining or acquiring data stored in or accessible to 76358
the computer equipment; 76359

(ii) Placing data into the computer equipment to be retrieved 76360
by designated recipients with access to the computer equipment. 76361

(d) "Automatic data processing, computer services, or 76362
electronic information services" shall not include personal or 76363
professional services. 76364

(2) As used in divisions (B)(3)(e) and (Y)(1) of this 76365
section, "personal and professional services" means all services 76366
other than automatic data processing, computer services, or 76367
electronic information services, including but not limited to: 76368

(a) Accounting and legal services such as advice on tax 76369
matters, asset management, budgetary matters, quality control, 76370
information security, and auditing and any other situation where 76371
the service provider receives data or information and studies, 76372
alters, analyzes, interprets, or adjusts such material; 76373

(b) Analyzing business policies and procedures; 76374

(c) Identifying management information needs; 76375

(d) Feasibility studies, including economic and technical 76376
analysis of existing or potential computer hardware or software 76377
needs and alternatives; 76378

(e) Designing policies, procedures, and custom software for 76379
collecting business information, and determining how data should 76380
be summarized, sequenced, formatted, processed, controlled, and 76381
reported so that it will be meaningful to management; 76382

(f) Developing policies and procedures that document how 76383

| | |
|---|---|
| business events and transactions are to be authorized, executed, and controlled; | 76384 76385 |
| (g) Testing of business procedures; | 76386 |
| (h) Training personnel in business procedure applications; | 76387 |
| (i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium; | 76388 76389 76390 76391 76392 76393 |
| (j) Providing debt collection services by any oral, written, graphic, or electronic means. | 76394 76395 |
| The services listed in divisions (Y)(2)(a) to (j) of this section are not automatic data processing or computer services. | 76396 76397 |
| (Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following: | 76398 76399 76400 |
| (1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare; | 76401 76402 76403 76404 76405 |
| (2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section; | 76406 76407 76408 76409 76410 76411 76412 |
| (3) A person who leases a motor vehicle to and operates it | 76413 |

for a person described by division (Z)(1) or (2) of this section. 76414

(AA)(1) "Telecommunications service" means the ~~transmission~~ 76415
~~of any interactive, two-way electromagnetic communications,~~ 76416
~~including voice, image, data, and information, through the use of~~ 76417
~~any medium such as wires, cables, microwaves, cellular radio,~~ 76418
~~radio waves, light waves, or any combination of those or similar~~ 76419
~~media. "Telecommunications service" includes message toll service~~ 76420
~~even though the vendor provides the message toll service by means~~ 76421
~~of wide area transmission type service or private communications~~ 76422
~~service purchased from another telecommunications service~~ 76423
~~provider, and other related fees and ancillary services, including~~ 76424
~~universal service fees, detailed billing service, directory~~ 76425
~~assistance, service initiation, voice mail service, and vertical~~ 76426
~~services, such as caller ID and three-way calling electronic~~ 76427
~~transmission, conveyance, or routing of voice, data, audio, video,~~ 76428
~~or any other information or signals to a point, or between or~~ 76429
~~among points. "Telecommunications service" includes such~~ 76430
~~transmission, conveyance, or routing in which computer processing~~ 76431
~~applications are used to act on the form, code, or protocol of the~~ 76432
~~content for purposes of transmission, conveyance, or routing~~ 76433
~~without regard to whether the service is referred to as voice-over~~ 76434
~~internet protocol service or is classified by the federal~~ 76435
~~communications commission as enhanced or value-added.~~ 76436

"Telecommunications service" does not include any of the 76437
following: 76438

~~(1) Sales of telecommunications service billed to persons~~ 76439
~~before January 1, 2004, by telephone companies subject to the~~ 76440
~~excise tax imposed by Chapter 5727. of the Revised Code;~~ 76441

~~(2) Sales of telecommunications service to a provider of~~ 76442
~~telecommunications service or of mobile telecommunications~~ 76443
~~service, including access services, for use in providing~~ 76444
~~telecommunications service or mobile telecommunications service;~~ 76445

| | |
|--|-------|
| (3) Value added nonvoice services in which computer processing applications are used to act on the form, content, code, or protocol of the information to be transmitted; | 76446 |
| | 76447 |
| | 76448 |
| (4) Transmission of interactive video programming by a cable television system as defined in section 505.90 of the Revised Code; | 76449 |
| | 76450 |
| | 76451 |
| (5) After July 31, 2002, mobile telecommunications service | 76452 |
| <u>(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information;</u> | 76453 |
| | 76454 |
| | 76455 |
| | 76456 |
| | 76457 |
| <u>(b) Installation or maintenance of wiring or equipment on a customer's premises;</u> | 76458 |
| | 76459 |
| <u>(c) Tangible personal property;</u> | 76460 |
| <u>(d) Advertising, including directory advertising;</u> | 76461 |
| <u>(e) Billing and collection services provided to third parties;</u> | 76462 |
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| <u>(f) Internet access service;</u> | 76464 |
| <u>(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;</u> | 76465 |
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| <u>(h) Ancillary service;</u> | 76473 |
| <u>(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.</u> | 76474 |
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(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division: 76476
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(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge. 76481
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(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement. 76486
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(c) "Directory assistance" means an ancillary service of providing telephone number or address information. 76489
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(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service. 76491
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(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service. 76496
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(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900" service and any subsequent numbers designated by the federal communications commission. "900 service" does not include the 76501
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charge for collection services provided by the seller of the 76507
telecommunications service to the subscriber, or services or 76508
products sold by the subscriber to the subscriber's customer. 76509

(4) "Prepaid calling service" means the right to access 76510
exclusively telecommunications services, which must be paid for in 76511
advance and which enables the origination of calls using an access 76512
number or authorization code, whether manually or electronically 76513
dialed, and that is sold in predetermined units of dollars of 76514
which the number declines with use in a known amount. 76515

(5) "Prepaid wireless calling service" means a 76516
telecommunications service that provides the right to utilize 76517
mobile telecommunications service as well as other 76518
non-telecommunications services, including the download of digital 76519
products delivered electronically, and content and ancillary 76520
services, that must be paid for in advance and that is sold in 76521
predetermined units of dollars of which the number declines with 76522
use in a known amount. 76523

(6) "Value-added non-voice data service" means a 76524
telecommunications service in which computer processing 76525
applications are used to act on the form, content, code, or 76526
protocol of the information or data primarily for a purpose other 76527
than transmission, conveyance, or routing. 76528

(7) "Coin-operated telephone service" means a 76529
telecommunications service paid for by inserting money into a 76530
telephone accepting direct deposits of money to operate. 76531

(8) "Customer" has the same meaning as in section 5739.034 of 76532
the Revised Code. 76533

(BB) "Laundry and dry cleaning services" means removing soil 76534
or dirt from towels, linens, articles of clothing, or other fabric 76535
items that belong to others and supplying towels, linens, articles 76536
of clothing, or other fabric items. "Laundry and dry cleaning 76537

services" does not include the provision of self-service 76538
facilities for use by consumers to remove soil or dirt from 76539
towels, linens, articles of clothing, or other fabric items. 76540

(CC) "Magazines distributed as controlled circulation 76541
publications" means magazines containing at least twenty-four 76542
pages, at least twenty-five per cent editorial content, issued at 76543
regular intervals four or more times a year, and circulated 76544
without charge to the recipient, provided that such magazines are 76545
not owned or controlled by individuals or business concerns which 76546
conduct such publications as an auxiliary to, and essentially for 76547
the advancement of the main business or calling of, those who own 76548
or control them. 76549

(DD) "Landscaping and lawn care service" means the services 76550
of planting, seeding, sodding, removing, cutting, trimming, 76551
pruning, mulching, aerating, applying chemicals, watering, 76552
fertilizing, and providing similar services to establish, promote, 76553
or control the growth of trees, shrubs, flowers, grass, ground 76554
cover, and other flora, or otherwise maintaining a lawn or 76555
landscape grown or maintained by the owner for ornamentation or 76556
other nonagricultural purpose. However, "landscaping and lawn care 76557
service" does not include the providing of such services by a 76558
person who has less than five thousand dollars in sales of such 76559
services during the calendar year. 76560

(EE) "Private investigation and security service" means the 76561
performance of any activity for which the provider of such service 76562
is required to be licensed pursuant to Chapter 4749. of the 76563
Revised Code, or would be required to be so licensed in performing 76564
such services in this state, and also includes the services of 76565
conducting polygraph examinations and of monitoring or overseeing 76566
the activities on or in, or the condition of, the consumer's home, 76567
business, or other facility by means of electronic or similar 76568
monitoring devices. "Private investigation and security service" 76569

does not include special duty services provided by off-duty police 76570
officers, deputy sheriffs, and other peace officers regularly 76571
employed by the state or a political subdivision. 76572

(FF) "Information services" means providing conversation, 76573
giving consultation or advice, playing or making a voice or other 76574
recording, making or keeping a record of the number of callers, 76575
and any other service provided to a consumer by means of a nine 76576
hundred telephone call, except when the nine hundred telephone 76577
call is the means by which the consumer makes a contribution to a 76578
recognized charity. 76579

(GG) "Research and development" means designing, creating, or 76580
formulating new or enhanced products, equipment, or manufacturing 76581
processes, and also means conducting scientific or technological 76582
inquiry and experimentation in the physical sciences with the goal 76583
of increasing scientific knowledge which may reveal the bases for 76584
new or enhanced products, equipment, or manufacturing processes. 76585

(HH) "Qualified research and development equipment" means 76586
capitalized tangible personal property, and leased personal 76587
property that would be capitalized if purchased, used by a person 76588
primarily to perform research and development. Tangible personal 76589
property primarily used in testing, as defined in division (A)(4) 76590
of section 5739.011 of the Revised Code, or used for recording or 76591
storing test results, is not qualified research and development 76592
equipment unless such property is primarily used by the consumer 76593
in testing the product, equipment, or manufacturing process being 76594
created, designed, or formulated by the consumer in the research 76595
and development activity or in recording or storing such test 76596
results. 76597

(II) "Building maintenance and janitorial service" means 76598
cleaning the interior or exterior of a building and any tangible 76599
personal property located therein or thereon, including any 76600
services incidental to such cleaning for which no separate charge 76601

is made. However, "building maintenance and janitorial service" 76602
does not include the providing of such service by a person who has 76603
less than five thousand dollars in sales of such service during 76604
the calendar year. 76605

(JJ) "Employment service" means providing or supplying 76606
personnel, on a temporary or long-term basis, to perform work or 76607
labor under the supervision or control of another, when the 76608
personnel so supplied receive their wages, salary, or other 76609
compensation from the provider of the service. "Employment 76610
service" does not include: 76611

(1) Acting as a contractor or subcontractor, where the 76612
personnel performing the work are not under the direct control of 76613
the purchaser. 76614

(2) Medical and health care services. 76615

(3) Supplying personnel to a purchaser pursuant to a contract 76616
of at least one year between the service provider and the 76617
purchaser that specifies that each employee covered under the 76618
contract is assigned to the purchaser on a permanent basis. 76619

(4) Transactions between members of an affiliated group, as 76620
defined in division (B)(3)(e) of this section. 76621

(KK) "Employment placement service" means locating or finding 76622
employment for a person or finding or locating an employee to fill 76623
an available position. 76624

(LL) "Exterminating service" means eradicating or attempting 76625
to eradicate vermin infestations from a building or structure, or 76626
the area surrounding a building or structure, and includes 76627
activities to inspect, detect, or prevent vermin infestation of a 76628
building or structure. 76629

(MM) "Physical fitness facility service" means all 76630
transactions by which a membership is granted, maintained, or 76631

renewed, including initiation fees, membership dues, renewal fees, 76632
monthly minimum fees, and other similar fees and dues, by a 76633
physical fitness facility such as an athletic club, health spa, or 76634
gymnasium, which entitles the member to use the facility for 76635
physical exercise. 76636

(NN) "Recreation and sports club service" means all 76637
transactions by which a membership is granted, maintained, or 76638
renewed, including initiation fees, membership dues, renewal fees, 76639
monthly minimum fees, and other similar fees and dues, by a 76640
recreation and sports club, which entitles the member to use the 76641
facilities of the organization. "Recreation and sports club" means 76642
an organization that has ownership of, or controls or leases on a 76643
continuing, long-term basis, the facilities used by its members 76644
and includes an aviation club, gun or shooting club, yacht club, 76645
card club, swimming club, tennis club, golf club, country club, 76646
riding club, amateur sports club, or similar organization. 76647

(OO) "Livestock" means farm animals commonly raised for food 76648
or food production, and includes but is not limited to cattle, 76649
sheep, goats, swine, and poultry. "Livestock" does not include 76650
invertebrates, fish, amphibians, reptiles, horses, domestic pets, 76651
animals for use in laboratories or for exhibition, or other 76652
animals not commonly raised for food or food production. 76653

(PP) "Livestock structure" means a building or structure used 76654
exclusively for the housing, raising, feeding, or sheltering of 76655
livestock, and includes feed storage or handling structures and 76656
structures for livestock waste handling. 76657

(QQ) "Horticulture" means the growing, cultivation, and 76658
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 76659
and nursery stock. As used in this division, "nursery stock" has 76660
the same meaning as in section 927.51 of the Revised Code. 76661

(RR) "Horticulture structure" means a building or structure 76662

used exclusively for the commercial growing, raising, or 76663
overwintering of horticultural products, and includes the area 76664
used for stocking, storing, and packing horticultural products 76665
when done in conjunction with the production of those products. 76666

(SS) "Newspaper" means an unbound publication bearing a title 76667
or name that is regularly published, at least as frequently as 76668
biweekly, and distributed from a fixed place of business to the 76669
public in a specific geographic area, and that contains a 76670
substantial amount of news matter of international, national, or 76671
local events of interest to the general public. 76672

(TT) "Professional racing team" means a person that employs 76673
at least twenty full-time employees for the purpose of conducting 76674
a motor vehicle racing business for profit. The person must 76675
conduct the business with the purpose of racing one or more motor 76676
racing vehicles in at least ten competitive professional racing 76677
events each year that comprise all or part of a motor racing 76678
series sanctioned by one or more motor racing sanctioning 76679
organizations. A "motor racing vehicle" means a vehicle for which 76680
the chassis, engine, and parts are designed exclusively for motor 76681
racing, and does not include a stock or production model vehicle 76682
that may be modified for use in racing. For the purposes of this 76683
division: 76684

(1) A "competitive professional racing event" is a motor 76685
vehicle racing event sanctioned by one or more motor racing 76686
sanctioning organizations, at which aggregate cash prizes in 76687
excess of eight hundred thousand dollars are awarded to the 76688
competitors. 76689

(2) "Full-time employee" means an individual who is employed 76690
for consideration for thirty-five or more hours a week, or who 76691
renders any other standard of service generally accepted by custom 76692
or specified by contract as full-time employment. 76693

(UU)(1) "Lease" or "rental" means any transfer of the 76694
possession or control of tangible personal property for a fixed or 76695
indefinite term, for consideration. "Lease" or "rental" includes 76696
future options to purchase or extend, and agreements described in 76697
26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where 76698
the amount of consideration may be increased or decreased by 76699
reference to the amount realized upon the sale or disposition of 76700
the property. "Lease" or "rental" does not include: 76701

(a) A transfer of possession or control of tangible personal 76702
property under a security agreement or a deferred payment plan 76703
that requires the transfer of title upon completion of the 76704
required payments; 76705

(b) A transfer of possession or control of tangible personal 76706
property under an agreement that requires the transfer of title 76707
upon completion of required payments and payment of an option 76708
price that does not exceed the greater of one hundred dollars or 76709
one per cent of the total required payments; 76710

(c) Providing tangible personal property along with an 76711
operator for a fixed or indefinite period of time, if the operator 76712
is necessary for the property to perform as designed. For purposes 76713
of this division, the operator must do more than maintain, 76714
inspect, or set-up the tangible personal property. 76715

(2) "Lease" and "rental," as defined in division (UU) of this 76716
section, shall not apply to leases or rentals that exist before 76717
~~the effective date of this amendment~~ June 26, 2003. 76718

(3) "Lease" and "rental" have the same meaning as in division 76719
(UU)(1) of this section regardless of whether a transaction is 76720
characterized as a lease or rental under generally accepted 76721
accounting principles, the Internal Revenue Code, Title XIII of 76722
the Revised Code, or other federal, state, or local laws. 76723

(VV) "Mobile telecommunications service" has the same meaning 76724

as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling.

(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

(XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service.

(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible personal property" includes motor vehicles, electricity, water, gas, steam, and prewritten computer software.

(ZZ) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the consumer or at the direction of the consumer when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the consumer to the direct mail vendor for inclusion in the package containing the printed material. "Direct mail" does

not include multiple items of printed material delivered to a 76757
single address. 76758

(AAA) "Computer" means an electronic device that accepts 76759
information in digital or similar form and manipulates it for a 76760
result based on a sequence of instructions. 76761

(BBB) "Computer software" means a set of coded instructions 76762
designed to cause a computer or automatic data processing 76763
equipment to perform a task. 76764

(CCC) "Delivered electronically" means delivery of computer 76765
software from the seller to the purchaser by means other than 76766
tangible storage media. 76767

(DDD) "Prewritten computer software" means computer software, 76768
including prewritten upgrades, that is not designed and developed 76769
by the author or other creator to the specifications of a specific 76770
purchaser. The combining of two or more prewritten computer 76771
software programs or prewritten portions thereof does not cause 76772
the combination to be other than prewritten computer software. 76773
"Prewritten computer software" includes software designed and 76774
developed by the author or other creator to the specifications of 76775
a specific purchaser when it is sold to a person other than the 76776
purchaser. If a person modifies or enhances computer software of 76777
which the person is not the author or creator, the person shall be 76778
deemed to be the author or creator only of such person's 76779
modifications or enhancements. Prewritten computer software or a 76780
prewritten portion thereof that is modified or enhanced to any 76781
degree, where such modification or enhancement is designed and 76782
developed to the specifications of a specific purchaser, remains 76783
prewritten computer software; provided, however, that where there 76784
is a reasonable, separately stated charge or an invoice or other 76785
statement of the price given to the purchaser for the modification 76786
or enhancement, the modification or enhancement shall not 76787
constitute prewritten computer software. 76788

(EEE)(1) ~~Prior to July 1, 2004, "food" means cereals and 76789
cereal products, milk and milk products including ice cream, meat 76790
and meat products, fish and fish products, eggs and egg products, 76791
vegetables and vegetable products, fruits, fruit products, and 76792
pure fruit juices, condiments, sugar and sugar products, coffee 76793
and coffee substitutes, tea, and cocoa and cocoa products. "Food" 76794
does not include spirituous liquors, wine, mixed beverages, or 76795
beer; soft drinks; sodas and beverages that are ordinarily 76796
dispensed at or in connection with bars and soda fountains, other 76797
than coffee, tea, and cocoa; root beer and root beer extracts; 76798
malt and malt extracts; mineral oils, cod liver oils, and halibut 76799
liver oil; medicines, including tonics, vitamin preparations, and 76800
other products sold primarily for their medicinal properties; and 76801
water, including mineral, bottled, and carbonated waters, and ice. 76802~~

~~(2) On and after July 1, 2004, "food "Food" means substances, 76803
whether in liquid, concentrated, solid, frozen, dried, or 76804
dehydrated form, that are sold for ingestion or chewing by humans 76805
and are consumed for their taste or nutritional value. "Food" does 76806
not include alcoholic beverages, dietary supplements, soft drinks, 76807
or tobacco. 76808~~

~~(3)(2) As used in division (EEE)(2)(1) of this section: 76809~~

(a) "Alcoholic beverages" means beverages that are suitable 76810
for human consumption and contain one-half of one per cent or more 76811
of alcohol by volume. 76812

(b) "Dietary supplements" means any product, other than 76813
tobacco, that is intended to supplement the diet and that is 76814
intended for ingestion in tablet, capsule, powder, softgel, 76815
gelcap, or liquid form, or, if not intended for ingestion in such 76816
a form, is not represented as conventional food for use as a sole 76817
item of a meal or of the diet; that is required to be labeled as a 76818
dietary supplement, identifiable by the "supplement facts" box 76819
found on the label, as required by 21 C.F.R. 101.36; and that 76820

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| contains one or more of the following dietary ingredients: | 76821 |
| (i) A vitamin; | 76822 |
| (ii) A mineral; | 76823 |
| (iii) An herb or other botanical; | 76824 |
| (iv) An amino acid; | 76825 |
| (v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; | 76826 76827 |
| (vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE) (3) <u>(2)</u> (b)(i) to (v) of this section. | 76828 76829 76830 |
| (c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume. | 76831 76832 76833 76834 76835 |
| (d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco. | 76836 76837 |
| (FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body. | 76838 76839 76840 76841 76842 76843 76844 76845 76846 |
| (GGG) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription. | 76847 76848 76849 76850 |

(HHH) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the body. "Durable medical equipment" does not include mobility enhancing equipment.

(III) "Mobility enhancing equipment" means equipment, including repair and replacement parts for such equipment, that is primarily and customarily used to provide or increase the ability to move from one place to another and is appropriate for use either in a home or a motor vehicle, that is not generally used by persons with normal mobility, and that does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer. "Mobility enhancing equipment" does not include durable medical equipment.

(JJJ) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the human body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction, or support a weak or deformed portion of the body. As used in this division, "prosthetic device" does not include corrective eyeglasses, contact lenses, or dental prosthesis.

(KKK)(1) "Fractional aircraft ownership program" means a program in which persons within an affiliated group sell and manage fractional ownership program aircraft, provided that at least one hundred airworthy aircraft are operated in the program and the program meets all of the following criteria:

(a) Management services are provided by at least one program manager within an affiliated group on behalf of the fractional owners.

(b) Each program aircraft is owned or possessed by at least one fractional owner. 76882
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(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft. 76884
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(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners. 76887
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(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program. 76889
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(2) As used in division (KKK)(1) of this section: 76892

(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section. 76893
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(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK)(1)(e) of this section. 76895
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(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program. 76899
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(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the 76906
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coordination of the scheduling of the program aircraft and crews; 76912
program aircraft maintenance; program aircraft insurance; crew 76913
training for crews employed, furnished, or contracted by the 76914
program manager or the fractional owner; the satisfaction of 76915
record-keeping requirements; and the development and use of an 76916
operations manual and a maintenance manual for the fractional 76917
aircraft ownership program. 76918

(e) "Program manager" means the person that offers management 76919
services to fractional owners pursuant to a management services 76920
agreement under division (KKK)(1)(e) of this section. 76921

Sec. 5739.012. (A) As used in this section: 76922

(1) "Bundled transaction" means the retail sale of two or 76923
more products, except real property and services to real property, 76924
where the products are otherwise distinct and identifiable 76925
products and are sold for one non-itemized price. "Bundled 76926
transaction" does not include the sale of any products in which 76927
the sales price varies, or is negotiable, based on the selection 76928
by the consumer of the products included in the transaction. 76929

As used in division (A)(1) of this section: 76930

(a) "Distinct and identifiable products" does not include any 76931
of the following: 76932

(i) Packaging, including containers, boxes, sacks, bags, and 76933
bottles, and packaging materials, including wrapping, labels, 76934
tags, and instruction guides that accompany the retail sale of the 76935
products and are incidental or immaterial to the retail sale 76936
thereof; 76937

(ii) A product provided free of charge with the required 76938
purchase of another product. A product is provided free of charge 76939
if the sales price of the product purchased does not vary 76940
depending on the inclusion of the product provided free of charge. 76941

(iii) Items included in the definition of "price" under 76942
division (H) of section 5739.01 of the Revised Code. 76943

(b) "One non-itemized price" does not include a price that is 76944
separately identified by product on binding sales or other 76945
supporting sales-related documents made available to the consumer 76946
in paper or electronic form, including, but not limited to, an 76947
invoice, bill of sale, receipt, contract, service agreement, lease 76948
agreement, periodic notice of rates and services, rate card, or 76949
price list. 76950

(2) "De minimis" means the vendor's or seller's purchase 76951
price or sales price of taxable products is ten per cent or less 76952
of the total purchase price or sales price of bundled products. 76953
Vendors and sellers shall use either the purchase price or the 76954
sales price of the products to determine if the taxable products 76955
are de minimis, and shall use the full term of a service contract 76956
to determine if the taxable products are de minimis. Vendors and 76957
sellers shall not use a combination of the purchase price and 76958
sales price of the products to determine if the taxable products 76959
are de minimis. 76960

(3) "Over-the-counter drug" means a drug that contains a 76961
label that identifies the product as a drug as required by 21 76962
C.F.R. 201.66, and the label includes either a "Drug Facts" panel 76963
or a statement of the active ingredients with a list of those 76964
ingredients contained in the drug. 76965

(B) A transaction that otherwise meets the definition of a 76966
bundled transaction is not a bundled transaction if it is any of 76967
the following: 76968

(1) A retail sale of tangible personal property and a service 76969
where the tangible personal property is essential to the use of 76970
the service, and is provided exclusively in connection with the 76971
service, and the true object of the transaction is the service; 76972

(2) A retail sale of services where one service is provided that is essential to the use or receipt of a second service, the first service is provided exclusively in connection with the second service, and the true object of the transaction is the second service; 76973
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(3) A transaction that includes taxable products and nontaxable products, and the purchase price or sales price of the taxable products is de minimis; 76978
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(4) A retail sale of exempt tangible personal property and taxable tangible personal property where the transaction includes food and food ingredients, drugs, durable medical equipment, mobility enhancing equipment, over-the-counter drugs, prosthetic devices, or medical supplies, and the vendor's or seller's purchase price or sales price of the taxable tangible personal property is fifty per cent or less of the total purchase price or sales price of the bundled tangible personal property. Vendors and sellers may not use a combination of the purchase price and sales price of the tangible personal property when making the fifty per cent determination for a transaction. 76981
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(C) In the case of a bundled transaction that includes telecommunications service, ancillary service, internet access, or audio or video programming service: 76992
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(1) If the price is attributable to products that are taxable and products that are nontaxable, the portion of the price attributable to the nontaxable products shall be subject to tax unless the provider, by reasonable and verifiable standards, can identify the portion from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes. 76995
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(2) If the price is attributable to products that are subject to tax at different tax rates, the total price shall be treated as 77002
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attributable to the products subject to tax at the highest tax 77004
rate unless the provider can identify by reasonable and verifiable 77005
standards the portion of the price attributable to the products 77006
subject to tax at the lower rate from its books and records that 77007
are kept in the regular course of business for other purposes, 77008
including, but not limited to, non-tax purposes. 77009

(D) In all other cases of bundled transactions, the 77010
taxability of the transaction shall be determined by the true 77011
object of the consumer entering into the transaction. 77012

Sec. 5739.02. For the purpose of providing revenue with which 77013
to meet the needs of the state, for the use of the general revenue 77014
fund of the state, for the purpose of securing a thorough and 77015
efficient system of common schools throughout the state, for the 77016
purpose of affording revenues, in addition to those from general 77017
property taxes, permitted under constitutional limitations, and 77018
from other sources, for the support of local governmental 77019
functions, and for the purpose of reimbursing the state for the 77020
expense of administering this chapter, an excise tax is hereby 77021
levied on each retail sale made in this state. 77022

(A)(1) The tax shall be collected as provided in section 77023
5739.025 of the Revised Code, provided that on and after July 1, 77024
2003, and on or before June 30, 2005, the rate of tax shall be six 77025
per cent. On and after July 1, 2005, the rate of the tax shall be 77026
five and one-half per cent. The tax applies and is collectible 77027
when the sale is made, regardless of the time when the price is 77028
paid or delivered. 77029

(2) In the case of the lease or rental, with a fixed term of 77030
more than thirty days or an indefinite term with a minimum period 77031
of more than thirty days, of any motor vehicles designed by the 77032
manufacturer to carry a load of not more than one ton, watercraft, 77033
outboard motor, or aircraft, or of any tangible personal property, 77034

other than motor vehicles designed by the manufacturer to carry a 77035
load of more than one ton, to be used by the lessee or renter 77036
primarily for business purposes, the tax shall be collected by the 77037
vendor at the time the lease or rental is consummated and shall be 77038
calculated by the vendor on the basis of the total amount to be 77039
paid by the lessee or renter under the lease agreement. If the 77040
total amount of the consideration for the lease or rental includes 77041
amounts that are not calculated at the time the lease or rental is 77042
executed, the tax shall be calculated and collected by the vendor 77043
at the time such amounts are billed to the lessee or renter. In 77044
the case of an open-end lease or rental, the tax shall be 77045
calculated by the vendor on the basis of the total amount to be 77046
paid during the initial fixed term of the lease or rental, and for 77047
each subsequent renewal period as it comes due. As used in this 77048
division, "motor vehicle" has the same meaning as in section 77049
4501.01 of the Revised Code, and "watercraft" includes an outdrive 77050
unit attached to the watercraft. 77051

A lease with a renewal clause and a termination penalty or 77052
similar provision that applies if the renewal clause is not 77053
exercised is presumed to be a sham transaction. In such a case, 77054
the tax shall be calculated and paid on the basis of the entire 77055
length of the lease period, including any renewal periods, until 77056
the termination penalty or similar provision no longer applies. 77057
The taxpayer shall bear the burden, by a preponderance of the 77058
evidence, that the transaction or series of transactions is not a 77059
sham transaction. 77060

(3) Except as provided in division (A)(2) of this section, in 77061
the case of a sale, the price of which consists in whole or in 77062
part of the lease or rental of tangible personal property, the tax 77063
shall be measured by the installments of that lease or rental. 77064

(4) In the case of a sale of a physical fitness facility 77065
service or recreation and sports club service, the price of which 77066

consists in whole or in part of a membership for the receipt of 77067
the benefit of the service, the tax applicable to the sale shall 77068
be measured by the installments thereof. 77069

(B) The tax does not apply to the following: 77070

(1) Sales to the state or any of its political subdivisions, 77071
or to any other state or its political subdivisions if the laws of 77072
that state exempt from taxation sales made to this state and its 77073
political subdivisions; 77074

(2) Sales of food for human consumption off the premises 77075
where sold; 77076

(3) Sales of food sold to students only in a cafeteria, 77077
dormitory, fraternity, or sorority maintained in a private, 77078
public, or parochial school, college, or university; 77079

(4) Sales of newspapers and of magazine subscriptions and 77080
sales or transfers of magazines distributed as controlled 77081
circulation publications; 77082

(5) The furnishing, preparing, or serving of meals without 77083
charge by an employer to an employee provided the employer records 77084
the meals as part compensation for services performed or work 77085
done; 77086

(6) Sales of motor fuel upon receipt, use, distribution, or 77087
sale of which in this state a tax is imposed by the law of this 77088
state, but this exemption shall not apply to the sale of motor 77089
fuel on which a refund of the tax is allowable under division (A) 77090
of section 5735.14 of the Revised Code; and the tax commissioner 77091
may deduct the amount of tax levied by this section applicable to 77092
the price of motor fuel when granting a refund of motor fuel tax 77093
pursuant to division (A) of section 5735.14 of the Revised Code 77094
and shall cause the amount deducted to be paid into the general 77095
revenue fund of this state; 77096

(7) Sales of natural gas by a natural gas company, of water 77097
by a water-works company, or of steam by a heating company, if in 77098
each case the thing sold is delivered to consumers through pipes 77099
or conduits, and all sales of communications services by a 77100
telegraph company, all terms as defined in section 5727.01 of the 77101
Revised Code, and sales of electricity delivered through wires; 77102

(8) Casual sales by a person, or auctioneer employed directly 77103
by the person to conduct such sales, except as to such sales of 77104
motor vehicles, watercraft or outboard motors required to be 77105
titled under section 1548.06 of the Revised Code, watercraft 77106
documented with the United States coast guard, snowmobiles, and 77107
all-purpose vehicles as defined in section 4519.01 of the Revised 77108
Code; 77109

(9) Sales of services or tangible personal property, other 77110
than motor vehicles, mobile homes, and manufactured homes, by 77111
churches, organizations exempt from taxation under section 77112
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 77113
organizations operated exclusively for charitable purposes as 77114
defined in division (B)(12) of this section, provided that the 77115
number of days on which such tangible personal property or 77116
services, other than items never subject to the tax, are sold does 77117
not exceed six in any calendar year. If the number of days on 77118
which such sales are made exceeds six in any calendar year, the 77119
church or organization shall be considered to be engaged in 77120
business and all subsequent sales by it shall be subject to the 77121
tax. In counting the number of days, all sales by groups within a 77122
church or within an organization shall be considered to be sales 77123
of that church or organization, except that sales made by separate 77124
student clubs and other groups of students of a primary or 77125
secondary school, and sales made by a parent-teacher association, 77126
booster group, or similar organization that raises money to 77127
support or fund curricular or extracurricular activities of a 77128

primary or secondary school, shall not be considered to be sales 77129
of such school, and sales by each such club, group, association, 77130
or organization shall be counted separately for purposes of the 77131
six-day limitation. This division does not apply to sales by a 77132
noncommercial educational radio or television broadcasting 77133
station. 77134

(10) Sales not within the taxing power of this state under 77135
the Constitution of the United States; 77136

(11) Except for transactions that are sales under division 77137
(B)(3)~~(s)~~(r) of section 5739.01 of the Revised Code, the 77138
transportation of persons or property, unless the transportation 77139
is by a private investigation and security service; 77140

(12) Sales of tangible personal property or services to 77141
churches, to organizations exempt from taxation under section 77142
501(c)(3) of the Internal Revenue Code of 1986, and to any other 77143
nonprofit organizations operated exclusively for charitable 77144
purposes in this state, no part of the net income of which inures 77145
to the benefit of any private shareholder or individual, and no 77146
substantial part of the activities of which consists of carrying 77147
on propaganda or otherwise attempting to influence legislation; 77148
sales to offices administering one or more homes for the aged or 77149
one or more hospital facilities exempt under section 140.08 of the 77150
Revised Code; and sales to organizations described in division (D) 77151
of section 5709.12 of the Revised Code. 77152

"Charitable purposes" means the relief of poverty; the 77153
improvement of health through the alleviation of illness, disease, 77154
or injury; the operation of an organization exclusively for the 77155
provision of professional, laundry, printing, and purchasing 77156
services to hospitals or charitable institutions; the operation of 77157
a home for the aged, as defined in section 5701.13 of the Revised 77158
Code; the operation of a radio or television broadcasting station 77159
that is licensed by the federal communications commission as a 77160

noncommercial educational radio or television station; the 77161
operation of a nonprofit animal adoption service or a county 77162
humane society; the promotion of education by an institution of 77163
learning that maintains a faculty of qualified instructors, 77164
teaches regular continuous courses of study, and confers a 77165
recognized diploma upon completion of a specific curriculum; the 77166
operation of a parent-teacher association, booster group, or 77167
similar organization primarily engaged in the promotion and 77168
support of the curricular or extracurricular activities of a 77169
primary or secondary school; the operation of a community or area 77170
center in which presentations in music, dramatics, the arts, and 77171
related fields are made in order to foster public interest and 77172
education therein; the production of performances in music, 77173
dramatics, and the arts; or the promotion of education by an 77174
organization engaged in carrying on research in, or the 77175
dissemination of, scientific and technological knowledge and 77176
information primarily for the public. 77177

Nothing in this division shall be deemed to exempt sales to 77178
any organization for use in the operation or carrying on of a 77179
trade or business, or sales to a home for the aged for use in the 77180
operation of independent living facilities as defined in division 77181
(A) of section 5709.12 of the Revised Code. 77182

(13) Building and construction materials and services sold to 77183
construction contractors for incorporation into a structure or 77184
improvement to real property under a construction contract with 77185
this state or a political subdivision of this state, or with the 77186
United States government or any of its agencies; building and 77187
construction materials and services sold to construction 77188
contractors for incorporation into a structure or improvement to 77189
real property that are accepted for ownership by this state or any 77190
of its political subdivisions, or by the United States government 77191
or any of its agencies at the time of completion of the structures 77192

or improvements; building and construction materials sold to 77193
construction contractors for incorporation into a horticulture 77194
structure or livestock structure for a person engaged in the 77195
business of horticulture or producing livestock; building 77196
materials and services sold to a construction contractor for 77197
incorporation into a house of public worship or religious 77198
education, or a building used exclusively for charitable purposes 77199
under a construction contract with an organization whose purpose 77200
is as described in division (B)(12) of this section; building 77201
materials and services sold to a construction contractor for 77202
incorporation into a building under a construction contract with 77203
an organization exempt from taxation under section 501(c)(3) of 77204
the Internal Revenue Code of 1986 when the building is to be used 77205
exclusively for the organization's exempt purposes; building and 77206
construction materials sold for incorporation into the original 77207
construction of a sports facility under section 307.696 of the 77208
Revised Code; and building and construction materials and services 77209
sold to a construction contractor for incorporation into real 77210
property outside this state if such materials and services, when 77211
sold to a construction contractor in the state in which the real 77212
property is located for incorporation into real property in that 77213
state, would be exempt from a tax on sales levied by that state; 77214

(14) Sales of ships or vessels or rail rolling stock used or 77215
to be used principally in interstate or foreign commerce, and 77216
repairs, alterations, fuel, and lubricants for such ships or 77217
vessels or rail rolling stock; 77218

(15) Sales to persons primarily engaged in any of the 77219
activities mentioned in division (B)~~(43)~~(42)(a) or (g) of this 77220
section, to persons engaged in making retail sales, or to persons 77221
who purchase for sale from a manufacturer tangible personal 77222
property that was produced by the manufacturer in accordance with 77223
specific designs provided by the purchaser, of packages, including 77224

material, labels, and parts for packages, and of machinery, 77225
equipment, and material for use primarily in packaging tangible 77226
personal property produced for sale, including any machinery, 77227
equipment, and supplies used to make labels or packages, to 77228
prepare packages or products for labeling, or to label packages or 77229
products, by or on the order of the person doing the packaging, or 77230
sold at retail. "Packages" includes bags, baskets, cartons, 77231
crates, boxes, cans, bottles, bindings, wrappings, and other 77232
similar devices and containers, but does not include motor 77233
vehicles or bulk tanks, trailers, or similar devices attached to 77234
motor vehicles. "Packaging" means placing in a package. Division 77235
(B)~~(14)~~(15) of this section does not apply to persons engaged in 77236
highway transportation for hire. 77237

(16) Sales of food to persons using food stamp benefits to 77238
purchase the food. As used in this division, "food" has the same 77239
meaning as in the "Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C. 77240
2012, as amended, and federal regulations adopted pursuant to that 77241
act. 77242

(17) Sales to persons engaged in farming, agriculture, 77243
horticulture, or floriculture, of tangible personal property for 77244
use or consumption directly in the production by farming, 77245
agriculture, horticulture, or floriculture of other tangible 77246
personal property for use or consumption directly in the 77247
production of tangible personal property for sale by farming, 77248
agriculture, horticulture, or floriculture; or material and parts 77249
for incorporation into any such tangible personal property for use 77250
or consumption in production; and of tangible personal property 77251
for such use or consumption in the conditioning or holding of 77252
products produced by and for such use, consumption, or sale by 77253
persons engaged in farming, agriculture, horticulture, or 77254
floriculture, except where such property is incorporated into real 77255
property; 77256

(18) Sales of drugs for a human being, that may be dispensed 77257
only pursuant to a prescription; insulin as recognized in the 77258
official United States pharmacopoeia; urine and blood testing 77259
materials when used by diabetics or persons with hypoglycemia to 77260
test for glucose or acetone; hypodermic syringes and needles when 77261
used by diabetics for insulin injections; epoetin alfa when 77262
purchased for use in the treatment of persons with medical 77263
disease; hospital beds when purchased ~~for use by persons with~~ 77264
~~medical problems for medical purposes~~ by hospitals, nursing homes, 77265
or other medical facilities; and medical oxygen and medical 77266
oxygen-dispensing equipment when purchased ~~for use by persons with~~ 77267
~~medical problems for medical purposes~~ by hospitals, nursing homes, 77268
or other medical facilities; 77269

(19) Sales of prosthetic devices, durable medical equipment 77270
for home use, or mobility enhancing equipment, when made pursuant 77271
to a prescription and when such devices or equipment are for use 77272
by a human being. 77273

(20) Sales of emergency and fire protection vehicles and 77274
equipment to nonprofit organizations for use solely in providing 77275
fire protection and emergency services, including trauma care and 77276
emergency medical services, for political subdivisions of the 77277
state; 77278

(21) Sales of tangible personal property manufactured in this 77279
state, if sold by the manufacturer in this state to a retailer for 77280
use in the retail business of the retailer outside of this state 77281
and if possession is taken from the manufacturer by the purchaser 77282
within this state for the sole purpose of immediately removing the 77283
same from this state in a vehicle owned by the purchaser; 77284

(22) Sales of services provided by the state or any of its 77285
political subdivisions, agencies, instrumentalities, institutions, 77286
or authorities, or by governmental entities of the state or any of 77287
its political subdivisions, agencies, instrumentalities, 77288

institutions, or authorities; 77289

(23) Sales of motor vehicles to nonresidents of this state 77290
upon the presentation of an affidavit executed in this state by 77291
the nonresident purchaser affirming that the purchaser is a 77292
nonresident of this state, that possession of the motor vehicle is 77293
taken in this state for the sole purpose of immediately removing 77294
it from this state, that the motor vehicle will be permanently 77295
titled and registered in another state, and that the motor vehicle 77296
will not be used in this state; 77297

(24) Sales to persons engaged in the preparation of eggs for 77298
sale of tangible personal property used or consumed directly in 77299
such preparation, including such tangible personal property used 77300
for cleaning, sanitizing, preserving, grading, sorting, and 77301
classifying by size; packages, including material and parts for 77302
packages, and machinery, equipment, and material for use in 77303
packaging eggs for sale; and handling and transportation equipment 77304
and parts therefor, except motor vehicles licensed to operate on 77305
public highways, used in intraplant or interplant transfers or 77306
shipment of eggs in the process of preparation for sale, when the 77307
plant or plants within or between which such transfers or 77308
shipments occur are operated by the same person. "Packages" 77309
includes containers, cases, baskets, flats, fillers, filler flats, 77310
cartons, closure materials, labels, and labeling materials, and 77311
"packaging" means placing therein. 77312

(25)(a) Sales of water to a consumer for residential use, 77313
except the sale of bottled water, distilled water, mineral water, 77314
carbonated water, or ice; 77315

(b) Sales of water by a nonprofit corporation engaged 77316
exclusively in the treatment, distribution, and sale of water to 77317
consumers, if such water is delivered to consumers through pipes 77318
or tubing. 77319

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| (26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code; | 77320 77321 |
| (27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following: | 77322 77323 77324 77325 |
| (a) To prepare food for human consumption for sale; | 77326 |
| (b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer; | 77327 77328 77329 77330 |
| (c) To clean tangible personal property used to prepare or serve food for human consumption for sale. | 77331 77332 |
| (28) Sales of animals by nonprofit animal adoption services or county humane societies; | 77333 77334 |
| (29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code; | 77335 77336 77337 77338 |
| (30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code; | 77339 77340 77341 |
| (31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code; | 77342 77343 77344 |
| (32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the | 77345 77346 77347 77348 77349 |

transportation of tangible personal property; 77350

(33) Sales to the state headquarters of any veterans' 77351
organization in this state that is either incorporated and issued 77352
a charter by the congress of the United States or is recognized by 77353
the United States veterans administration, for use by the 77354
headquarters; 77355

(34) Sales to a telecommunications service vendor, mobile 77356
telecommunications service vendor, or satellite broadcasting 77357
service vendor of tangible personal property and services used 77358
directly and primarily in transmitting, receiving, switching, or 77359
recording any interactive, one- or two-way electromagnetic 77360
communications, including voice, image, data, and information, 77361
through the use of any medium, including, but not limited to, 77362
poles, wires, cables, switching equipment, computers, and record 77363
storage devices and media, and component parts for the tangible 77364
personal property. The exemption provided in this division shall 77365
be in lieu of all other exemptions under division (B)~~(43)~~(42)(a) 77366
of this section to which the vendor may otherwise be entitled, 77367
based upon the use of the thing purchased in providing the 77368
telecommunications, mobile telecommunications, or satellite 77369
broadcasting service. 77370

~~(35) Sales of investment metal bullion and investment coins. 77371~~
~~"Investment metal bullion" means any elementary precious metal 77372~~
~~that has been put through a process of smelting or refining, 77373~~
~~including, but not limited to, gold, silver, platinum, and 77374~~
~~palladium, and which is in such state or condition that its value 77375~~
~~depends upon its content and not upon its form. "Investment metal 77376~~
~~bullion" does not include fabricated precious metal that has been 77377~~
~~processed or manufactured for one or more specific and customary 77378~~
~~industrial, professional, or artistic uses. "Investment coins" 77379~~
~~means numismatic coins or other forms of money and legal tender 77380~~
~~manufactured of gold, silver, platinum, palladium, or other metal 77381~~

~~under the laws of the United States or any foreign nation with a~~ 77382
~~fair market value greater than any statutory or nominal value of~~ 77383
~~such coins.~~ 77384

~~(36)~~(35)(a) Sales where the purpose of the consumer is to use 77385
or consume the things transferred in making retail sales and 77386
consisting of newspaper inserts, catalogues, coupons, flyers, gift 77387
certificates, or other advertising material that prices and 77388
describes tangible personal property offered for retail sale. 77389

(b) Sales to direct marketing vendors of preliminary 77390
materials such as photographs, artwork, and typesetting that will 77391
be used in printing advertising material; of printed matter that 77392
offers free merchandise or chances to win sweepstake prizes and 77393
that is mailed to potential customers with advertising material 77394
described in division (B)~~(36)~~(35)(a) of this section; and of 77395
equipment such as telephones, computers, facsimile machines, and 77396
similar tangible personal property primarily used to accept orders 77397
for direct marketing retail sales. 77398

(c) Sales of automatic food vending machines that preserve 77399
food with a shelf life of forty-five days or less by refrigeration 77400
and dispense it to the consumer. 77401

For purposes of division (B)~~(36)~~(35) of this section, "direct 77402
marketing" means the method of selling where consumers order 77403
tangible personal property by United States mail, delivery 77404
service, or telecommunication and the vendor delivers or ships the 77405
tangible personal property sold to the consumer from a warehouse, 77406
catalogue distribution center, or similar fulfillment facility by 77407
means of the United States mail, delivery service, or common 77408
carrier. 77409

~~(37)~~(36) Sales to a person engaged in the business of 77410
horticulture or producing livestock of materials to be 77411
incorporated into a horticulture structure or livestock structure; 77412

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| (38) (37) Sales of personal computers, computer monitors, | 77413 |
| computer keyboards, modems, and other peripheral computer | 77414 |
| equipment to an individual who is licensed or certified to teach | 77415 |
| in an elementary or a secondary school in this state for use by | 77416 |
| that individual in preparation for teaching elementary or | 77417 |
| secondary school students; | 77418 |
| (39) (38) Sales to a professional racing team of any of the | 77419 |
| following: | 77420 |
| (a) Motor racing vehicles; | 77421 |
| (b) Repair services for motor racing vehicles; | 77422 |
| (c) Items of property that are attached to or incorporated in | 77423 |
| motor racing vehicles, including engines, chassis, and all other | 77424 |
| components of the vehicles, and all spare, replacement, and | 77425 |
| rebuilt parts or components of the vehicles; except not including | 77426 |
| tires, consumable fluids, paint, and accessories consisting of | 77427 |
| instrumentation sensors and related items added to the vehicle to | 77428 |
| collect and transmit data by means of telemetry and other forms of | 77429 |
| communication. | 77430 |
| (40) (39) Sales of used manufactured homes and used mobile | 77431 |
| homes, as defined in section 5739.0210 of the Revised Code, made | 77432 |
| on or after January 1, 2000; | 77433 |
| (41) (40) Sales of tangible personal property and services to | 77434 |
| a provider of electricity used or consumed directly and primarily | 77435 |
| in generating, transmitting, or distributing electricity for use | 77436 |
| by others, including property that is or is to be incorporated | 77437 |
| into and will become a part of the consumer's production, | 77438 |
| transmission, or distribution system and that retains its | 77439 |
| classification as tangible personal property after incorporation; | 77440 |
| fuel or power used in the production, transmission, or | 77441 |
| distribution of electricity; and tangible personal property and | 77442 |
| services used in the repair and maintenance of the production, | 77443 |

transmission, or distribution system, including only those motor 77444
vehicles as are specially designed and equipped for such use. The 77445
exemption provided in this division shall be in lieu of all other 77446
exemptions in division (B)~~(43)~~(42)(a) of this section to which a 77447
provider of electricity may otherwise be entitled based on the use 77448
of the tangible personal property or service purchased in 77449
generating, transmitting, or distributing electricity. 77450

~~(42)~~(41) Sales to a person providing services under division 77451
(B)(3)~~(s)~~(r) of section 5739.01 of the Revised Code of tangible 77452
personal property and services used directly and primarily in 77453
providing taxable services under that section. 77454

~~(43)~~(42) Sales where the purpose of the purchaser is to do 77455
any of the following: 77456

(a) To incorporate the thing transferred as a material or a 77457
part into tangible personal property to be produced for sale by 77458
manufacturing, assembling, processing, or refining; or to use or 77459
consume the thing transferred directly in producing tangible 77460
personal property for sale by mining, including, without 77461
limitation, the extraction from the earth of all substances that 77462
are classed geologically as minerals, production of crude oil and 77463
natural gas, farming, agriculture, horticulture, or floriculture, 77464
or directly in the rendition of a public utility service, except 77465
that the sales tax levied by this section shall be collected upon 77466
all meals, drinks, and food for human consumption sold when 77467
transporting persons. Persons engaged in rendering farming, 77468
agricultural, horticultural, or floricultural services, and 77469
services in the exploration for, and production of, crude oil and 77470
natural gas, for others are deemed engaged directly in farming, 77471
agriculture, horticulture, and floriculture, or exploration for, 77472
and production of, crude oil and natural gas. This paragraph does 77473
not exempt from "retail sale" or "sales at retail" the sale of 77474
tangible personal property that is to be incorporated into a 77475

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| structure or improvement to real property. | 77476 |
| (b) To hold the thing transferred as security for the performance of an obligation of the vendor; | 77477 77478 |
| (c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance; | 77479 77480 |
| (d) To use or consume the thing directly in commercial fishing; | 77481 77482 |
| (e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications; | 77483 77484 77485 77486 |
| (f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter; | 77487 77488 77489 77490 77491 |
| (g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale; | 77492 77493 77494 |
| (h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section; | 77495 77496 77497 77498 77499 77500 |
| (i) To use the thing transferred as qualified research and development equipment; | 77501 77502 |
| (j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar | 77503 77504 77505 |

facility when the inventory is primarily distributed outside this 77506
state to retail stores of the person who owns or controls the 77507
warehouse, distribution center, or similar facility, to retail 77508
stores of an affiliated group of which that person is a member, or 77509
by means of direct marketing. This division does not apply to 77510
motor vehicles registered for operation on the public highways. As 77511
used in this division, "affiliated group" has the same meaning as 77512
in division (B)(3)(e) of section 5739.01 of the Revised Code and 77513
"direct marketing" has the same meaning as in division (B)~~(36)~~(35) 77514
of this section. 77515

(k) To use or consume the thing transferred to fulfill a 77516
contractual obligation incurred by a warrantor pursuant to a 77517
warranty provided as a part of the price of the tangible personal 77518
property sold or by a vendor of a warranty, maintenance or service 77519
contract, or similar agreement the provision of which is defined 77520
as a sale under division (B)(7) of section 5739.01 of the Revised 77521
Code; 77522

(l) To use or consume the thing transferred in the production 77523
of a newspaper for distribution to the public; 77524

(m) To use tangible personal property to perform a service 77525
listed in division (B)(3) of section 5739.01 of the Revised Code, 77526
if the property is or is to be permanently transferred to the 77527
consumer of the service as an integral part of the performance of 77528
the service. 77529

As used in division (B)~~(43)~~(42) of this section, "thing" 77530
includes all transactions included in divisions (B)(3)(a), (b), 77531
and (e) of section 5739.01 of the Revised Code. 77532

~~(44)~~(43) Sales conducted through a coin operated device that 77533
activates vacuum equipment or equipment that dispenses water, 77534
whether or not in combination with soap or other cleaning agents 77535
or wax, to the consumer for the consumer's use on the premises in 77536

washing, cleaning, or waxing a motor vehicle, provided no other 77537
personal property or personal service is provided as part of the 77538
transaction. 77539

~~(45)~~(44) Sales of replacement and modification parts for 77540
engines, airframes, instruments, and interiors in, and paint for, 77541
aircraft used primarily in a fractional aircraft ownership 77542
program, and sales of services for the repair, modification, and 77543
maintenance of such aircraft, and machinery, equipment, and 77544
supplies primarily used to provide those services. 77545

~~(46)~~(45) Sales of telecommunications service that is used 77546
directly and primarily to perform the functions of a call center. 77547
As used in this division, "call center" means any physical 77548
location where telephone calls are placed or received in high 77549
volume for the purpose of making sales, marketing, customer 77550
service, technical support, or other specialized business 77551
activity, and that employs at least fifty individuals that engage 77552
in call center activities on a full-time basis, or sufficient 77553
individuals to fill fifty full-time equivalent positions. 77554

(46) Sales by a telecommunications service vendor of 900 77555
service to a subscriber. This division does not apply to 77556
information services, as defined in division (FF) of section 77557
5739.01 of the Revised Code. 77558

(47) Sales of value-added non-voice data service. This 77559
division does not apply to any similar service that is not 77560
otherwise a telecommunications service. 77561

(C) For the purpose of the proper administration of this 77562
chapter, and to prevent the evasion of the tax, it is presumed 77563
that all sales made in this state are subject to the tax until the 77564
contrary is established. 77565

~~(D)~~~~(E)~~(D) The levy of this tax on retail sales of recreation 77566
and sports club service shall not prevent a municipal corporation 77567

from levying any tax on recreation and sports club dues or on any income generated by recreation and sports club dues. 77568
77569

(E) The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized under section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of the tax levied by this section or section 5739.021, 5739.023, or 5739.026 of the Revised Code. 77570
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Sec. 5739.025. As used in this section, "local tax" means a tax imposed pursuant to section 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, or 5741.023 of the Revised Code. 77582
77583
77584

(A) The taxes levied by sections 5739.02 and 5741.02 of the Revised Code shall be collected as follows: 77585
77586

(1) On and after July 1, 2003, and on or before June 30, 2005, in accordance with the following schedule: 77587
77588

| If the price | | The amount of | |
|--------------|-------------------|---------------|-------------------------|
| is at least | But not more than | the tax is | |
| \$.01 | \$.15 | No tax | 77589 77590 77591 |
| .16 | .16 | 1¢ | 77592 |
| .17 | .33 | 2¢ | 77593 |
| .34 | .50 | 3¢ | 77594 |
| .51 | .66 | 4¢ | 77595 |
| .67 | .83 | 5¢ | 77596 |
| .84 | 1.00 | 6¢ | 77597 |

If the price exceeds one dollar, the tax is six cents on each 77598

one dollar. If the price exceeds one dollar or a multiple thereof 77599
 by not more than seventeen cents, the amount of tax is six cents 77600
 for each one dollar plus one cent. If the price exceeds one dollar 77601
 or a multiple thereof by more than seventeen cents, the amount of 77602
 tax is six cents for each one dollar plus the amount of tax for 77603
 prices eighteen cents through ninety-nine cents in accordance with 77604
 the schedule above. 77605

(2) On and after July 1, 2005, and on and before December 31, 77606
 2005, in accordance with the following schedule: 77607

| If the price | But not | The amount | |
|----------------|-----------------|---------------|-------|
| is at least | more than | of the tax is | |
| \$.01 | \$.15 | No tax | 77608 |
| .16 | .20 | 1¢ | 77609 |
| | <u>.18</u> | | |
| .21 | .40 | 2¢ | 77610 |
| <u>.19</u> | <u>.36</u> | | |
| .41 | .60 | 3¢ | 77611 |
| <u>.37</u> | <u>.54</u> | | |
| .61 | .80 | 4¢ | 77612 |
| <u>.55</u> | <u>.72</u> | | |
| .81 | 1.00 | 5¢ | 77613 |
| <u>.73</u> | <u>.90</u> | | |
| <u>.91</u> | <u>1.09</u> | 6¢ | 77614 |
| <u>1.10</u> | <u>1.27</u> | 7¢ | 77615 |
| <u>1.28</u> | <u>1.46</u> | 8¢ | 77616 |
| <u>1.47</u> | <u>1.64</u> | 9¢ | 77617 |
| <u>1.65</u> | <u>1.82</u> | 10¢ | 77618 |
| <u>1.83</u> | <u>2.00</u> | 11¢ | 77619 |

If the price exceeds ~~one dollar~~ two dollars, the tax is ~~five~~ 77622
~~eleven~~ cents on each ~~one dollar~~ two dollars. If the price exceeds 77623
~~one dollar~~ two dollars or a multiple thereof by not more than 77624
~~twenty~~ eighteen cents, the amount of tax is ~~five~~ eleven cents for 77625

each ~~one dollar~~ two dollars plus one cent. If the price exceeds 77626
~~one dollar~~ two dollars or a multiple thereof by more than ~~twenty~~ 77627
eighteen cents, the amount of tax is ~~five~~ eleven cents for each 77628
~~one dollar~~ two dollars plus the amount of tax for prices 77629
~~twenty one~~ nineteen cents through one dollar and ninety-nine cents 77630
in accordance with the schedule above. 77631

(B) On and after July 1, 2003, and on and before June 30, 77632
2005, the combined taxes levied by sections 5739.02 and 5741.02 77633
and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 77634
5741.022, and 5741.023 of the Revised Code shall be collected in 77635
accordance with the following schedules: 77636

(1) When the combined rate of state and local tax is six and 77637
one-fourth per cent: 77638

| If the price | | The amount of | |
|--------------|-------------------|---------------|-------|
| is at least | But not more than | the tax is | |
| \$.01 | \$.15 | No tax | 77641 |
| .16 | .16 | 1¢ | 77642 |
| .17 | .32 | 2¢ | 77643 |
| .33 | .48 | 3¢ | 77644 |
| .49 | .64 | 4¢ | 77645 |
| .65 | .80 | 5¢ | 77646 |
| .81 | .96 | 6¢ | 77647 |
| .97 | 1.12 | 7¢ | 77648 |
| 1.13 | 1.28 | 8¢ | 77649 |
| 1.29 | 1.44 | 9¢ | 77650 |
| 1.45 | 1.60 | 10¢ | 77651 |
| 1.61 | 1.76 | 11¢ | 77652 |
| 1.77 | 1.92 | 12¢ | 77653 |
| 1.93 | 2.08 | 13¢ | 77654 |
| 2.09 | 2.24 | 14¢ | 77655 |
| 2.25 | 2.40 | 15¢ | 77656 |
| 2.41 | 2.56 | 16¢ | 77657 |

| | | | |
|------|------|-----|-------|
| 2.57 | 2.72 | 17¢ | 77658 |
| 2.73 | 2.88 | 18¢ | 77659 |
| 2.89 | 3.04 | 19¢ | 77660 |
| 3.05 | 3.20 | 20¢ | 77661 |
| 3.21 | 3.36 | 21¢ | 77662 |
| 3.37 | 3.52 | 22¢ | 77663 |
| 3.53 | 3.68 | 23¢ | 77664 |
| 3.69 | 3.84 | 24¢ | 77665 |
| 3.85 | 4.00 | 25¢ | 77666 |

If the price exceeds four dollars, the tax is twenty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus the amount of tax for prices seventeen cents through three dollars and ninety-nine cents in accordance with the schedule above.

(2) When the combined rate of state and local tax is six and one-half per cent:

| If the price is at least | But not more than | The amount of the tax is | |
|--------------------------|-------------------|--------------------------|-------|
| \$.01 | \$.15 | No tax | 77678 |
| .16 | .30 | 2¢ | 77679 |
| .31 | .46 | 3¢ | 77680 |
| .47 | .61 | 4¢ | 77681 |
| .62 | .76 | 5¢ | 77682 |
| .77 | .92 | 6¢ | 77683 |
| .93 | 1.07 | 7¢ | 77684 |
| 1.08 | 1.23 | 8¢ | 77685 |
| 1.24 | 1.38 | 9¢ | 77686 |
| 1.39 | 1.53 | 10¢ | 77687 |

| | | | |
|------|------|-----|-------|
| 1.54 | 1.69 | 11¢ | 77690 |
| 1.70 | 1.84 | 12¢ | 77691 |
| 1.85 | 2.00 | 13¢ | 77692 |

If the price exceeds two dollars, the tax is thirteen cents 77693
on each two dollars. If the price exceeds two dollars or a 77694
multiple thereof by not more than fifteen cents, the amount of tax 77695
is thirteen cents for each two dollars plus one cent. If the price 77696
exceeds two dollars or a multiple thereof by more than fifteen 77697
cents, the amount of tax is thirteen cents for each two dollars 77698
plus the amount of tax for prices sixteen cents through one dollar 77699
and ninety-nine cents in accordance with the schedule above. 77700

(3) When the combined rate of state and local tax is six and 77701
three-fourths per cent: 77702

| | | | |
|--------------|-------------------|---------------|-------|
| If the price | | The amount of | 77703 |
| is at least | But not more than | the tax is | 77704 |
| \$.01 | \$.15 | No tax | 77705 |
| .16 | .29 | 2¢ | 77706 |
| .30 | .44 | 3¢ | 77707 |
| .45 | .59 | 4¢ | 77708 |
| .60 | .74 | 5¢ | 77709 |
| .75 | .88 | 6¢ | 77710 |
| .89 | 1.03 | 7¢ | 77711 |
| 1.04 | 1.18 | 8¢ | 77712 |
| 1.19 | 1.33 | 9¢ | 77713 |
| 1.34 | 1.48 | 10¢ | 77714 |
| 1.49 | 1.62 | 11¢ | 77715 |
| 1.63 | 1.77 | 12¢ | 77716 |
| 1.78 | 1.92 | 13¢ | 77717 |
| 1.93 | 2.07 | 14¢ | 77718 |
| 2.08 | 2.22 | 15¢ | 77719 |
| 2.23 | 2.37 | 16¢ | 77720 |
| 2.38 | 2.51 | 17¢ | 77721 |

| | | | |
|------|------|-----|-------|
| 2.52 | 2.66 | 18¢ | 77722 |
| 2.67 | 2.81 | 19¢ | 77723 |
| 2.82 | 2.96 | 20¢ | 77724 |
| 2.97 | 3.11 | 21¢ | 77725 |
| 3.12 | 3.25 | 22¢ | 77726 |
| 3.26 | 3.40 | 23¢ | 77727 |
| 3.41 | 3.55 | 24¢ | 77728 |
| 3.56 | 3.70 | 25¢ | 77729 |
| 3.71 | 3.85 | 26¢ | 77730 |
| 3.86 | 4.00 | 27¢ | 77731 |

If the price exceeds four dollars, the tax is twenty-seven cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than fourteen cents, the amount of tax is twenty-seven cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than fourteen but by not more than twenty-nine cents, the amount of tax is twenty-seven cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-nine cents the amount of tax is twenty-seven cents for each four dollars plus the amount of tax for prices thirty cents through three dollars and ninety-nine cents in accordance with the schedule above.

(4) When the combined rate of state and local tax is seven per cent:

| | | | |
|--------------|-------------------|---------------|-------|
| If the price | | The amount of | 77746 |
| is at least | But not more than | the tax is | 77747 |
| \$.01 | \$.15 | No tax | 77748 |
| .16 | .28 | 2¢ | 77749 |
| .29 | .42 | 3¢ | 77750 |
| .43 | .57 | 4¢ | 77751 |
| .58 | .71 | 5¢ | 77752 |
| .72 | .85 | 6¢ | 77753 |

.86 1.00 7¢ 77754

If the price exceeds one dollar, the tax is seven cents on 77755
each one dollar. If the price exceeds one dollar or a multiple 77756
thereof by not more than fifteen cents, the amount of tax is seven 77757
cents for each one dollar plus one cent. If the price exceeds one 77758
dollar or a multiple thereof by more than fifteen cents, the 77759
amount of tax is seven cents for each one dollar plus the amount 77760
of tax for prices sixteen cents through ninety-nine cents in 77761
accordance with the schedule above. 77762

(5) When the combined rate of state and local tax is seven 77763
and one-fourth per cent: 77764

| If the price | | The amount of | |
|--------------|-------------------|---------------|-------|
| is at least | But not more than | the tax is | |
| \$.01 | \$.15 | No tax | 77765 |
| .16 | .27 | 2¢ | 77766 |
| .28 | .41 | 3¢ | 77767 |
| .42 | .55 | 4¢ | 77768 |
| .56 | .68 | 5¢ | 77769 |
| .69 | .82 | 6¢ | 77770 |
| .83 | .96 | 7¢ | 77771 |
| .97 | 1.10 | 8¢ | 77772 |
| 1.11 | 1.24 | 9¢ | 77773 |
| 1.25 | 1.37 | 10¢ | 77774 |
| 1.38 | 1.51 | 11¢ | 77775 |
| 1.52 | 1.65 | 12¢ | 77776 |
| 1.66 | 1.79 | 13¢ | 77777 |
| 1.80 | 1.93 | 14¢ | 77778 |
| 1.94 | 2.06 | 15¢ | 77779 |
| 2.07 | 2.20 | 16¢ | 77780 |
| 2.21 | 2.34 | 17¢ | 77781 |
| 2.35 | 2.48 | 18¢ | 77782 |
| 2.49 | 2.62 | 19¢ | 77783 |

| | | | |
|------|------|-----|-------|
| 2.63 | 2.75 | 20¢ | 77786 |
| 2.76 | 2.89 | 21¢ | 77787 |
| 2.90 | 3.03 | 22¢ | 77788 |
| 3.04 | 3.17 | 23¢ | 77789 |
| 3.18 | 3.31 | 24¢ | 77790 |
| 3.32 | 3.44 | 25¢ | 77791 |
| 3.45 | 3.58 | 26¢ | 77792 |
| 3.59 | 3.72 | 27¢ | 77793 |
| 3.73 | 3.86 | 28¢ | 77794 |
| 3.87 | 4.00 | 29¢ | 77795 |

If the price exceeds four dollars, the tax is twenty-nine cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than thirteen cents, the amount of tax is twenty-nine cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than thirteen cents but by not more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus the amount of tax for prices twenty-eight cents through three dollars and ninety-nine cents in accordance with the schedule above.

(6) When the combined rate of state and local tax is seven and one-half per cent:

| | | | |
|--------------|-------------------|---------------|-------|
| If the price | | The amount of | 77810 |
| is at least | But not more than | the tax is | 77811 |
| \$.01 | \$.15 | No tax | 77812 |
| .16 | .26 | 2¢ | 77813 |
| .27 | .40 | 3¢ | 77814 |
| .41 | .53 | 4¢ | 77815 |
| .54 | .65 | 5¢ | 77816 |
| .66 | .80 | 6¢ | 77817 |

| | | | |
|------|------|-----|-------|
| .81 | .93 | 7¢ | 77818 |
| .94 | 1.06 | 8¢ | 77819 |
| 1.07 | 1.20 | 9¢ | 77820 |
| 1.21 | 1.33 | 10¢ | 77821 |
| 1.34 | 1.46 | 11¢ | 77822 |
| 1.47 | 1.60 | 12¢ | 77823 |
| 1.61 | 1.73 | 13¢ | 77824 |
| 1.74 | 1.86 | 14¢ | 77825 |
| 1.87 | 2.00 | 15¢ | 77826 |

If the price exceeds two dollars, the tax is fifteen cents on 77827
each two dollars. If the price exceeds two dollars or a multiple 77828
thereof by not more than fifteen cents, the amount of tax is 77829
fifteen cents for each two dollars plus one cent. If the price 77830
exceeds two dollars or a multiple thereof by more than fifteen 77831
cents, the amount of tax is fifteen cents for each two dollars 77832
plus the amount of tax for prices sixteen cents through one dollar 77833
and ninety-nine cents in accordance with the schedule above. 77834

(7) When the combined rate of state and local tax is seven 77835
and three-fourths per cent: 77836

| If the price | | The amount of | |
|--------------|-------------------|---------------|-------|
| is at least | But not more than | the tax is | |
| \$.01 | \$.15 | No tax | 77837 |
| .16 | .25 | 2¢ | 77838 |
| .26 | .38 | 3¢ | 77839 |
| .39 | .51 | 4¢ | 77840 |
| .52 | .64 | 5¢ | 77841 |
| .65 | .77 | 6¢ | 77842 |
| .78 | .90 | 7¢ | 77843 |
| .91 | 1.03 | 8¢ | 77844 |
| 1.04 | 1.16 | 9¢ | 77845 |
| 1.17 | 1.29 | 10¢ | 77846 |
| 1.30 | 1.41 | 11¢ | 77847 |

| | | | |
|------|------|-----|-------|
| 1.42 | 1.54 | 12¢ | 77850 |
| 1.55 | 1.67 | 13¢ | 77851 |
| 1.68 | 1.80 | 14¢ | 77852 |
| 1.81 | 1.93 | 15¢ | 77853 |
| 1.94 | 2.06 | 16¢ | 77854 |
| 2.07 | 2.19 | 17¢ | 77855 |
| 2.20 | 2.32 | 18¢ | 77856 |
| 2.33 | 2.45 | 19¢ | 77857 |
| 2.46 | 2.58 | 20¢ | 77858 |
| 2.59 | 2.70 | 21¢ | 77859 |
| 2.71 | 2.83 | 22¢ | 77860 |
| 2.84 | 2.96 | 23¢ | 77861 |
| 2.97 | 3.09 | 24¢ | 77862 |
| 3.10 | 3.22 | 25¢ | 77863 |
| 3.23 | 3.35 | 26¢ | 77864 |
| 3.36 | 3.48 | 27¢ | 77865 |
| 3.49 | 3.61 | 28¢ | 77866 |
| 3.62 | 3.74 | 29¢ | 77867 |
| 3.75 | 3.87 | 30¢ | 77868 |
| 3.88 | 4.00 | 31¢ | 77869 |

If the price exceeds four dollars, the tax is thirty-one cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than twelve cents, the amount of tax is thirty-one cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than twelve cents but by not more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus the amount of tax for prices twenty-six cents through three dollars and ninety-nine cents in accordance with the schedule above.

(8) When the combined rate of state and local tax is eight

| | | | |
|--------------|-------------------|---------------|-------|
| per cent: | | | 77883 |
| If the price | | The amount of | 77884 |
| is at least | But not more than | the tax is | 77885 |
| \$.01 | \$.15 | No tax | 77886 |
| .16 | .25 | 2¢ | 77887 |
| .26 | .37 | 3¢ | 77888 |
| .38 | .50 | 4¢ | 77889 |
| .51 | .62 | 5¢ | 77890 |
| .63 | .75 | 6¢ | 77891 |
| .76 | .87 | 7¢ | 77892 |
| .88 | 1.00 | 8¢ | 77893 |

If the price exceeds one dollar, the tax is eight cents on 77894
each one dollar. If the price exceeds one dollar or a multiple 77895
thereof by not more than twelve cents, the amount of tax is eight 77896
cents for each one dollar plus one cent. If the price exceeds one 77897
dollar or a multiple thereof by more than twelve cents but not 77898
more than twenty-five cents, the amount of tax is eight cents for 77899
each one dollar plus two cents. If the price exceeds one dollar or 77900
a multiple thereof by more than twenty-five cents, the amount of 77901
tax is eight cents for each one dollar plus the amount of tax for 77902
prices twenty-six cents through ninety-nine cents in accordance 77903
with the schedule above. 77904

(9) When the combined rate of state and local tax is eight 77905
and one-fourth per cent: 77906

| | | | |
|--------------|-------------------|---------------|-------|
| If the price | | The amount of | 77907 |
| is at least | But not more than | the tax is | 77908 |
| \$.01 | \$.15 | No tax | 77909 |
| .16 | .24 | 2¢ | 77910 |
| .25 | .36 | 3¢ | 77911 |
| .37 | .48 | 4¢ | 77912 |
| .49 | .60 | 5¢ | 77913 |
| .61 | .72 | 6¢ | 77914 |

| | | | |
|------|------|-----|-------|
| .73 | .84 | 7¢ | 77915 |
| .85 | .96 | 8¢ | 77916 |
| .97 | 1.09 | 9¢ | 77917 |
| 1.10 | 1.21 | 10¢ | 77918 |
| 1.22 | 1.33 | 11¢ | 77919 |
| 1.34 | 1.45 | 12¢ | 77920 |
| 1.46 | 1.57 | 13¢ | 77921 |
| 1.58 | 1.69 | 14¢ | 77922 |
| 1.70 | 1.81 | 15¢ | 77923 |
| 1.82 | 1.93 | 16¢ | 77924 |
| 1.94 | 2.06 | 17¢ | 77925 |
| 2.07 | 2.18 | 18¢ | 77926 |
| 2.19 | 2.30 | 19¢ | 77927 |
| 2.31 | 2.42 | 20¢ | 77928 |
| 2.43 | 2.54 | 21¢ | 77929 |
| 2.55 | 2.66 | 22¢ | 77930 |
| 2.67 | 2.78 | 23¢ | 77931 |
| 2.79 | 2.90 | 24¢ | 77932 |
| 2.91 | 3.03 | 25¢ | 77933 |
| 3.04 | 3.15 | 26¢ | 77934 |
| 3.16 | 3.27 | 27¢ | 77935 |
| 3.28 | 3.39 | 28¢ | 77936 |
| 3.40 | 3.51 | 29¢ | 77937 |
| 3.52 | 3.63 | 30¢ | 77938 |
| 3.64 | 3.75 | 31¢ | 77939 |
| 3.76 | 3.87 | 32¢ | 77940 |
| 3.88 | 4.00 | 33¢ | 77941 |

If the price exceeds four dollars, the tax is thirty-three 77942
cents on each four dollars. If the price exceeds four dollars or a 77943
multiple thereof by not more than eleven cents, the amount of tax 77944
is thirty-three cents for each four dollars plus one cent. If the 77945
price exceeds four dollars or a multiple thereof by more than 77946
eleven cents but by not more than twenty-four cents, the amount of 77947

tax is thirty-three cents for each four dollars plus two cents. If 77948
 the price exceeds four dollars or a multiple thereof by more than 77949
 twenty-four cents, the amount of tax is thirty-three cents for 77950
 each four dollars plus the amount of tax for prices twenty-six 77951
 cents through three dollars and ninety-nine cents in accordance 77952
 with the schedule above. 77953

(10) When the combined rate of state and local tax is eight 77954
 and one-half per cent: 77955

| If the price | | The amount of | |
|--------------|-------------------|---------------|-------|
| is at least | But not more than | the tax is | |
| \$.01 | \$.15 | No tax | 77958 |
| .16 | .23 | 2¢ | 77959 |
| .24 | .35 | 3¢ | 77960 |
| .36 | .47 | 4¢ | 77961 |
| .48 | .58 | 5¢ | 77962 |
| .59 | .70 | 6¢ | 77963 |
| .71 | .82 | 7¢ | 77964 |
| .83 | .94 | 8¢ | 77965 |
| .95 | 1.05 | 9¢ | 77966 |
| 1.06 | 1.17 | 10¢ | 77967 |
| 1.18 | 1.29 | 11¢ | 77968 |
| 1.30 | 1.41 | 12¢ | 77969 |
| 1.42 | 1.52 | 13¢ | 77970 |
| 1.53 | 1.64 | 14¢ | 77971 |
| 1.65 | 1.76 | 15¢ | 77972 |
| 1.77 | 1.88 | 16¢ | 77973 |
| 1.89 | 2.00 | 17¢ | 77974 |

If the price exceeds two dollars, the tax is seventeen cents 77975
 on each two dollars. If the price exceeds two dollars or a 77976
 multiple thereof by not more than eleven cents, the amount of tax 77977
 is seventeen cents for each two dollars plus one cent. If the 77978
 price exceeds two dollars or a multiple thereof by more than 77979

eleven cents but by not more than twenty-three cents, the amount 77980
 of tax is seventeen cents for each two dollars plus two cents. If 77981
 the price exceeds two dollars or a multiple thereof by more than 77982
 twenty-three cents, the amount of tax is seventeen cents for each 77983
 two dollars plus the amount of tax for prices twenty-four cents 77984
 through one dollar and ninety-nine cents in accordance with the 77985
 schedule above. 77986

(11) When the combined rate of state and local tax is eight 77987
 and three-fourths per cent: 77988

| If the price | | The amount of | |
|--------------|-------------------|---------------|-------|
| is at least | But not more than | the tax is | |
| \$.01 | \$.15 | No tax | 77989 |
| .16 | .22 | 2¢ | 77990 |
| .23 | .34 | 3¢ | 77991 |
| .35 | .45 | 4¢ | 77992 |
| .46 | .57 | 5¢ | 77993 |
| .58 | .68 | 6¢ | 77994 |
| .69 | .80 | 7¢ | 77995 |
| .81 | .91 | 8¢ | 77996 |
| .92 | 1.02 | 9¢ | 77997 |
| 1.03 | 1.14 | 10¢ | 77998 |
| 1.15 | 1.25 | 11¢ | 78000 |
| 1.26 | 1.37 | 12¢ | 78001 |
| 1.38 | 1.48 | 13¢ | 78002 |
| 1.49 | 1.60 | 14¢ | 78003 |
| 1.61 | 1.71 | 15¢ | 78004 |
| 1.72 | 1.82 | 16¢ | 78005 |
| 1.83 | 1.94 | 17¢ | 78006 |
| 1.95 | 2.05 | 18¢ | 78007 |
| 2.06 | 2.17 | 19¢ | 78008 |
| 2.18 | 2.28 | 20¢ | 78009 |
| 2.29 | 2.40 | 21¢ | 78010 |
| | | | 78011 |

| | | | |
|------|------|-----|-------|
| 2.41 | 2.51 | 22¢ | 78012 |
| 2.52 | 2.62 | 23¢ | 78013 |
| 2.63 | 2.74 | 24¢ | 78014 |
| 2.75 | 2.85 | 25¢ | 78015 |
| 2.86 | 2.97 | 26¢ | 78016 |
| 2.98 | 3.08 | 27¢ | 78017 |
| 3.09 | 3.20 | 28¢ | 78018 |
| 3.21 | 3.31 | 29¢ | 78019 |
| 3.32 | 3.42 | 30¢ | 78020 |
| 3.43 | 3.54 | 31¢ | 78021 |
| | 3.65 | 32¢ | 78022 |
| 3.66 | 3.77 | 33¢ | 78023 |
| 3.78 | 3.88 | 34¢ | 78024 |
| 3.89 | 4.00 | 35¢ | 78025 |

If the price exceeds four dollars, the tax is thirty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than eleven cents, the amount of tax is thirty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than eleven cents but by not more than twenty-two cents, the amount of tax is thirty-five cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-two cents, the amount of tax is thirty-five cents for each four dollars plus the amount of tax for prices twenty-three cents through three dollars and ninety-nine cents in accordance with the schedule above.

(12) When the combined rate of state and local tax is nine per cent:

| | | | |
|--------------|-------------------|---------------|-------|
| If the price | | The amount of | 78040 |
| is at least | But not more than | the tax is | 78041 |
| \$.01 | \$.15 | No tax | 78042 |
| .16 | .22 | 2¢ | 78043 |

| | | | |
|-----|------|----|-------|
| .23 | .33 | 3¢ | 78044 |
| .34 | .44 | 4¢ | 78045 |
| .45 | .55 | 5¢ | 78046 |
| .56 | .66 | 6¢ | 78047 |
| .67 | .77 | 7¢ | 78048 |
| .78 | .88 | 8¢ | 78049 |
| .89 | 1.00 | 9¢ | 78050 |

If the price exceeds one dollar, the tax is nine cents on 78051
each one dollar. If the price exceeds one dollar or a multiple 78052
thereof by not more than eleven cents, the amount of tax is nine 78053
cents for each one dollar plus one cent. If the price exceeds one 78054
dollar or a multiple thereof by more than eleven cents but by not 78055
more than twenty-two cents, the amount of tax is nine cents for 78056
each one dollar plus two cents. If the price exceeds one dollar or 78057
a multiple thereof by more than twenty-two cents, the amount of 78058
tax is nine cents for each one dollar plus the amount of tax for 78059
prices twenty-three cents through ninety-nine cents in accordance 78060
with the schedule above. 78061

(C) On and after July 1, 2005, and on and before December 31, 78062
2005, the combined taxes levied by sections 5739.02 and 5741.02 78063
and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 78064
5741.022, and 5741.023 of the Revised Code shall be collected in 78065
accordance with the following schedules: 78066

(1) When the total rate of local tax is one-fourth per cent: 78067

| | | | |
|-------------------------|----------------------|--------------------------|-------|
| If the price | But not | The amount | 78068 |
| is at least | more than | of the tax is | 78069 |
| \$.01 | \$.15 | No tax | 78070 |
| .16 | .19 | 1¢ | 78071 |
| .20 | .38 | 2¢ | 78072 |
| .39 | .57 | 3¢ | 78073 |
| .58 | .76 | 4¢ | 78074 |
| .77 | .95 | 5¢ | 78075 |

| | | | |
|-----------------|-----------------|----------------|-------|
| .96 | 1.14 | 6¢ | 78076 |
| 1.15 | 1.33 | 7¢ | 78077 |
| 1.34 | 1.52 | 8¢ | 78078 |
| 1.53 | 1.71 | 9¢ | 78079 |
| 1.72 | 1.90 | 10¢ | 78080 |
| 1.91 | 2.09 | 11¢ | 78081 |
| 2.10 | 2.28 | 12¢ | 78082 |
| 2.29 | 2.47 | 13¢ | 78083 |
| 2.48 | 2.66 | 14¢ | 78084 |
| 2.67 | 2.85 | 15¢ | 78085 |
| 2.86 | 3.04 | 16¢ | 78086 |
| 3.05 | 3.23 | 17¢ | 78087 |
| 3.24 | 3.42 | 18¢ | 78088 |
| 3.43 | 3.61 | 19¢ | 78089 |
| 3.62 | 3.80 | 20¢ | 78090 |
| 3.81 | 4.00 | 21¢ | 78091 |

~~If the price exceeds four dollars, the tax is twenty one cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than nineteen cents, the amount of tax is twenty one cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than nineteen cents, the amount of tax is twenty one cents for each four dollars plus the amount of tax for prices twenty cents through three dollars and ninety nine cents in accordance with the schedule above.~~

| | | | |
|--|----------------------|--------------------------|-------|
| (2) When the combined rate of local tax is one half per cent: | | | 78101 |
| If the price | But not | The amount | 78102 |
| is at least | more than | of the tax is | 78103 |
| \$.01 | \$.15 | No tax | 78104 |
| .16 | .18 | 1¢ | 78105 |
| .19 | .36 | 2¢ | 78106 |
| .37 | .54 | 3¢ | 78107 |

| | | | |
|-----------------|-----------------|----------------|-------|
| .55 | .72 | 4¢ | 78108 |
| .73 | .90 | 5¢ | 78109 |
| .91 | 1.09 | 6¢ | 78110 |
| 1.10 | 1.27 | 7¢ | 78111 |
| 1.28 | 1.46 | 8¢ | 78112 |
| 1.47 | 1.64 | 9¢ | 78113 |
| 1.65 | 1.82 | 10¢ | 78114 |
| 1.83 | 2.00 | 11¢ | 78115 |

~~If the price exceeds two dollars, the tax is eleven cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than eighteen cents, the amount of tax is eleven cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than eighteen cents, the amount of tax is eleven cents for each two dollars plus the amount of tax for prices nineteen cents through one dollar and ninety nine cents in accordance with the schedule above.~~

~~(3) When the combined rate of local tax is three fourths per cent:~~

| If the price | But not | The amount | |
|-------------------------|----------------------|--------------------------|-------|
| is at least | more than | of the tax is | |
| \$.01 | \$.15 | No tax | 78126 |
| .16 | .17 | 1¢ | 78127 |
| .18 | .34 | 2¢ | 78128 |
| .35 | .52 | 3¢ | 78129 |
| .53 | .69 | 4¢ | 78130 |
| .70 | .86 | 5¢ | 78131 |
| .87 | 1.04 | 6¢ | 78132 |
| 1.05 | 1.21 | 7¢ | 78133 |
| 1.22 | 1.39 | 8¢ | 78134 |
| 1.40 | 1.56 | 9¢ | 78135 |
| 1.57 | 1.73 | 10¢ | 78136 |
| 1.74 | 1.91 | 11¢ | 78137 |

| | | | |
|------|------|-----|-------|
| 1.92 | 2.08 | 12¢ | 78140 |
| 2.09 | 2.26 | 13¢ | 78141 |
| 2.27 | 2.43 | 14¢ | 78142 |
| 2.44 | 2.60 | 15¢ | 78143 |
| 2.61 | 2.78 | 16¢ | 78144 |
| 2.79 | 2.95 | 17¢ | 78145 |
| 2.96 | 3.13 | 18¢ | 78146 |
| 3.14 | 3.30 | 19¢ | 78147 |
| 3.31 | 3.47 | 20¢ | 78148 |
| 3.48 | 3.65 | 21¢ | 78149 |
| 3.66 | 3.82 | 22¢ | 78150 |
| 3.83 | 4.00 | 23¢ | 78151 |

If the price exceeds four dollars, the tax is twenty-three cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than seventeen cents, the amount of tax is twenty-three cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than seventeen cents, the amount of tax is twenty-three cents for each four dollars plus the amount of tax for prices eighteen cents through three dollars and ninety-nine cents in accordance with the schedule above.

~~(4)~~(2) When the combined rate of local tax is ~~one~~ one-half per cent:

| If the price is at least | But not more than | The amount of the tax is | |
|-----------------------------|----------------------|-----------------------------|-------|
| \$.01 | \$.15 | No tax | 78163 |
| .16 | .17 | 1¢ | 78164 |
| .18 | .34 | 2¢ | 78165 |
| .35 | .50 | 3¢ | 78166 |
| .51 | .67 | 4¢ | 78167 |
| .68 | .83 | 5¢ | 78168 |
| .84 | 1.00 | 6¢ | 78169 |

If the price exceeds one dollar, the tax is six cents on each 78172
 one dollar. If the price exceeds one dollar or a multiple thereof 78173
 by not more than seventeen cents, the amount of tax is six cents 78174
 for each one dollar plus one cent. If the price exceeds one dollar 78175
 or a multiple thereof by more than seventeen cents, the amount of 78176
 tax is six cents for each one dollar plus the amount of tax for 78177
 prices eighteen cents through ninety-nine cents in accordance with 78178
 the schedule above. 78179

~~(5)(3)~~ When the combined rate of local tax is ~~one and~~ 78180
~~one-fourth~~ three-fourths per cent: 78181

| If the price | But not | The amount | |
|--------------|-----------|---------------|-------|
| is at least | more than | of the tax is | |
| \$.01 | \$.15 | No tax | 78184 |
| .16 | .16 | 1¢ | 78185 |
| .17 | .32 | 2¢ | 78186 |
| .33 | .48 | 3¢ | 78187 |
| .49 | .64 | 4¢ | 78188 |
| .65 | .80 | 5¢ | 78189 |
| .81 | .96 | 6¢ | 78190 |
| .97 | 1.12 | 7¢ | 78191 |
| 1.13 | 1.28 | 8¢ | 78192 |
| 1.29 | 1.44 | 9¢ | 78193 |
| 1.45 | 1.60 | 10¢ | 78194 |
| 1.61 | 1.76 | 11¢ | 78195 |
| 1.77 | 1.92 | 12¢ | 78196 |
| 1.93 | 2.08 | 13¢ | 78197 |
| 2.09 | 2.24 | 14¢ | 78198 |
| 2.25 | 2.40 | 15¢ | 78199 |
| 2.41 | 2.56 | 16¢ | 78200 |
| 2.57 | 2.72 | 17¢ | 78201 |
| 2.73 | 2.88 | 18¢ | 78202 |
| 2.89 | 3.04 | 19¢ | 78203 |

| | | | |
|------|------|-----|-------|
| 3.05 | 3.20 | 20¢ | 78204 |
| 3.21 | 3.36 | 21¢ | 78205 |
| 3.37 | 3.52 | 22¢ | 78206 |
| 3.53 | 3.68 | 23¢ | 78207 |
| 3.69 | 3.84 | 24¢ | 78208 |
| 3.85 | 4.00 | 25¢ | 78209 |

If the price exceeds four dollars, the tax is twenty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus the amount of tax for prices seventeen cents through three dollars and ninety-nine cents in accordance with the schedule above.

~~(6)~~(4) When the combined rate of local tax is one ~~and~~ ~~one-half~~ per cent:

| If the price is at least | But not more than | The amount of the tax is | |
|-----------------------------|----------------------|-----------------------------|-------|
| \$.01 | \$.15 | No tax | 78221 |
| .16 | .30 | 2¢ | 78222 |
| .31 | .46 | 3¢ | 78223 |
| .47 | .61 | 4¢ | 78224 |
| .62 | .76 | 5¢ | 78225 |
| .77 | .92 | 6¢ | 78226 |
| .93 | 1.07 | 7¢ | 78227 |
| 1.08 | 1.23 | 8¢ | 78228 |
| 1.24 | 1.38 | 9¢ | 78229 |
| 1.39 | 1.53 | 10¢ | 78230 |
| 1.54 | 1.69 | 11¢ | 78231 |
| 1.70 | 1.84 | 12¢ | 78232 |
| 1.85 | 2.00 | 13¢ | 78233 |

If the price exceeds two dollars, the tax is thirteen cents 78236
 on each two dollars. If the price exceeds two dollars or a 78237
 multiple thereof by not more than fifteen cents, the amount of tax 78238
 is thirteen cents for each two dollars plus one cent. If the price 78239
 exceeds two dollars or a multiple thereof by more than fifteen 78240
 cents, the amount of tax is thirteen cents for each two dollars 78241
 plus the amount of tax for prices sixteen cents through one dollar 78242
 and ninety-nine cents in accordance with the schedule above. 78243

~~(7)(5)~~ When the combined rate of local tax is one and 78244
~~three-fourths~~ one-fourth per cent: 78245

| If the price | But not | The amount | |
|--------------|-----------|---------------|-------|
| is at least | more than | of the tax is | |
| \$.01 | \$.15 | No tax | 78246 |
| .16 | .29 | 2¢ | 78249 |
| .30 | .44 | 3¢ | 78250 |
| .45 | .59 | 4¢ | 78251 |
| .60 | .74 | 5¢ | 78252 |
| .75 | .88 | 6¢ | 78253 |
| .89 | 1.03 | 7¢ | 78254 |
| 1.04 | 1.18 | 8¢ | 78255 |
| 1.19 | 1.33 | 9¢ | 78256 |
| 1.34 | 1.48 | 10¢ | 78257 |
| 1.49 | 1.62 | 11¢ | 78258 |
| 1.63 | 1.77 | 12¢ | 78259 |
| 1.78 | 1.92 | 13¢ | 78260 |
| 1.93 | 2.07 | 14¢ | 78261 |
| 2.08 | 2.22 | 15¢ | 78262 |
| 2.23 | 2.37 | 16¢ | 78263 |
| 2.38 | 2.51 | 17¢ | 78264 |
| 2.52 | 2.66 | 18¢ | 78265 |
| 2.67 | 2.81 | 19¢ | 78266 |
| 2.82 | 2.96 | 20¢ | 78267 |

| | | | |
|------|------|-----|-------|
| 2.97 | 3.11 | 21¢ | 78268 |
| 3.12 | 3.25 | 22¢ | 78269 |
| 3.26 | 3.40 | 23¢ | 78270 |
| 3.41 | 3.55 | 24¢ | 78271 |
| 3.56 | 3.70 | 25¢ | 78272 |
| 3.71 | 3.85 | 26¢ | 78273 |
| 3.86 | 4.00 | 27¢ | 78274 |

If the price exceeds four dollars, the tax is twenty-seven cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than fourteen cents, the amount of tax is twenty-seven cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than fourteen but by not more than twenty-nine cents, the amount of tax is twenty-seven cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-nine cents the amount of tax is twenty-seven cents for each four dollars plus the amount of tax for prices thirty cents through three dollars and ninety-nine cents in accordance with the schedule above.

~~(8)~~(6) When the combined rate of local tax is ~~two~~ one and one-half per cent:

| If the price is at least | But not more than | The amount of the tax is | |
|--------------------------|-------------------|--------------------------|-------|
| \$.01 | \$.15 | No tax | 78289 |
| .16 | .28 | 2¢ | 78292 |
| .29 | .42 | 3¢ | 78293 |
| .43 | .57 | 4¢ | 78294 |
| .58 | .71 | 5¢ | 78295 |
| .72 | .85 | 6¢ | 78296 |
| .86 | 1.00 | 7¢ | 78297 |

If the price exceeds one dollar, the tax is seven cents on each one dollar. If the price exceeds one dollar or a multiple

thereof by not more than fifteen cents, the amount of tax is seven 78300
cents for each one dollar plus one cent. If the price exceeds one 78301
dollar or a multiple thereof by more than fifteen cents, the 78302
amount of tax is seven cents for each one dollar plus the amount 78303
of tax for prices sixteen cents through ninety-nine cents in 78304
accordance with the schedule above. 78305

~~(9)~~(7) When the combined rate of local tax is ~~two~~ one and 78306
one-fourth three-fourths per cent: 78307

| If the price | But not | The amount | |
|--------------|-----------|---------------|-------|
| is at least | more than | of the tax is | |
| \$.01 | \$.15 | No tax | 78310 |
| .16 | .27 | 2¢ | 78311 |
| .28 | .41 | 3¢ | 78312 |
| .42 | .55 | 4¢ | 78313 |
| .56 | .68 | 5¢ | 78314 |
| .69 | .82 | 6¢ | 78315 |
| .83 | .96 | 7¢ | 78316 |
| .97 | 1.10 | 8¢ | 78317 |
| 1.11 | 1.24 | 9¢ | 78318 |
| 1.25 | 1.37 | 10¢ | 78319 |
| 1.38 | 1.51 | 11¢ | 78320 |
| 1.52 | 1.65 | 12¢ | 78321 |
| 1.66 | 1.79 | 13¢ | 78322 |
| 1.80 | 1.93 | 14¢ | 78323 |
| 1.94 | 2.06 | 15¢ | 78324 |
| 2.07 | 2.20 | 16¢ | 78325 |
| 2.21 | 2.34 | 17¢ | 78326 |
| 2.35 | 2.48 | 18¢ | 78327 |
| 2.49 | 2.62 | 19¢ | 78328 |
| 2.63 | 2.75 | 20¢ | 78329 |
| 2.76 | 2.89 | 21¢ | 78330 |
| 2.90 | 3.03 | 22¢ | 78331 |

| | | | |
|------|------|-----|-------|
| 3.04 | 3.17 | 23¢ | 78332 |
| 3.18 | 3.31 | 24¢ | 78333 |
| 3.32 | 3.44 | 25¢ | 78334 |
| 3.45 | 3.58 | 26¢ | 78335 |
| 3.59 | 3.72 | 27¢ | 78336 |
| 3.73 | 3.86 | 28¢ | 78337 |
| 3.87 | 4.00 | 29¢ | 78338 |

If the price exceeds four dollars, the tax is twenty-nine cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than thirteen cents, the amount of tax is twenty-nine cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than thirteen cents but by not more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus the amount of tax for prices twenty-eight cents through three dollars and ninety-nine cents in accordance with the schedule above.

~~(10)~~(8) When the combined rate of local tax is two ~~and~~ ~~one-half~~ per cent:

| If the price is at least | But not more than | The amount of the tax is | |
|-----------------------------|----------------------|-----------------------------|-------|
| \$.01 | \$.15 | No tax | 78355 |
| .16 | .26 | 2¢ | 78356 |
| .27 | .40 | 3¢ | 78357 |
| .41 | .53 | 4¢ | 78358 |
| .54 | .65 | 5¢ | 78359 |
| .66 | .80 | 6¢ | 78360 |
| .81 | .93 | 7¢ | 78361 |
| .94 | 1.06 | 8¢ | 78362 |
| 1.07 | 1.20 | 9¢ | 78363 |

| | | | |
|------|------|-----|-------|
| 1.21 | 1.33 | 10¢ | 78364 |
| 1.34 | 1.46 | 11¢ | 78365 |
| 1.47 | 1.60 | 12¢ | 78366 |
| 1.61 | 1.73 | 13¢ | 78367 |
| 1.74 | 1.86 | 14¢ | 78368 |
| 1.87 | 2.00 | 15¢ | 78369 |

If the price exceeds two dollars, the tax is fifteen cents on 78370
each two dollars. If the price exceeds two dollars or a multiple 78371
thereof by not more than fifteen cents, the amount of tax is 78372
fifteen cents for each two dollars plus one cent. If the price 78373
exceeds two dollars or a multiple thereof by more than fifteen 78374
cents, the amount of tax is fifteen cents for each two dollars 78375
plus the amount of tax for prices sixteen cents through one dollar 78376
and ninety-nine cents in accordance with the schedule above. 78377

~~(11)~~(9) When the combined rate of local tax is two and 78378
~~three-fourths~~ one-fourth per cent: 78379

| If the price | But not | The amount | |
|--------------|-----------|---------------|-------|
| is at least | more than | of the tax is | |
| \$.01 | \$.15 | No tax | 78380 |
| .16 | .25 | 2¢ | 78381 |
| .26 | .38 | 3¢ | 78382 |
| .39 | .51 | 4¢ | 78383 |
| .52 | .64 | 5¢ | 78384 |
| .65 | .77 | 6¢ | 78385 |
| .78 | .90 | 7¢ | 78386 |
| .91 | 1.03 | 8¢ | 78387 |
| 1.04 | 1.16 | 9¢ | 78388 |
| 1.17 | 1.29 | 10¢ | 78389 |
| 1.30 | 1.41 | 11¢ | 78390 |
| 1.42 | 1.54 | 12¢ | 78391 |
| 1.55 | 1.67 | 13¢ | 78392 |
| 1.68 | 1.80 | 14¢ | 78393 |

| | | | |
|------|------|-----|-------|
| 1.81 | 1.93 | 15¢ | 78396 |
| 1.94 | 2.06 | 16¢ | 78397 |
| 2.07 | 2.19 | 17¢ | 78398 |
| 2.20 | 2.32 | 18¢ | 78399 |
| 2.33 | 2.45 | 19¢ | 78400 |
| 2.46 | 2.58 | 20¢ | 78401 |
| 2.59 | 2.70 | 21¢ | 78402 |
| 2.71 | 2.83 | 22¢ | 78403 |
| 2.84 | 2.96 | 23¢ | 78404 |
| 2.97 | 3.09 | 24¢ | 78405 |
| 3.10 | 3.22 | 25¢ | 78406 |
| 3.23 | 3.35 | 26¢ | 78407 |
| 3.36 | 3.48 | 27¢ | 78408 |
| 3.49 | 3.61 | 28¢ | 78409 |
| 3.62 | 3.74 | 29¢ | 78410 |
| 3.75 | 3.87 | 30¢ | 78411 |
| 3.88 | 4.00 | 31¢ | 78412 |

If the price exceeds four dollars, the tax is thirty-one cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than twelve cents, the amount of tax is thirty-one cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than twelve cents but not more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus the amount of tax for prices twenty-six cents through three dollars and ninety-nine cents in accordance with the schedule above.

~~(12)~~(10) When the combined rate of local tax is three two and one-half per cent:

| | | | |
|--------------|---------|------------|-------|
| If the price | But not | The amount | 78427 |
|--------------|---------|------------|-------|

| | | | |
|-------------|-----------|---------------|-------|
| is at least | more than | of the tax is | 78428 |
| \$.01 | \$.15 | No tax | 78429 |
| .16 | .25 | 2¢ | 78430 |
| .26 | .37 | 3¢ | 78431 |
| .38 | .50 | 4¢ | 78432 |
| .51 | .62 | 5¢ | 78433 |
| .63 | .75 | 6¢ | 78434 |
| .76 | .87 | 7¢ | 78435 |
| .88 | 1.00 | 8¢ | 78436 |

If the price exceeds one dollar, the tax is eight cents on 78437
each one dollar. If the price exceeds one dollar or a multiple 78438
thereof by not more than twelve cents, the amount of tax is eight 78439
cents for each one dollar plus one cent. If the price exceeds one 78440
dollar or a multiple thereof by more than twelve cents but not 78441
more than twenty-five cents, the amount of tax is eight cents for 78442
each one dollar plus two cents. If the price exceeds one dollar or 78443
a multiple thereof by more than twenty-five cents, the amount of 78444
tax is eight cents for each one dollar plus the amount of tax for 78445
prices twenty-six cents through ninety-nine cents in accordance 78446
with the schedule above. 78447

(11) When the combined rate of local tax is two and 78448
three-fourths per cent: 78449

| | | | |
|---------------------|------------------|----------------------|-------|
| <u>If the price</u> | <u>But not</u> | <u>The amount</u> | 78450 |
| <u>is at least</u> | <u>more than</u> | <u>of the tax is</u> | 78451 |
| <u>\$.01</u> | <u>\$.15</u> | <u>No tax</u> | 78452 |
| <u>.16</u> | <u>.24</u> | <u>2¢</u> | 78453 |
| <u>.25</u> | <u>.36</u> | <u>3¢</u> | 78454 |
| <u>.37</u> | <u>.48</u> | <u>4¢</u> | 78455 |
| <u>.49</u> | <u>.60</u> | <u>5¢</u> | 78456 |
| <u>.61</u> | <u>.72</u> | <u>6¢</u> | 78457 |
| <u>.73</u> | <u>.84</u> | <u>7¢</u> | 78458 |
| <u>.85</u> | <u>.96</u> | <u>8¢</u> | 78459 |

| | | | |
|-------------|-------------|------------|-------|
| <u>.97</u> | <u>1.09</u> | <u>9¢</u> | 78460 |
| <u>1.10</u> | <u>1.21</u> | <u>10¢</u> | 78461 |
| <u>1.22</u> | <u>1.33</u> | <u>11¢</u> | 78462 |
| <u>1.34</u> | <u>1.45</u> | <u>12¢</u> | 78463 |
| <u>1.46</u> | <u>1.57</u> | <u>13¢</u> | 78464 |
| <u>1.58</u> | <u>1.69</u> | <u>14¢</u> | 78465 |
| <u>1.70</u> | <u>1.81</u> | <u>15¢</u> | 78466 |
| <u>1.82</u> | <u>1.93</u> | <u>16¢</u> | 78467 |
| <u>1.94</u> | <u>2.06</u> | <u>17¢</u> | 78468 |
| <u>2.07</u> | <u>2.18</u> | <u>18¢</u> | 78469 |
| <u>2.19</u> | <u>2.30</u> | <u>19¢</u> | 78470 |
| <u>2.31</u> | <u>2.42</u> | <u>20¢</u> | 78471 |
| <u>2.43</u> | <u>2.54</u> | <u>21¢</u> | 78472 |
| <u>2.55</u> | <u>2.66</u> | <u>22¢</u> | 78473 |
| <u>2.67</u> | <u>2.78</u> | <u>23¢</u> | 78474 |
| <u>2.79</u> | <u>2.90</u> | <u>24¢</u> | 78475 |
| <u>2.91</u> | <u>3.03</u> | <u>25¢</u> | 78476 |
| <u>3.04</u> | <u>3.15</u> | <u>26¢</u> | 78477 |
| <u>3.16</u> | <u>3.27</u> | <u>27¢</u> | 78478 |
| <u>3.28</u> | <u>3.39</u> | <u>28¢</u> | 78479 |
| <u>3.40</u> | <u>3.51</u> | <u>29¢</u> | 78480 |
| <u>3.52</u> | <u>3.63</u> | <u>30¢</u> | 78481 |
| <u>3.64</u> | <u>3.75</u> | <u>31¢</u> | 78482 |
| <u>3.76</u> | <u>3.87</u> | <u>32¢</u> | 78483 |
| <u>3.88</u> | <u>4.00</u> | <u>33¢</u> | 78484 |

If the price exceeds four dollars, the tax is thirty-three 78485
cents on each four dollars. If the price exceeds four dollars or a 78486
multiple thereof by not more than eleven cents, the amount of tax 78487
is thirty-three cents for each four dollars plus one cent. If the 78488
price exceeds four dollars or a multiple thereof by more than 78489
eleven cents but not more than twenty-four cents, the amount of 78490
tax is thirty-three cents for each four dollars plus two cents. If 78491
the price exceeds four dollars or a multiple thereof by more than 78492

twenty-four cents, the amount of tax is thirty-three cents for 78493
each four dollars plus the amount of tax for prices twenty-six 78494
cents through three dollars and ninety-nine cents in accordance 78495
with the schedule above. 78496

(12) When the combined rate of local tax is three per cent: 78497

| <u>If the price</u> | <u>But not</u> | <u>The amount</u> | |
|---------------------|------------------|----------------------|-------|
| <u>is at least</u> | <u>more than</u> | <u>of the tax is</u> | |
| <u>\$.01</u> | <u>\$.15</u> | <u>No tax</u> | 78500 |
| <u>.16</u> | <u>.23</u> | <u>2¢</u> | 78501 |
| <u>.24</u> | <u>.35</u> | <u>3¢</u> | 78502 |
| <u>.36</u> | <u>.47</u> | <u>4¢</u> | 78503 |
| <u>.48</u> | <u>.58</u> | <u>5¢</u> | 78504 |
| <u>.59</u> | <u>.70</u> | <u>6¢</u> | 78505 |
| <u>.71</u> | <u>.82</u> | <u>7¢</u> | 78506 |
| <u>.83</u> | <u>.94</u> | <u>8¢</u> | 78507 |
| <u>.95</u> | <u>1.05</u> | <u>9¢</u> | 78508 |
| <u>1.06</u> | <u>1.17</u> | <u>10¢</u> | 78509 |
| <u>1.18</u> | <u>1.29</u> | <u>11¢</u> | 78510 |
| <u>1.30</u> | <u>1.41</u> | <u>12¢</u> | 78511 |
| <u>1.42</u> | <u>1.52</u> | <u>13¢</u> | 78512 |
| <u>1.53</u> | <u>1.64</u> | <u>14¢</u> | 78513 |
| <u>1.65</u> | <u>1.76</u> | <u>15¢</u> | 78514 |
| <u>1.77</u> | <u>1.88</u> | <u>16¢</u> | 78515 |
| <u>1.89</u> | <u>2.00</u> | <u>17¢</u> | 78516 |

If the price exceeds two dollars, the tax is seventeen cents 78517
on each two dollars. If the price exceeds two dollars or a 78518
multiple thereof by not more than eleven cents, the amount of tax 78519
is seventeen cents for each two dollars plus one cent. If the 78520
price exceeds two dollars or a multiple thereof by more than 78521
eleven cents but not more than twenty-three cents, the amount of 78522
tax is seventeen cents for each two dollars plus two cents. If the 78523
price exceeds two dollars or a multiple thereof by more than 78524

twenty-three cents, the amount of tax is seventeen cents for each 78525
two dollars plus the amount of tax for prices twenty-four cents 78526
through one dollar and ninety-nine cents in accordance with the 78527
schedule above. 78528

(D) In lieu of collecting the tax pursuant to the schedules 78529
set forth in divisions (A), (B), and (C) of this section, a vendor 78530
may compute the tax on each sale as follows: 78531

(1) On sales of fifteen cents or less, no tax shall apply. 78532

(2) On sales in excess of fifteen cents, multiply the price 78533
by the aggregate rate of taxes in effect under sections 5739.02 78534
and 5741.02 and sections 5739.021, 5739.023, 5739.026, 5741.021, 78535
5741.022, and 5741.023 of the Revised Code. The computation shall 78536
be carried out to six decimal places. If the result is a 78537
fractional amount of a cent, the calculated tax shall be increased 78538
to the next highest cent and that amount shall be collected by the 78539
vendor. 78540

(E) On and after January 1, 2006, a vendor shall compute the 78541
tax on each sale by multiplying the price by the aggregate rate of 78542
taxes in effect under sections 5739.02 and 5741.02, and sections 78543
5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of 78544
the Revised Code. The computation shall be carried out to three 78545
decimal places. If the result is a fractional amount of a cent, 78546
the calculated tax shall be rounded to a whole cent using a method 78547
that rounds up to the next cent whenever the third decimal place 78548
is greater than four. A vendor may elect to compute the tax due on 78549
a transaction on an item or an invoice basis. 78550

(F) In auditing a vendor, the tax commissioner shall consider 78551
the method prescribed by this section that was used by the vendor 78552
in determining and collecting the tax due under this chapter on 78553
taxable transactions. If the vendor correctly collects and remits 78554
the tax due under this chapter in accordance with the schedules in 78555

divisions (A), (B), and (C) of this section or in accordance with 78556
the computation prescribed in division (D) or (E) of this section, 78557
the commissioner shall not assess any additional tax on those 78558
transactions. 78559

(G)(1) With respect to a sale of a fractional ownership 78560
program aircraft used primarily in a fractional aircraft ownership 78561
program, including all accessories attached to such aircraft, the 78562
tax shall be calculated pursuant to divisions (A) to (E) of this 78563
section, provided that the tax commissioner shall modify those 78564
calculations so that the maximum tax on each program aircraft is 78565
eight hundred dollars. In the case of a sale of a fractional 78566
interest that is less than one hundred per cent of the program 78567
aircraft, the tax charged on the transaction shall be eight 78568
hundred dollars multiplied by a fraction, the numerator of which 78569
is the percentage of ownership or possession in the aircraft being 78570
purchased in the transaction, and the denominator of which is one 78571
hundred per cent. 78572

(2) Notwithstanding any other provision of law to the 78573
contrary, the tax calculated under division (G)(1) of this section 78574
and paid with respect to the sale of a fractional ownership 78575
program aircraft used primarily in a fractional aircraft ownership 78576
program shall be credited to the general revenue fund. 78577

Sec. 5739.026. (A) A board of county commissioners may levy a 78578
tax of one-fourth or one-half of one per cent on every retail sale 78579
in the county, except sales of watercraft and outboard motors 78580
required to be titled pursuant to Chapter 1548. of the Revised 78581
Code and sales of motor vehicles, and may increase an existing 78582
rate of one-fourth of one per cent to one-half of one per cent, to 78583
pay the expenses of administering the tax and, except as provided 78584
in division (A)(6) of this section, for any one or more of the 78585
following purposes provided that the aggregate levy for all such 78586

| | |
|--|-------|
| purposes does not exceed one-half of one per cent: | 78587 |
| (1) To provide additional revenues for the payment of bonds | 78588 |
| or notes issued in anticipation of bonds issued by a convention | 78589 |
| facilities authority established by the board of county | 78590 |
| commissioners under Chapter 351. of the Revised Code and to | 78591 |
| provide additional operating revenues for the convention | 78592 |
| facilities authority; | 78593 |
| (2) To provide additional revenues for a transit authority | 78594 |
| operating in the county; | 78595 |
| (3) To provide additional revenue for the county's general | 78596 |
| fund; | 78597 |
| (4) To provide additional revenue for permanent improvements | 78598 |
| within the county to be distributed by the community improvements | 78599 |
| board in accordance with section 307.283 and to pay principal, | 78600 |
| interest, and premium on bonds issued under section 307.284 of the | 78601 |
| Revised Code; | 78602 |
| (5) To provide additional revenue for the acquisition, | 78603 |
| construction, equipping, or repair of any specific permanent | 78604 |
| improvement or any class or group of permanent improvements, which | 78605 |
| improvement or class or group of improvements shall be enumerated | 78606 |
| in the resolution required by division (D) of this section, and to | 78607 |
| pay principal, interest, premium, and other costs associated with | 78608 |
| the issuance of bonds or notes in anticipation of bonds issued | 78609 |
| pursuant to Chapter 133. of the Revised Code for the acquisition, | 78610 |
| construction, equipping, or repair of the specific permanent | 78611 |
| improvement or class or group of permanent improvements; | 78612 |
| (6) To provide revenue for the implementation and operation | 78613 |
| of a 9-1-1 system in the county. If the tax is levied or the rate | 78614 |
| increased exclusively for such purpose, the tax shall not be | 78615 |
| levied or the rate increased for more than five years. At the end | 78616 |
| of the last year the tax is levied or the rate increased, any | 78617 |

balance remaining in the special fund established for such purpose 78618
shall remain in that fund and be used exclusively for such purpose 78619
until the fund is completely expended, and, notwithstanding 78620
section 5705.16 of the Revised Code, the board of county 78621
commissioners shall not petition for the transfer of money from 78622
such special fund, and the tax commissioner shall not approve such 78623
a petition. 78624

If the tax is levied or the rate increased for such purpose 78625
for more than five years, the board of county commissioners also 78626
shall levy the tax or increase the rate of the tax for one or more 78627
of the purposes described in divisions (A)(1) to (5) of this 78628
section and shall prescribe the method for allocating the revenues 78629
from the tax each year in the manner required by division (C) of 78630
this section. 78631

(7) To provide additional revenue for the operation or 78632
maintenance of a detention facility, as that term is defined under 78633
division (F) of section 2921.01 of the Revised Code; 78634

(8) To provide revenue to finance the construction or 78635
renovation of a sports facility, but only if the tax is levied for 78636
that purpose in the manner prescribed by section 5739.028 of the 78637
Revised Code. 78638

As used in division (A)(8) of this section: 78639

(a) "Sports facility" means a facility intended to house 78640
major league professional athletic teams. 78641

(b) "Constructing" or "construction" includes providing 78642
fixtures, furnishings, and equipment. 78643

(9) To provide additional revenue for the acquisition of 78644
agricultural easements, as defined in section 5301.67 of the 78645
Revised Code; to pay principal, interest, and premium on bonds 78646
issued under section 133.60 of the Revised Code; and for the 78647
supervision and enforcement of agricultural easements held by the 78648

county; 78649

(10) To provide revenue for the provision of ambulance, 78650
paramedic, or other emergency medical services. 78651

Pursuant to section 755.171 of the Revised Code, a board of 78652
county commissioners may pledge and contribute revenue from a tax 78653
levied for the purpose of division (A)(5) of this section to the 78654
payment of debt charges on bonds issued under section 755.17 of 78655
the Revised Code. 78656

The rate of tax shall be a multiple of one-fourth of one per 78657
cent, unless a portion of the rate of an existing tax levied under 78658
section 5739.023 of the Revised Code has been reduced, and the 78659
rate of tax levied under this section has been increased, pursuant 78660
to section 5739.028 of the Revised Code, in which case the 78661
aggregate of the rates of tax levied under this section and 78662
section 5739.023 of the Revised Code shall be a multiple of 78663
one-fourth of one per cent. The tax shall be levied and the rate 78664
increased pursuant to a resolution adopted by a majority of the 78665
members of the board. The board shall deliver a certified copy of 78666
the resolution to the tax commissioner, not later than the 78667
sixty-fifth day prior to the date on which the tax is to become 78668
effective, which shall be the first day of a calendar quarter. 78669

Prior to the adoption of any resolution to levy the tax or to 78670
increase the rate of tax exclusively for the purpose set forth in 78671
division (A)(3) of this section, the board of county commissioners 78672
shall conduct two public hearings on the resolution, the second 78673
hearing to be no fewer than three nor more than ten days after the 78674
first. Notice of the date, time, and place of the hearings shall 78675
be given by publication in a newspaper of general circulation in 78676
the county once a week on the same day of the week for two 78677
consecutive weeks, the second publication being no fewer than ten 78678
nor more than thirty days prior to the first hearing. Except as 78679
provided in division (E) of this section, the resolution shall be 78680

subject to a referendum as provided in sections 305.31 to 305.41 78681
of the Revised Code. Unless the resolution is adopted as an 78682
emergency measure, or is to be submitted to the electors of the 78683
county under division (D)(2)(a) of this section, the resolution 78684
shall be adopted at least one hundred twenty days prior to the 78685
date on which the tax or the increased rate of tax is to go into 78686
effect. If the resolution is adopted as an emergency measure 78687
necessary for the immediate preservation of the public peace, 78688
health, or safety, it must receive an affirmative vote of all of 78689
the members of the board of county commissioners and shall state 78690
the reasons for the necessity. 78691

If the tax is for more than one of the purposes set forth in 78692
divisions (A)(1) to (7), (9), and (10) of this section, or is 78693
exclusively for one of the purposes set forth in division (A)(1), 78694
(2), (4), (5), (6), (7), (9), or (10) of this section, the 78695
resolution shall not go into effect unless it is approved by a 78696
majority of the electors voting on the question of the tax. 78697

(B) The board of county commissioners shall adopt a 78698
resolution under section 351.02 of the Revised Code creating the 78699
convention facilities authority, or under section 307.283 of the 78700
Revised Code creating the community improvements board, before 78701
adopting a resolution levying a tax for the purpose of a 78702
convention facilities authority under division (A)(1) of this 78703
section or for the purpose of a community improvements board under 78704
division (A)(4) of this section. 78705

(C)(1) If the tax is to be used for more than one of the 78706
purposes set forth in divisions (A)(1) to (7), (9), and (10) of 78707
this section, the board of county commissioners shall establish 78708
the method that will be used to determine the amount or proportion 78709
of the tax revenue received by the county during each year that 78710
will be distributed for each of those purposes, including, if 78711
applicable, provisions governing the reallocation of a convention 78712

facilities authority's allocation if the authority is dissolved 78713
while the tax is in effect. The allocation method may provide that 78714
different proportions or amounts of the tax shall be distributed 78715
among the purposes in different years, but it shall clearly 78716
describe the method that will be used for each year. Except as 78717
otherwise provided in division (C)(2) of this section, the 78718
allocation method established by the board is not subject to 78719
amendment during the life of the tax. 78720

(2) Subsequent to holding a public hearing on the proposed 78721
amendment, the board of county commissioners may amend the 78722
allocation method established under division (C)(1) of this 78723
section for any year, if the amendment is approved by the 78724
governing board of each entity whose allocation for the year would 78725
be reduced by the proposed amendment. In the case of a tax that is 78726
levied for a continuing period of time, the board may not so amend 78727
the allocation method for any year before the sixth year that the 78728
tax is in effect. 78729

(a) If the additional revenues provided to the convention 78730
facilities authority are pledged by the authority for the payment 78731
of convention facilities authority revenue bonds for as long as 78732
such bonds are outstanding, no reduction of the authority's 78733
allocation of the tax shall be made for any year except to the 78734
extent that the reduced authority allocation, when combined with 78735
the authority's other revenues pledged for that purpose, is 78736
sufficient to meet the debt service requirements for that year on 78737
such bonds. 78738

(b) If the additional revenues provided to the county are 78739
pledged by the county for the payment of bonds or notes described 78740
in division (A)(4) or (5) of this section, for as long as such 78741
bonds or notes are outstanding, no reduction of the county's or 78742
the community improvements board's allocation of the tax shall be 78743
made for any year, except to the extent that the reduced county or 78744

community improvements board allocation is sufficient to meet the 78745
debt service requirements for that year on such bonds or notes. 78746

(c) If the additional revenues provided to the transit 78747
authority are pledged by the authority for the payment of revenue 78748
bonds issued under section 306.37 of the Revised Code, for as long 78749
as such bonds are outstanding, no reduction of the authority's 78750
allocation of tax shall be made for any year, except to the extent 78751
that the authority's reduced allocation, when combined with the 78752
authority's other revenues pledged for that purpose, is sufficient 78753
to meet the debt service requirements for that year on such bonds. 78754

(d) If the additional revenues provided to the county are 78755
pledged by the county for the payment of bonds or notes issued 78756
under section 133.60 of the Revised Code, for so long as the bonds 78757
or notes are outstanding, no reduction of the county's allocation 78758
of the tax shall be made for any year, except to the extent that 78759
the reduced county allocation is sufficient to meet the debt 78760
service requirements for that year on the bonds or notes. 78761

(D)(1) The resolution levying the tax or increasing the rate 78762
of tax shall state the rate of the tax or the rate of the 78763
increase; the purpose or purposes for which it is to be levied; 78764
the number of years for which it is to be levied or that it is for 78765
a continuing period of time; the allocation method required by 78766
division (C) of this section; and if required to be submitted to 78767
the electors of the county under division (A) of this section, the 78768
date of the election at which the proposal shall be submitted to 78769
the electors of the county, which shall be not less than 78770
seventy-five days after the certification of a copy of the 78771
resolution to the board of elections and, if the tax is to be 78772
levied exclusively for the purpose set forth in division (A)(3) of 78773
this section, shall not occur in February or August of any year. 78774
Upon certification of the resolution to the board of elections, 78775
the board of county commissioners shall notify the tax 78776

commissioner in writing of the levy question to be submitted to 78777
the electors. If approved by a majority of the electors, the tax 78778
shall become effective on the first day of a calendar quarter next 78779
following the sixty-fifth day following the date the board of 78780
county commissioners and tax commissioner receive from the board 78781
of elections the certification of the results of the election, 78782
except as provided in division (E) of this section. 78783

(2)(a) A resolution specifying that the tax is to be used 78784
exclusively for the purpose set forth in division (A)(3) of this 78785
section that is not adopted as an emergency measure may direct the 78786
board of elections to submit the question of levying the tax or 78787
increasing the rate of the tax to the electors of the county at a 78788
special election held on the date specified by the board of county 78789
commissioners in the resolution, provided that the election occurs 78790
not less than seventy-five days after the resolution is certified 78791
to the board of elections and the election is not held in February 78792
or August of any year. Upon certification of the resolution to the 78793
board of elections, the board of county commissioners shall notify 78794
the tax commissioner in writing of the levy question to be 78795
submitted to the electors. No resolution adopted under division 78796
(D)(2)(a) of this section shall go into effect unless approved by 78797
a majority of those voting upon it and, except as provided in 78798
division (E) of this section, not until the first day of a 78799
calendar quarter following the expiration of sixty-five days from 78800
the date the tax commissioner receives notice from the board of 78801
elections of the affirmative vote. 78802

(b) A resolution specifying that the tax is to be used 78803
exclusively for the purpose set forth in division (A)(3) of this 78804
section that is adopted as an emergency measure shall become 78805
effective as provided in division (A) of this section, but may 78806
direct the board of elections to submit the question of repealing 78807
the tax or increase in the rate of the tax to the electors of the 78808

county at the next general election in the county occurring not 78809
less than seventy-five days after the resolution is certified to 78810
the board of elections. Upon certification of the resolution to 78811
the board of elections, the board of county commissioners shall 78812
notify the tax commissioner in writing of the levy question to be 78813
submitted to the electors. The ballot question shall be the same 78814
as that prescribed in section 5739.022 of the Revised Code. The 78815
board of elections shall notify the board of county commissioners 78816
and the tax commissioner of the result of the election immediately 78817
after the result has been declared. If a majority of the qualified 78818
electors voting on the question of repealing the tax or increase 78819
in the rate of the tax vote for repeal of the tax or repeal of the 78820
increase, the board of county commissioners, on the first day of a 78821
calendar quarter following the expiration of sixty-five days after 78822
the date the board and tax commissioner received notice of the 78823
result of the election, shall, in the case of a repeal of the tax, 78824
cease to levy the tax, or, in the case of a repeal of an increase 78825
in the rate of the tax, cease to levy the increased rate and levy 78826
the tax at the rate at which it was imposed immediately prior to 78827
the increase in rate. 78828

(c) A board of county commissioners, by resolution, may 78829
reduce the rate of a tax levied exclusively for the purpose set 78830
forth in division (A)(3) of this section to a lower rate 78831
authorized by this section. Any such reduction shall be made 78832
effective on the first day of the calendar quarter next following 78833
the sixty-fifth day after the tax commissioner receives a 78834
certified copy of the resolution from the board. 78835

(E) If a vendor that is registered with the central 78836
electronic registration system provided for in section 5740.05 of 78837
the Revised Code makes a sale in this state by printed catalog and 78838
the consumer computed the tax on the sale based on local rates 78839
published in the catalog, any tax levied or repealed or rate 78840

changed under this section shall not apply to such a sale until 78841
the first day of a calendar quarter following the expiration of 78842
one hundred twenty days from the date of notice by the tax 78843
commissioner pursuant to division (G) of this section. 78844

(F) The tax levied pursuant to this section shall be in 78845
addition to the tax levied by section 5739.02 of the Revised Code 78846
and any tax levied pursuant to section 5739.021 or 5739.023 of the 78847
Revised Code. 78848

A county that levies a tax pursuant to this section shall 78849
levy a tax at the same rate pursuant to section 5741.023 of the 78850
Revised Code. 78851

The additional tax levied by the county shall be collected 78852
pursuant to section 5739.025 of the Revised Code. 78853

Any tax levied pursuant to this section is subject to the 78854
exemptions provided in section 5739.02 of the Revised Code and in 78855
addition shall not be applicable to sales not within the taxing 78856
power of a county under the Constitution of the United States or 78857
the Ohio Constitution. 78858

(G) Upon receipt from a board of county commissioners of a 78859
certified copy of a resolution required by division (A) of this 78860
section, or from the board of elections a notice of the results of 78861
an election required by division (D)(1), (2)(a), (b), or (c) of 78862
this section, the tax commissioner shall provide notice of a tax 78863
rate change in a manner that is reasonably accessible to all 78864
affected vendors. The commissioner shall provide this notice at 78865
least sixty days prior to the effective date of the rate change. 78866
The commissioner, by rule, may establish the method by which 78867
notice will be provided. 78868

Sec. 5739.03. (A) Except as provided in section 5739.05 of 78869
the Revised Code, the tax imposed by or pursuant to section 78870

5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code shall 78871
be paid by the consumer to the vendor, and each vendor shall 78872
collect from the consumer, as a trustee for the state of Ohio, the 78873
full and exact amount of the tax payable on each taxable sale, in 78874
the manner and at the times provided as follows: 78875

(1) If the price is, at or prior to the provision of the 78876
service or the delivery of possession of the thing sold to the 78877
consumer, paid in currency passed from hand to hand by the 78878
consumer or the consumer's agent to the vendor or the vendor's 78879
agent, the vendor or the vendor's agent shall collect the tax with 78880
and at the same time as the price; 78881

(2) If the price is otherwise paid or to be paid, the vendor 78882
or the vendor's agent shall, at or prior to the provision of the 78883
service or the delivery of possession of the thing sold to the 78884
consumer, charge the tax imposed by or pursuant to section 78885
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to 78886
the account of the consumer, which amount shall be collected by 78887
the vendor from the consumer in addition to the price. Such sale 78888
shall be reported on and the amount of the tax applicable thereto 78889
shall be remitted with the return for the period in which the sale 78890
is made, and the amount of the tax shall become a legal charge in 78891
favor of the vendor and against the consumer. 78892

(B)(1)(a) If any sale is claimed to be exempt under division 78893
(E) of section 5739.01 of the Revised Code or under section 78894
5739.02 of the Revised Code, with the exception of divisions 78895
(B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the 78896
consumer must provide to the vendor, and the vendor must obtain 78897
from the consumer, a certificate specifying the reason that the 78898
sale is not legally subject to the tax. The certificate shall be 78899
in such form, and shall be provided either in a hard copy form or 78900
electronic form, as prescribed by the tax commissioner prescribes. 78901
~~If the transaction is claimed to be exempt under division (B)(13)~~ 78902

~~of section 5739.02 of the Revised Code, the exemption certificate shall be provided by both the contractor and the contractee. Such contractee shall be deemed to be the consumer of all items purchased under such claim of exemption, if it is subsequently determined that the exemption is not properly claimed. The certificate shall be in such form as the tax commissioner by regulation prescribes.~~

(b) A vendor that obtains a fully completed exemption certificate from a consumer is relieved of liability for collecting and remitting tax on any sale covered by that certificate. If it is determined the exemption was improperly claimed, the consumer shall be liable for any tax due on that sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or Chapter 5741. of the Revised Code. Relief under this division from liability does not apply to any of the following:

(i) A vendor that fraudulently fails to collect tax;

(ii) A vendor that solicits consumers to participate in the unlawful claim of an exemption;

(iii) A vendor that accepts an exemption certificate from a consumer that claims an exemption based on who purchases or who sells property or a service, when the subject of the transaction sought to be covered by the exemption certificate is actually received by the consumer at a location operated by the vendor in this state, and this state has posted to its web site an exemption certificate form that clearly and affirmatively indicates that the claimed exemption is not available in this state;

(iv) A vendor that accepts an exemption certificate from a consumer who claims a multiple points of use exemption under division (B) of section 5739.033 of the Revised Code, if the item purchased is tangible personal property, other than prewritten computer software.

(2) The vendor shall maintain records, including exemption certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request.

(3) The tax commissioner may establish an identification system whereby the commissioner issues an identification number to a consumer that is exempt from payment of the tax. The consumer must present the number to the vendor, if any sale is claimed to be exempt as provided in this section.

(4) If no certificate is provided or obtained within ~~the period for filing the return for the period in ninety days after the date on~~ which such sale is consummated, it shall be presumed that the tax applies. Failure to have so provided or obtained a certificate shall not ~~prevent~~ preclude a vendor ~~or consumer,~~ within one hundred twenty days after the tax commissioner gives written notice of intent to levy an assessment, from either establishing that the sale is not subject to the tax ~~within one hundred twenty days of the giving of notice by the commissioner of intention to levy an assessment, in which event the tax shall not apply,~~ or obtaining, in good faith, a fully completed exemption certificate.

(5) Certificates need not be obtained nor provided where the identity of the consumer is such that the transaction is never subject to the tax imposed or where the item of tangible personal property sold or the service provided is never subject to the tax imposed, regardless of use, or when the sale is in interstate commerce.

(6) If a transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the contractor shall obtain certification of the claimed exemption from the contractee. This certification shall be in addition to an exemption certificate provided by the contractor to the vendor. A contractee that provides a certification under this division shall

be deemed to be the consumer of all items purchased by the contractor under the claim of exemption, if it is subsequently determined that the exemption is not properly claimed. The certification shall be in such form as the tax commissioner prescribes.

(C) As used in this division, "contractee" means a person who seeks to enter or enters into a contract or agreement with a contractor or vendor for the construction of real property or for the sale and installation onto real property of tangible personal property.

Any contractor or vendor may request from any contractee a certification of what portion of the property to be transferred under such contract or agreement is to be incorporated into the realty and what portion will retain its status as tangible personal property after installation is completed. The contractor or vendor shall request the certification by certified mail delivered to the contractee, return receipt requested. Upon receipt of such request and prior to entering into the contract or agreement, the contractee shall provide to the contractor or vendor a certification sufficiently detailed to enable the contractor or vendor to ascertain the resulting classification of all materials purchased or fabricated by the contractor or vendor and transferred to the contractee. This requirement applies to a contractee regardless of whether the contractee holds a direct payment permit under section 5739.031 of the Revised Code or provides to the contractor or vendor an exemption certificate as provided under this section.

For the purposes of the taxes levied by this chapter and Chapter 5741. of the Revised Code, the contractor or vendor may in good faith rely on the contractee's certification. Notwithstanding division (B) of section 5739.01 of the Revised Code, if the tax commissioner determines that certain property certified by the

contractee as tangible personal property pursuant to this division 78998
is, in fact, real property, the contractee shall be considered to 78999
be the consumer of all materials so incorporated into that real 79000
property and shall be liable for the applicable tax, and the 79001
contractor or vendor shall be excused from any liability on those 79002
materials. 79003

If a contractee fails to provide such certification upon the 79004
request of the contractor or vendor, the contractor or vendor 79005
shall comply with the provisions of this chapter and Chapter 5741. 79006
of the Revised Code without the certification. If the tax 79007
commissioner determines that such compliance has been performed in 79008
good faith and that certain property treated as tangible personal 79009
property by the contractor or vendor is, in fact, real property, 79010
the contractee shall be considered to be the consumer of all 79011
materials so incorporated into that real property and shall be 79012
liable for the applicable tax, and the construction contractor or 79013
vendor shall be excused from any liability on those materials. 79014

This division does not apply to any contract or agreement 79015
where the tax commissioner determines as a fact that a 79016
certification under this division was made solely on the decision 79017
or advice of the contractor or vendor. 79018

(D) Notwithstanding division (B) of section 5739.01 of the 79019
Revised Code, whenever the total rate of tax imposed under this 79020
chapter is increased after the date after a construction contract 79021
is entered into, the contractee shall reimburse the construction 79022
contractor for any additional tax paid on tangible property 79023
consumed or services received pursuant to the contract. 79024

(E) A vendor who files a petition for reassessment contesting 79025
the assessment of tax on sales for which the vendor obtained no 79026
valid exemption certificates and for which the vendor failed to 79027
establish that the sales were properly not subject to the tax 79028
during the one-hundred-twenty-day period allowed under division 79029

(B) of this section, may present to the tax commissioner 79030
additional evidence to prove that the sales were properly subject 79031
to a claim of exception or exemption. The vendor shall file such 79032
evidence within ninety days of the receipt by the vendor of the 79033
notice of assessment, except that, upon application and for 79034
reasonable cause, the period for submitting such evidence shall be 79035
extended thirty days. 79036

The commissioner shall consider such additional evidence in 79037
reaching the final determination on the assessment and petition 79038
for reassessment. 79039

(F) Whenever a vendor refunds to the consumer the full price 79040
of an item of tangible personal property on which the tax imposed 79041
under this chapter has been paid, the vendor shall also refund the 79042
full amount of the tax paid. 79043

Sec. 5739.033. This section applies to sales made on and 79044
after July 1, 2005. Sales made before July 1, 2005, are subject to 79045
section 5739.035 of the Revised Code. On and after January 1, 79046
2005, any vendor may irrevocably elect to comply with this section 79047
for all of the vendor's sales and places of business in this 79048
state. 79049

The amount of tax due pursuant to sections 5739.02, 5739.021, 79050
5739.023, and 5739.026 of the Revised Code is the sum of the taxes 79051
imposed pursuant to those sections at the sourcing location of the 79052
sale as determined under this section or, if applicable, under 79053
division (C) of section 5739.031 or section 5739.034 or 5739.035 79054
of the Revised Code. This section applies only to a vendor's or 79055
seller's obligation to collect and remit sales taxes under section 79056
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code or 79057
use taxes under section 5741.02, 5741.021, 5741.022, or 5741.023 79058
of the Revised Code. This section does not affect the obligation 79059
of a consumer to remit use taxes on the storage, use, or other 79060

consumption of tangible personal property or on the benefit 79061
realized of any service provided, to the jurisdiction of that 79062
storage, use, or consumption, or benefit realized. 79063

(A) Except for sales, other than leases, of titled motor 79064
vehicles, titled watercraft, or titled outboard motors as provided 79065
in section 5741.05 of the Revised Code, or as otherwise provided 79066
in this section and section 5739.034 or 5740.10 of the Revised 79067
Code, all sales shall be sourced as follows: 79068

(1) If the consumer or a donee designated by the consumer 79069
receives tangible personal property or a service at a vendor's 79070
place of business, the sale shall be sourced to that place of 79071
business. 79072

(2) When the tangible personal property or service is not 79073
received at a vendor's place of business, the sale shall be 79074
sourced to the location known to the vendor where the consumer or 79075
the donee designated by the consumer receives the tangible 79076
personal property or service, including the location indicated by 79077
instructions for delivery to the consumer or the consumer's donee. 79078

(3) If divisions (A)(1) and (2) of this section do not apply, 79079
the sale shall be sourced to the location indicated by an address 79080
for the consumer that is available from the vendor's business 79081
records that are maintained in the ordinary course of the vendor's 79082
business, when use of that address does not constitute bad faith. 79083

(4) If divisions (A)(1), (2), and (3) of this section do not 79084
apply, the sale shall be sourced to the location indicated by an 79085
address for the consumer obtained during the consummation of the 79086
sale, including the address associated with the consumer's payment 79087
instrument, if no other address is available, when use of that 79088
address does not constitute bad faith. 79089

(5) If divisions (A)(1), (2), (3), and (4) of this section do 79090
not apply, including in the circumstance where the vendor is 79091

without sufficient information to apply any of those divisions, 79092
the sale shall be sourced to the address from which tangible 79093
personal property was shipped, or from which the service was 79094
provided, disregarding any location that merely provided the 79095
electronic transfer of the property sold or service provided. 79096

(6) As used in division (A) of this section, "receive" means 79097
taking possession of tangible personal property or making first 79098
use of a service. "Receive" does not include possession by a 79099
shipping company on behalf of a consumer. 79100

(B)(1)(a) Notwithstanding divisions (A)(1) to (5) of this 79101
section, a business consumer that is not a holder of a direct 79102
payment permit granted under section 5739.031 of the Revised Code, 79103
that purchases a digital good, computer software delivered 79104
electronically, except computer software received in person by a 79105
business consumer at a vendor's place of business, or a service 79106
for use in business, and that knows at the time of purchase that 79107
such digital good, software, or service will be concurrently 79108
available for use in more than one taxing jurisdiction shall 79109
deliver to the vendor in conjunction with its purchase a an 79110
exemption certificate claiming multiple points of use exemption 79111
form prescribed by the tax commissioner disclosing this fact, or 79112
shall meet the requirements of division (B)(2) of this section. On 79113
receipt of the exemption certificate claiming multiple points of 79114
use exemption form, the vendor is relieved of its obligation to 79115
collect, pay, or remit the tax due, and the business consumer must 79116
pay the tax directly to the state. 79117

~~(2)~~(b) A business consumer that delivers ~~such form~~ the 79118
exemption certificate claiming multiple points of use to a vendor 79119
may use any reasonable, consistent, and uniform method of 79120
apportioning the tax due on the digital good, computer software 79121
~~delivered electronically~~, or service ~~for use in business~~ that is 79122
supported by the consumer's business records as they existed at 79123

the time of the sale. The business consumer shall report and pay 79124
the appropriate tax to each jurisdiction where concurrent use 79125
occurs. The tax due shall be calculated as if the apportioned 79126
amount of the digital good, computer software, or service had been 79127
delivered to each jurisdiction to which the sale is apportioned 79128
under this division. 79129

~~(3)~~(c) The exemption certificate claiming multiple points of 79130
use ~~exemption form~~ shall remain in effect for all future sales by 79131
the vendor to the business consumer until it is revoked in writing 79132
by the business consumer, except as to the business consumer's 79133
specific apportionment of a subsequent sale under division 79134
(B)~~(2)~~(1)(b) of this section and the facts existing at the time of 79135
the sale. 79136

(2) When the vendor knows that a digital good, computer 79137
software, or service sold will be concurrently available for use 79138
by the business consumer in more than one jurisdiction, but the 79139
business consumer does not provide an exemption certificate 79140
claiming multiple points of use as required by division (B)(1) of 79141
this section, the vendor may work with the business consumer to 79142
produce the correct apportionment. Governed by the principles of 79143
division (B)(1)(b) of this section, the vendor and business 79144
consumer may use any reasonable, but consistent and uniform, 79145
method of apportionment that is supported by the vendor's and 79146
business consumer's books and records as they exist at the time 79147
the sale is reported for purposes of the taxes levied under this 79148
chapter. If the business consumer certifies to the accuracy of the 79149
apportionment and the vendor accepts the certification, the vendor 79150
shall collect and remit the tax accordingly. In the absence of bad 79151
faith, the vendor is relieved of any further obligation to collect 79152
tax on any transaction where the vendor has collected tax pursuant 79153
to the information certified by the business consumer. 79154

(3) When the vendor knows that the digital good, computer 79155

software, or service will be concurrently available for use in 79156
more than one jurisdiction, and the business consumer does not 79157
have a direct pay permit and does not provide to the vendor an 79158
exemption certificate claiming multiple points of use as required 79159
in division (B)(1) of this section, or certification pursuant to 79160
division (B)(2) of this section, the vendor shall collect and 79161
remit the tax based on division (A) of this section. 79162

(4) Nothing in this section shall limit a person's obligation 79163
for sales or use tax to any state in which a digital good, 79164
computer software, or service is concurrently available for use, 79165
nor limit a person's ability under local, state, or federal law, 79166
to claim a credit for sales or use taxes legally due and paid to 79167
other jurisdictions. 79168

(C) A person who holds a direct payment permit issued under 79169
section 5739.031 of the Revised Code is not required to deliver a 79170
an exemption certificate claiming multiple points of use exemption 79171
form to a vendor. But such permit holder shall comply with 79172
division (B)~~(2)~~(1)(b) of this section in apportioning the tax due 79173
on a digital good, computer software ~~delivered electronically,~~ or 79174
a service ~~used~~ for use in business that will be concurrently 79175
available for use in more than one taxing jurisdiction. 79176

(D)(1) Notwithstanding divisions (A)(1) to (5) of this 79177
section, the ~~purchaser~~ consumer of direct mail that is not a 79178
holder of a direct payment permit shall provide to the vendor in 79179
conjunction with the ~~purchase~~ sale either a an exemption 79180
certificate claiming direct mail ~~form~~ prescribed by the tax 79181
commissioner, or information to show the jurisdictions to which 79182
the direct mail is delivered to recipients. 79183

(2) Upon receipt of a ~~direct mail form~~ such exemption 79184
certificate, the vendor is relieved of all obligations to collect, 79185
pay, or remit the applicable tax and the ~~purchaser~~ consumer is 79186
obligated to pay that tax on a direct pay basis. A An exemption 79187

certificate claiming direct mail ~~form~~ shall remain in effect for 79188
all future sales of direct mail by the vendor to the ~~purchaser~~ 79189
consumer until it is revoked in writing. 79190

(3) Upon receipt of information from the ~~purchaser~~ consumer 79191
showing the jurisdictions to which the direct mail is delivered to 79192
recipients, the vendor shall collect the tax according to the 79193
delivery information provided by the ~~purchaser~~ consumer. In the 79194
absence of bad faith, the vendor is relieved of any further 79195
obligation to collect tax on any transaction where the vendor has 79196
collected tax pursuant to the delivery information provided by the 79197
~~purchaser~~ consumer. 79198

(4) If the ~~purchaser~~ consumer of direct mail does not have a 79199
direct payment permit and does not provide the vendor with either 79200
a an exemption certificate claiming direct mail ~~form~~ or delivery 79201
information as required by division (D)(1) of this section, the 79202
vendor shall collect the tax according to division (A)(5) of this 79203
section. Nothing in division (D)(4) of this section shall limit a 79204
~~purchaser's~~ consumer's obligation to pay sales or use tax to any 79205
state to which the direct mail is delivered. 79206

(5) If a ~~purchaser~~ consumer of direct mail provides the 79207
vendor with documentation of direct payment authority, the 79208
~~purchaser~~ consumer shall not be required to provide a an exemption 79209
certificate claiming direct mail ~~form~~ or delivery information to 79210
the vendor. 79211

(E) If the vendor provides lodging to transient guests as 79212
specified in division (B)(2) of section 5739.01 of the Revised 79213
Code, the sale shall be sourced to the location where the lodging 79214
is located. 79215

(F)(1) As used in this division and division (G) of this 79216
section, "transportation equipment" means any of the following: 79217

(a) Locomotives and railcars that are utilized for the 79218

| | |
|---|--|
| carriage of persons or property in interstate commerce. | 79219 |
| (b) Trucks and truck-tractors with a gross vehicle weight rating of greater than ten thousand pounds, trailers, semi-trailers, or passenger buses that are registered through the international registration plan and are operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce. | 79220 79221 79222 79223 79224 79225 79226 79227 |
| (c) Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate or foreign commerce. | 79228 79229 79230 79231 |
| (d) Containers designed for use on and component parts attached to or secured on the items set forth in division (F)(1)(a), (b), or (c) of this section. | 79232 79233 79234 |
| (2) A sale, lease, or rental of transportation equipment shall be sourced pursuant to division (A) of this section. | 79235 79236 |
| (G)(1) A lease or rental of tangible personal property that does not require recurring periodic payments shall be sourced pursuant to division (A) of this section. | 79237 79238 79239 |
| (2) A lease or rental of tangible personal property that requires recurring periodic payments shall be sourced as follows: | 79240 79241 |
| (a) In the case of a motor vehicle, other than a motor vehicle that is transportation equipment, <u>or an aircraft, other than an aircraft that is transportation equipment</u> , such lease or rental shall be sourced to the primary property location as follows: | 79242 79243 79244 79245 79246 |
| (i) For <u>An accelerated tax payment on</u> a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised | 79247 79248 |

~~Code, shall be sourced to the primary property location is the~~ 79249
~~address of the lessee or renter used for titling the motor vehicle~~ 79250
~~pursuant to section 4505.06 of the Revised Code at the time the~~ 79251
~~lease or rental is consummated. Any subsequent taxable charges on~~ 79252
~~the lease or rental shall be sourced to the primary property~~ 79253
~~location for the period in which the charges are incurred.~~ 79254

(ii) For a lease or rental taxed pursuant to division (A)(3) 79255
of section 5739.02 of the Revised Code, ~~the primary property~~ 79256
~~location for each lease or rental installment is shall be sourced~~ 79257
~~to the primary property location for the period covered by the~~ 79258
installment. 79259

~~(b) In the case of an aircraft, other than an aircraft that~~ 79260
~~is transportation equipment, such lease or rental shall be sourced~~ 79261
~~to the primary property location as follows:~~ 79262

~~(i) For a lease or rental taxed pursuant to division (A)(2)~~ 79263
~~of section 5739.02 of the Revised Code, the primary property~~ 79264
~~location is the primary property location at the time the lease or~~ 79265
~~rental is consummated.~~ 79266

~~(ii) For a lease or rental taxed pursuant to division (A)(3)~~ 79267
~~of section 5739.02 of the Revised Code, the primary property~~ 79268
~~location for each lease or rental installment is the primary~~ 79269
~~property location for the period covered by the installment.~~ 79270

~~(c) In the case of a watercraft or an outboard motor required~~ 79271
~~to be titled in this state pursuant to Chapter 1548. of the~~ 79272
~~Revised Code, such lease or rental shall be sourced to the primary~~ 79273
~~property location as follows:~~ 79274

~~(i) For a lease or rental taxed pursuant to division (A)(2)~~ 79275
~~of section 5739.02 of the Revised Code, the primary property~~ 79276
~~location is the address of the lessee or renter shown on the~~ 79277
~~title.~~ 79278

~~(ii) For a lease or rental taxed pursuant to division (A)(3)~~ 79279

~~of section 5739.02 of the Revised Code, the primary property location for the initial lease or rental installment is the address of the lessee or renter shown on the title. For each subsequent installment, the primary property location is the primary property location for the period covered by the installment.~~

~~(d)(b)~~ In the case of a lease or rental of all other tangible personal property, other than transportation equipment, such lease or rental shall be sourced as follows:

(i) ~~For~~ An accelerated tax payment on a lease or rental that is taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, the lease or rental shall be sourced pursuant to division (A) of this section at the time the lease or rental is consummated. Any subsequent taxable charges on the lease or rental shall be sourced to the primary property location for the period in which the charges are incurred.

(ii) For a lease or rental that is taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the initial lease or rental installment shall be sourced pursuant to division (A) of this section. Each subsequent installment shall be sourced to the primary property location for the period covered by the installment.

(3) As used in division (G) of this section, "primary property location" means an address for tangible personal property provided by the lessee or renter that is available to the lessor or owner from its records maintained in the ordinary course of business, when use of that address does not constitute bad faith.

Sec. 5739.034. (A) As used in this section:

(1) "Air-to-ground radiotelephone service" means a radio service, as defined in 47 C.F.R. 22.99, in which common carriers

are authorized to offer and provide radio telecommunications 79310
service for hire to subscribers in aircraft. 79311

(2) "Call-by-call basis" means any method of charging for 79312
telecommunications services where the price is measured by 79313
individual calls. 79314

(3) "Customer" means the person or entity that contracts with 79315
a seller of telecommunications service. If the end user of 79316
telecommunications service is not the contracting party, the end 79317
user of the telecommunications service is the customer of the 79318
telecommunications service. "Customer" does not include a reseller 79319
of telecommunications service or of mobile telecommunications 79320
service of a serving carrier under an agreement to serve the 79321
customer outside the home service provider's licensed service 79322
area. 79323

(4) "End user" means the person who utilizes the 79324
telecommunications service. In the case of a person other than an 79325
individual, "end user" means the individual who utilizes the 79326
service on behalf of the person. 79327

(5) "Home service provider" has the same meaning as in the 79328
"Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 79329
Stat. 631 (2000), 4 U.S.C. 124(5), as amended. 79330

(6) "Place of primary use" means the street address 79331
representative of where the customer's use of the 79332
telecommunications service primarily occurs, which must be the 79333
residential street address or the primary business street address 79334
of the customer. In the case of mobile telecommunications 79335
services, "place of primary use" must be within the licensed 79336
service area of the home service provider. 79337

(7) "Post-paid calling service" means the telecommunications 79338
service obtained by making a payment on a call-by-call basis 79339
either through the use of a credit card or payment mechanism such 79340

as a bank card, travel card, credit card, or debit card, or by 79341
charge made to a telephone number that is not associated with the 79342
origination or termination of the telecommunications service. 79343
"Post-paid calling service" includes a telecommunications service, 79344
except a prepaid wireless calling service, that would be a prepaid 79345
calling service, but for the fact that it is not exclusively a 79346
telecommunications service. 79347

(8) ~~"Prepaid calling service" means the right to access 79348
exclusively a telecommunications service that must be paid for in 79349
advance, that enables the origination of calls using an access 79350
number or authorization code, whether manually or electronically 79351
dialed, and that is sold in predetermined units or dollars of 79352
which the number declines with use in a known amount and "prepaid 79353
wireless calling service" have the same meanings as in section 79354
5739.01 of the Revised Code. 79355~~

(9) "Service address" means: 79356

(a) The location of the telecommunications equipment to which 79357
a customer's call is charged and from which the call originates or 79358
terminates, regardless of where the call is billed or paid. 79359

(b) If the location in division (A)(9)(a) of this section is 79360
not known, "service address" means the origination point of the 79361
signal of the telecommunications service first identified by 79362
either the seller's telecommunications system or in information 79363
received by the seller from its service provider, where the system 79364
used to transport such signals is not that of the seller. 79365

(c) If the locations in divisions (A)(9)(a) and (b) of this 79366
section are not known, "service address" means the location of the 79367
customer's place of primary use. 79368

(10) "Private communication service" means a 79369
telecommunications service that entitles a customer to exclusive 79370
or priority use of a communications channel or group of channels 79371

between or among termination points, regardless of the manner in 79372
which the channel or channels are connected, and includes 79373
switching capacity, extension lines, stations, and any other 79374
associated services that are provided in connection with the use 79375
of such channel or channels. 79376

(B) The amount of tax due pursuant to sections 5739.02, 79377
5739.021, 5739.023, and 5739.026 of the Revised Code on sales of 79378
telecommunications service, information service, or mobile 79379
telecommunications service, is the sum of the taxes imposed 79380
pursuant to those sections at the sourcing location of the sale as 79381
determined under this section. 79382

(C) Except for the telecommunications services described in 79383
division (E) of this section, the sale of telecommunications 79384
service sold on a call-by-call basis shall be sourced to each 79385
level of taxing jurisdiction where the call originates and 79386
terminates in that jurisdiction, or each level of taxing 79387
jurisdiction where the call either originates or terminates and in 79388
which the service address also is located. 79389

(D) Except for the telecommunications services described in 79390
division (E) of this section, a sale of telecommunications 79391
services sold on a basis other than a call-by-call basis shall be 79392
sourced to the customer's place of primary use. 79393

(E) The sale of the following telecommunications services 79394
shall be sourced to each level of taxing jurisdiction, as follows: 79395

(1) A sale of mobile telecommunications service, other than 79396
air-to-ground radiotelephone service and prepaid calling service, 79397
shall be sourced to the customer's place of primary use as 79398
required by the Mobile Telecommunications Sourcing Act. 79399

(2) A sale of post-paid calling service shall be sourced to 79400
the origination point of the telecommunications signal as first 79401
identified by the service provider's telecommunications system, or 79402

information received by the seller from its service provider, 79403
where the system used to transport such signals is not that of the 79404
seller. 79405

(3) A sale of ~~mobile telecommunications service that is a~~ 79406
~~prepaid telecommunications~~ calling service or prepaid wireless 79407
calling service shall be sourced under division (A) of section 79408
5739.033 of the Revised Code, ~~but~~. But in the case of prepaid 79409
wireless calling service, in lieu of sourcing the sale of the 79410
service under division (A)(5) of ~~that~~ section 5739.033 of the 79411
Revised Code, it may be sourced the service provider may elect to 79412
source the sale to the location associated with the mobile 79413
telephone number. 79414

(4) A sale of a private communication service shall be 79415
sourced as follows: 79416

(a) Service for a separate charge related to a customer 79417
channel termination point shall be sourced to each level of 79418
jurisdiction in which the customer channel termination point is 79419
located; 79420

(b) Service where all customer channel termination points are 79421
located entirely within one jurisdiction or level of jurisdiction 79422
shall be sourced in the jurisdiction in which the customer channel 79423
termination points are located; 79424

(c) Service for segments of a channel between two customer 79425
channel termination points located in different jurisdictions and 79426
which segments of a channel are separately charged shall be 79427
sourced fifty per cent in each level of jurisdiction in which the 79428
customer channel termination points are located; 79429

(d) Service for segments of a channel located in more than 79430
one jurisdiction or level of jurisdiction and which segments are 79431
not separately billed shall be sourced in each jurisdiction based 79432
on the percentage determined by dividing the number of customer 79433

channel termination points in the jurisdiction by the total number 79434
of customer channel termination points. 79435

Sec. 5739.035. This section only applies to sales that are 79436
required to be sitused under this section pursuant to section 79437
5739.033 of the Revised Code. 79438

(A) Except as otherwise provided in this section, the situs 79439
of all sales is the vendor's place of business. 79440

(1) If the consumer or the consumer's agent takes possession 79441
of the tangible personal property at a place of business of the 79442
vendor where the purchase contract or agreement was made, the 79443
situs of the sale is that place of business. 79444

(2) If the consumer or the consumer's agent takes possession 79445
of the tangible personal property other than at a place of 79446
business of the vendor, or takes possession at a warehouse or 79447
similar facility of the vendor, the situs of the sale is the 79448
vendor's place of business where the purchase contract or 79449
agreement was made or the purchase order was received. 79450

(3) If the vendor provides a service specified in division 79451
(B)(3)(a), (b), (c), (d), (n), (o), (q), (r), or (s), ~~or (t)~~ of 79452
section 5739.01 or makes a sale specified in division (B)(8) of 79453
section 5739.01 of the Revised Code, the situs of the sale is the 79454
vendor's place of business where the service is performed or the 79455
contract or agreement for the service was made or the purchase 79456
order was received. 79457

(B) If the vendor is a transient vendor as specified in 79458
division (B) of section 5739.17 of the Revised Code, the situs of 79459
the sale is the vendor's temporary place of business or, if the 79460
transient vendor is the lessor of titled motor vehicles, titled 79461
watercraft, or titled outboard motors, at the location where the 79462
lessee keeps the leased property. 79463

(C) If the vendor makes sales of tangible personal property 79464
from a stock of goods carried in a motor vehicle, from which the 79465
purchaser makes selection and takes possession, or from which the 79466
vendor sells tangible personal property the quantity of which has 79467
not been determined prior to the time the purchaser takes 79468
possession, the situs of the sale is the location of the motor 79469
vehicle when the sale is made. 79470

(D) If the vendor is a delivery vendor as specified in 79471
division (D) of section 5739.17 of the Revised Code, the situs of 79472
the sale is the place where the tangible personal property is 79473
delivered, where the leased property is used, or where the service 79474
is performed or received. 79475

(E) If the vendor provides a service specified in division 79476
(B)(3)(e), (g), (h), (j), (k), (l), (m), ~~(p)~~, or ~~(t)~~ of 79477
section 5739.01 of the Revised Code, the situs of the sale is the 79478
location of the consumer where the service is performed or 79479
received. 79480

(F) If the vendor provides lodging to transient guests as 79481
specified in division (B)(2) of section 5739.01 of the Revised 79482
Code, the situs of the sale is the location where the lodging is 79483
located. 79484

(G) If the vendor sells a warranty, maintenance or service 79485
contract, or similar agreement as specified in division (B)(7) of 79486
section 5739.01 of the Revised Code and the vendor is a delivery 79487
vendor, the situs of the sale is the location of the consumer. If 79488
the vendor is not a delivery vendor, the situs of the sale is the 79489
vendor's place of business where the contract or agreement was 79490
made, unless the warranty or contract is a component of the sale 79491
of a titled motor vehicle, titled watercraft, or titled outboard 79492
motor, in which case the situs of the sale is the county of 79493
titling. 79494

(H) Except as otherwise provided in this division, if the vendor sells a prepaid authorization number or a prepaid telephone calling card, the situs of the sale is the vendor's place of business and shall be taxed at the time of sale. If the vendor sells a prepaid authorization number or prepaid telephone calling card through a telephone call, electronic commerce, or any other form of remote commerce, the situs of the sale is the consumer's shipping address, or, if there is no item shipped, at the consumer's billing address.

Sec. 5739.08. The levy of an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests pursuant to section 5739.02 and division (B) of section 5739.01 of the Revised Code does not prevent any of the following:

(A) A municipal corporation or township from levying an excise tax for any lawful purpose not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests in addition to the tax levied by section 5739.02 of the Revised Code. If a municipal corporation or township repeals a tax imposed under division (A) of this section, and a county in which the municipal corporation or township has territory has a tax imposed under division (C) of section 5739.09 of the Revised Code in effect, the municipal corporation or township may not reimpose its tax as long as that county tax remains in effect. A municipal corporation or township in which a tax is levied under division (B)(2) of section 351.021 of the Revised Code may not increase the rate of its tax levied under division (A) of this section to any rate that would cause the total taxes levied under both of those divisions to exceed three per cent on any lodging transaction within the municipal corporation or township.

(B) A municipal corporation or a township from levying an

additional excise tax not to exceed three per cent on such 79526
transactions pursuant to division (B) of section 5739.09 of the 79527
Revised Code. Such tax is in addition to any tax imposed under 79528
division (A) of this section. 79529

(C) A county from levying an excise tax pursuant to division 79530
(A) of section 5739.09 of the Revised Code; 79531

(D) A county from levying an excise tax not to exceed three 79532
per cent of such transactions pursuant to division (C) of section 79533
5739.09 of the Revised Code. Such a tax is in addition to any tax 79534
imposed under division (C) of this section. 79535

(E) A convention facilities authority, as defined in division 79536
(A) of section 351.01 of the Revised Code, from levying the excise 79537
taxes provided for in ~~division~~ divisions (B) and (C) of section 79538
351.021 of the Revised Code; 79539

(F) A county from levying an excise tax not to exceed one and 79540
one-half per cent of such transactions pursuant to division (D) of 79541
section 5739.09 of the Revised Code. Such tax is in addition to 79542
any tax imposed under division (C) or (D) of this section. 79543

(G) A county from levying an excise tax not to exceed one and 79544
one-half per cent of such transactions pursuant to division (E) of 79545
section 5739.09 of the Revised Code. Such a tax is in addition to 79546
any tax imposed under division (C), (D), or (F) of this section. 79547

Sec. 5739.09. (A)(1) A board of county commissioners may, by 79548
resolution adopted by a majority of the members of the board, levy 79549
an excise tax not to exceed three per cent on transactions by 79550
which lodging by a hotel is or is to be furnished to transient 79551
guests. The board shall establish all regulations necessary to 79552
provide for the administration and allocation of the tax. The 79553
regulations may prescribe the time for payment of the tax, and may 79554
provide for the imposition of a penalty or interest, or both, for 79555

late payments, provided that the penalty does not exceed ten per 79556
cent of the amount of tax due, and the rate at which interest 79557
accrues does not exceed the rate per annum prescribed pursuant to 79558
section 5703.47 of the Revised Code. Except as provided in 79559
divisions (A)(2), (3), (4), and (5) of this section, the 79560
regulations shall provide, after deducting the real and actual 79561
costs of administering the tax, for the return to each municipal 79562
corporation or township that does not levy an excise tax on the 79563
transactions, a uniform percentage of the tax collected in the 79564
municipal corporation or in the unincorporated portion of the 79565
township from each transaction, not to exceed thirty-three and 79566
one-third per cent. The remainder of the revenue arising from the 79567
tax shall be deposited in a separate fund and shall be spent 79568
solely to make contributions to the convention and visitors' 79569
bureau operating within the county, including a pledge and 79570
contribution of any portion of the remainder pursuant to an 79571
agreement authorized by section 307.695 of the Revised Code. 79572
Except as provided in division (A)(2), (3), (4), or (5) or (H) of 79573
this section, on and after May 10, 1994, a board of county 79574
commissioners may not levy an excise tax pursuant to this division 79575
in any municipal corporation or township located wholly or partly 79576
within the county that has in effect an ordinance or resolution 79577
levying an excise tax pursuant to division (B) of this section. 79578
The board of a county that has levied a tax under division (C) of 79579
this section may, by resolution adopted within ninety days after 79580
July 15, 1985, by a majority of the members of the board, amend 79581
the resolution levying a tax under this division to provide for a 79582
portion of that tax to be pledged and contributed in accordance 79583
with an agreement entered into under section 307.695 of the 79584
Revised Code. A tax, any revenue from which is pledged pursuant to 79585
such an agreement, shall remain in effect at the rate at which it 79586
is imposed for the duration of the period for which the revenue 79587

from the tax has been so pledged. 79588

(2) A board of county commissioners that levies an excise tax 79589
under division (A)(1) of this section on June 30, 1997, at a rate 79590
of three per cent, and that has pledged revenue from the tax to an 79591
agreement entered into under section 307.695 of the Revised Code, 79592
may amend the resolution levying that tax to provide for an 79593
increase in the rate of the tax up to five per cent on each 79594
transaction; to provide that revenue from the increase in the rate 79595
shall be spent solely to make contributions to the convention and 79596
visitors' bureau operating within the county to be used 79597
specifically for promotion, advertising, and marketing of the 79598
region in which the county is located; to provide that the rate in 79599
excess of the three per cent levied under division (A)(1) of this 79600
section shall remain in effect at the rate at which it is imposed 79601
for the duration of the period during which any agreement is in 79602
effect that was entered into under section 307.695 of the Revised 79603
Code by the board of county commissioners levying a tax under 79604
division (A)(1) of this section; and to provide that no portion of 79605
that revenue need be returned to townships or municipal 79606
corporations as would otherwise be required under division (A)(1) 79607
of this section. 79608

(3) A board of county commissioners that levies a tax under 79609
division (A)(1) of this section on March 18, 1999, at a rate of 79610
three per cent may, by resolution adopted not later than 79611
forty-five days after March 18, 1999, amend the resolution levying 79612
the tax to provide for all of the following: 79613

(a) That the rate of the tax shall be increased by not more 79614
than an additional four per cent on each transaction; 79615

(b) That all of the revenue from the increase in the rate 79616
shall be pledged and contributed to a convention facilities 79617
authority established by the board of county commissioners under 79618

Chapter 351. of the Revised Code on or before November 15, 1998, 79619
and used to pay costs of constructing, maintaining, operating, and 79620
promoting a facility in the county, including paying bonds, or 79621
notes issued in anticipation of bonds, as provided by that 79622
chapter; 79623

(c) That no portion of the revenue arising from the increase 79624
in rate need be returned to municipal corporations or townships as 79625
otherwise required under division (A)(1) of this section; 79626

(d) That the increase in rate shall not be subject to 79627
diminution by initiative or referendum or by law while any bonds, 79628
or notes in anticipation of bonds, issued by the authority under 79629
Chapter 351. of the Revised Code to which the revenue is pledged, 79630
remain outstanding in accordance with their terms, unless 79631
provision is made by law or by the board of county commissioners 79632
for an adequate substitute therefor that is satisfactory to the 79633
trustee if a trust agreement secures the bonds. 79634

Division (A)(3) of this section does not apply to the board 79635
of county commissioners of any county in which a convention center 79636
or facility exists or is being constructed on November 15, 1998, 79637
or of any county in which a convention facilities authority levies 79638
a tax pursuant to section 351.021 of the Revised Code on that 79639
date. 79640

As used in division (A)(3) of this section, "cost" and 79641
"facility" have the same meanings as in section 351.01 of the 79642
Revised Code, and "convention center" has the same meaning as in 79643
section 307.695 of the Revised Code. 79644

(4) A board of county commissioners that levies a tax under 79645
division (A)(1) of this section on June 30, 2002, at a rate of 79646
three per cent may, by resolution adopted not later than September 79647
30, 2002, amend the resolution levying the tax to provide for all 79648
of the following: 79649

(a) That the rate of the tax shall be increased by not more than an additional three and one-half per cent on each transaction;

(b) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before May 15, 2002, and be used to pay costs of constructing, expanding, maintaining, operating, or promoting a convention center in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(c) That no portion of the revenue arising from the increase in rate need be returned to municipal corporations or townships as otherwise required under division (A)(1) of this section;

(d) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

As used in division (A)(4) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(5)(a) As used in division (A)(5) of this section:

(i) "Port authority" means a port authority created under Chapter 4582. of the Revised Code.

(ii) "Port authority military-use facility" means port authority facilities on which or adjacent to which is located an

installation of the armed forces of the United States, a reserve 79681
component thereof, or the national guard and at least part of 79682
which is made available for use, for consideration, by the armed 79683
forces of the United States, a reserve component thereof, or the 79684
national guard. 79685

(b) For the purpose of contributing revenue to pay operating 79686
expenses of a port authority that operates a port authority 79687
military-use facility, the board of county commissioners of a 79688
county that created, participated in the creation of, or has 79689
joined such a port authority may do one or both of the following: 79690

(i) Amend a resolution previously adopted under division 79691
(A)(1) of this section to designate some or all of the revenue 79692
from the tax levied under the resolution to be used for that 79693
purpose, notwithstanding that division; 79694

(ii) Amend a resolution previously adopted under division 79695
(A)(1) of this section to increase the rate of the tax by not more 79696
than an additional two per cent and use the revenue from the 79697
increase exclusively for that purpose. 79698

(c) If a board of county commissioners amends a resolution to 79699
increase the rate of a tax as authorized in division (A)(5)(b)(ii) 79700
of this section, the board also may amend the resolution to 79701
specify that the increase in rate of the tax does not apply to 79702
"hotels," as otherwise defined in section 5739.01 of the Revised 79703
Code, having fewer rooms used for the accommodation of guests than 79704
a number of rooms specified by the board. 79705

(B)(1) The legislative authority of a municipal corporation 79706
or the board of trustees of a township that is not wholly or 79707
partly located in a county that has in effect a resolution levying 79708
an excise tax pursuant to division (A)(1) of this section may, by 79709
ordinance or resolution, levy an excise tax not to exceed three 79710
per cent on transactions by which lodging by a hotel is or is to 79711

be furnished to transient guests. The legislative authority of the 79712
municipal corporation or the board of trustees of the township 79713
shall deposit at least fifty per cent of the revenue from the tax 79714
levied pursuant to this division into a separate fund, which shall 79715
be spent solely to make contributions to convention and visitors' 79716
bureaus operating within the county in which the municipal 79717
corporation or township is wholly or partly located, and the 79718
balance of that revenue shall be deposited in the general fund. 79719
The municipal corporation or township shall establish all 79720
regulations necessary to provide for the administration and 79721
allocation of the tax. The regulations may prescribe the time for 79722
payment of the tax, and may provide for the imposition of a 79723
penalty or interest, or both, for late payments, provided that the 79724
penalty does not exceed ten per cent of the amount of tax due, and 79725
the rate at which interest accrues does not exceed the rate per 79726
annum prescribed pursuant to section 5703.47 of the Revised Code. 79727
The levy of a tax under this division is in addition to any tax 79728
imposed on the same transaction by a municipal corporation or a 79729
township as authorized by division (A) of section 5739.08 of the 79730
Revised Code. 79731

(2) The legislative authority of the most populous municipal 79732
corporation located wholly or partly in a county in which the 79733
board of county commissioners has levied a tax under division 79734
(A)(4) of this section may amend, on or before September 30, 2002, 79735
that municipal corporation's ordinance or resolution that levies 79736
an excise tax on transactions by which lodging by a hotel is or is 79737
to be furnished to transient guests, to provide for all of the 79738
following: 79739

(a) That the rate of the tax shall be increased by not more 79740
than an additional one per cent on each transaction; 79741

(b) That all of the revenue from the increase in rate shall 79742
be pledged and contributed to a convention facilities authority 79743

established by the board of county commissioners under Chapter 79744
351. of the Revised Code on or before May 15, 2002, and be used to 79745
pay costs of constructing, expanding, maintaining, operating, or 79746
promoting a convention center in the county, including paying 79747
bonds, or notes issued in anticipation of bonds, as provided by 79748
that chapter; 79749

(c) That the increase in rate shall not be subject to 79750
diminution by initiative or referendum or by law while any bonds, 79751
or notes in anticipation of bonds, issued by the authority under 79752
Chapter 351. of the Revised Code to which the revenue is pledged, 79753
remain outstanding in accordance with their terms, unless 79754
provision is made by law, by the board of county commissioners, or 79755
by the legislative authority, for an adequate substitute therefor 79756
that is satisfactory to the trustee if a trust agreement secures 79757
the bonds. 79758

As used in division (B)(2) of this section, "cost" has the 79759
same meaning as in section 351.01 of the Revised Code, and 79760
"convention center" has the same meaning as in section 307.695 of 79761
the Revised Code. 79762

(C) For the purpose of making the payments authorized by 79763
section 307.695 of the Revised Code to construct and equip a 79764
convention center in the county and to cover the costs of 79765
administering the tax, a board of county commissioners of a county 79766
where a tax imposed under division (A)(1) of this section is in 79767
effect may, by resolution adopted within ninety days after July 79768
15, 1985, by a majority of the members of the board, levy an 79769
additional excise tax not to exceed three per cent on transactions 79770
by which lodging by a hotel is or is to be furnished to transient 79771
guests. The tax authorized by this division shall be in addition 79772
to any tax that is levied pursuant to division (A) of this 79773
section, but it shall not apply to transactions subject to a tax 79774
levied by a municipal corporation or township pursuant to the 79775

authorization granted by division (A) of section 5739.08 of the Revised Code. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.695 of the Revised Code. A tax imposed under this division shall remain in effect at the rate at which it is imposed for the duration of the period for which the revenue from the tax has been pledged pursuant to that section.

(D) For the purpose of providing contributions under division (B)(1) of section 307.671 of the Revised Code to enable the acquisition, construction, and equipping of a port authority educational and cultural facility in the county and, to the extent provided for in the cooperative agreement authorized by that section, for the purpose of paying debt service charges on bonds, or notes in anticipation of bonds, described in division (B)(1)(b) of that section, a board of county commissioners, by resolution adopted within ninety days after December 22, 1992, by a majority of the members of the board, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), and (C) of this section, to any excise tax levied pursuant to section 5739.08 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The board of county commissioners shall establish all regulations necessary to provide for the administration and allocation of the tax that are not

inconsistent with this section or section 307.671 of the Revised Code. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.671 of the Revised Code and division (D) of this section. The levy of a tax imposed under this division may not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.671 of the Revised Code by all parties to that agreement. The tax shall remain in effect at the rate at which it is imposed for the period of time described in division (C) of section 307.671 of the Revised Code for which the revenue from the tax has been pledged by the county to the corporation pursuant to that section, but, to any extent provided for in the cooperative agreement, for no lesser period than the period of time required for payment of the debt service charges on bonds, or notes in anticipation of bonds, described in division (B)(1)(b) of that section.

(E) For the purpose of paying the costs of acquiring, constructing, equipping, and improving a municipal educational and cultural facility, including debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code, and for any additional purposes determined by the county in the resolution levying the tax or amendments to the resolution, including subsequent amendments providing for paying costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, as defined in section 307.674 of the Revised Code, and including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, the

legislative authority of a county, by resolution adopted within 79842
ninety days after June 30, 1993, by a majority of the members of 79843
the legislative authority, may levy an additional excise tax not 79844
to exceed one and one-half per cent on transactions by which 79845
lodging by a hotel is or is to be furnished to transient guests. 79846
The excise tax authorized by this division shall be in addition to 79847
any tax that is levied pursuant to divisions (A), (B), (C), and 79848
(D) of this section, to any excise tax levied pursuant to section 79849
5739.08 of the Revised Code, and to any excise tax levied pursuant 79850
to section 351.021 of the Revised Code. The legislative authority 79851
of the county shall establish all regulations necessary to provide 79852
for the administration and allocation of the tax. The regulations 79853
may prescribe the time for payment of the tax, and may provide for 79854
the imposition of a penalty or interest, or both, for late 79855
payments, provided that the penalty does not exceed ten per cent 79856
of the amount of tax due, and the rate at which interest accrues 79857
does not exceed the rate per annum prescribed pursuant to section 79858
5703.47 of the Revised Code. All revenues arising from the tax 79859
shall be expended in accordance with section 307.672 of the 79860
Revised Code and this division. The levy of a tax imposed under 79861
this division shall not commence prior to the first day of the 79862
month next following the execution of the cooperative agreement 79863
authorized by section 307.672 of the Revised Code by all parties 79864
to that agreement. The tax shall remain in effect at the rate at 79865
which it is imposed for the period of time determined by the 79866
legislative authority of the county, but not to exceed fifteen 79867
years. 79868

(F) The legislative authority of a county that has levied a 79869
tax under division (E) of this section may, by resolution adopted 79870
within one hundred eighty days after January 4, 2001, by a 79871
majority of the members of the legislative authority, amend the 79872
resolution levying a tax under that division to provide for the 79873
use of the proceeds of that tax, to the extent that it is no 79874

longer needed for its original purpose as determined by the 79875
parties to a cooperative agreement amendment pursuant to division 79876
(D) of section 307.672 of the Revised Code, to pay costs of 79877
acquiring, constructing, renovating, rehabilitating, equipping, 79878
and improving a port authority educational and cultural performing 79879
arts facility, including debt service charges on bonds provided 79880
for in division (B) of section 307.674 of the Revised Code, and to 79881
pay all obligations under any guaranty agreements, reimbursement 79882
agreements, or other credit enhancement agreements described in 79883
division (C) of section 307.674 of the Revised Code. The 79884
resolution may also provide for the extension of the tax at the 79885
same rate for the longer of the period of time determined by the 79886
legislative authority of the county, but not to exceed an 79887
additional twenty-five years, or the period of time required to 79888
pay all debt service charges on bonds provided for in division (B) 79889
of section 307.672 of the Revised Code and on port authority 79890
revenue bonds provided for in division (B) of section 307.674 of 79891
the Revised Code. All revenues arising from the amendment and 79892
extension of the tax shall be expended in accordance with section 79893
307.674 of the Revised Code, this division, and division (E) of 79894
this section. 79895

(G) For purposes of a tax levied by a county, township, or 79896
municipal corporation under this section or section 5739.08 of the 79897
Revised Code, a board of county commissioners, board of township 79898
trustees, or the legislative authority of a municipal corporation 79899
may adopt a resolution or ordinance at any time specifying that 79900
"hotel," as otherwise defined in section 5739.01 of the Revised 79901
Code, includes establishments in which fewer than five rooms are 79902
used for the accommodation of guests. The resolution or ordinance 79903
may apply to a tax imposed pursuant to this section prior to the 79904
adoption of the resolution or ordinance if the resolution or 79905
ordinance so states, but the tax shall not apply to transactions 79906
by which lodging by such an establishment is provided to transient 79907

guests prior to the adoption of the resolution or ordinance. 79908

(H)(1) As used in this division: 79909

(a) "Convention facilities authority" has the same meaning as 79910
in section 351.01 of the Revised Code. 79911

(b) "Convention center" has the same meaning as in section 79912
307.695 of the Revised Code. 79913

(2) Notwithstanding any contrary provision of division (D) of 79914
this section, the legislative authority of a county with a 79915
population of one million or more according to the most recent 79916
federal decennial census that has levied a tax under division (D) 79917
of this section may, by resolution adopted by a majority of the 79918
members of the legislative authority, provide for the extension of 79919
such levy and may provide that the proceeds of that tax, to the 79920
extent that they are no longer needed for their original purpose 79921
as defined by a cooperative agreement entered into under section 79922
307.671 of the Revised Code, shall be deposited into the county 79923
general revenue fund. The resolution shall provide for the 79924
extension of the tax at a rate not to exceed the rate specified in 79925
division (D) of this section for a period of time determined by 79926
the legislative authority of the county, but not to exceed an 79927
additional forty years. 79928

(3) The legislative authority of a county with a population 79929
of one million or more that has levied a tax under division (A)(1) 79930
of this section may, by resolution adopted by a majority of the 79931
members of the legislative authority, increase the rate of the tax 79932
levied by such county under division (A)(1) of this section to a 79933
rate not to exceed five per cent on transactions by which lodging 79934
by a hotel is or is to be furnished to transient guests. 79935
Notwithstanding any contrary provision of division (A)(1) of this 79936
section, the resolution may provide that all collections resulting 79937
from the rate levied in excess of three per cent, after deducting 79938

the real and actual costs of administering the tax, shall be 79939
deposited in the county general fund. 79940

(4) The legislative authority of a county with a population 79941
of one million or more that has levied a tax under division (A)(1) 79942
of this section may, by resolution adopted on or before August 30, 79943
2004, by a majority of the members of the legislative authority, 79944
provide that all or a portion of the proceeds of the tax levied 79945
under division (A)(1) of this section, after deducting the real 79946
and actual costs of administering the tax and the amounts required 79947
to be returned to townships and municipal corporations with 79948
respect to the first three per cent levied under division (A)(1) 79949
of this section, shall be deposited in the county general fund, 79950
provided that such proceeds shall be used to satisfy any pledges 79951
made in connection with an agreement entered into under section 79952
307.695 of the Revised Code. 79953

(5) No amount collected from a tax levied, extended, or 79954
required to be deposited in the county general fund under division 79955
(H) of this section shall be contributed to a convention 79956
facilities authority, corporation, or other entity created after 79957
July 1, 2003, for the principal purpose of constructing, 79958
improving, expanding, equipping, financing, or operating a 79959
convention center unless the mayor of the municipal corporation in 79960
which the convention center is to be operated by that convention 79961
facilities authority, corporation, or other entity has consented 79962
to the creation of that convention facilities authority, 79963
corporation, or entity. Notwithstanding any contrary provision of 79964
section 351.04 of the Revised Code, if a tax is levied by a county 79965
under division (H) of this section, the board of county 79966
commissioners of that county may determine the manner of 79967
selection, the qualifications, the number, and terms of office of 79968
the members of the board of directors of any convention facilities 79969
authority, corporation, or other entity described in division 79970

(H)(5) of this section. 79971

(6)(a) No amount collected from a tax levied, extended, or 79972
required to be deposited in the county general fund under division 79973
(H) of this section may be used for any purpose other than paying 79974
the direct and indirect costs of constructing, improving, 79975
expanding, equipping, financing, or operating a convention center 79976
and for the real and actual costs of administering the tax, 79977
unless, prior to the adoption of the resolution of the legislative 79978
authority of the county authorizing the levy, extension, increase, 79979
or deposit, the county and the mayor of the most populous 79980
municipal corporation in that county have entered into an 79981
agreement as to the use of such amounts, provided that such 79982
agreement has been approved by a majority of the mayors of the 79983
other municipal corporations in that county. The agreement shall 79984
provide that the amounts to be used for purposes other than paying 79985
the convention center or administrative costs described in 79986
division (H)(6)(a) of this section be used only for the direct and 79987
indirect costs of capital improvements, including the financing of 79988
capital improvements. 79989

(b) If the county in which the tax is levied has an 79990
association of mayors and city managers, the approval of that 79991
association of an agreement described in division (H)(6)(a) of 79992
this section shall be considered to be the approval of the 79993
majority of the mayors of the other municipal corporations for 79994
purposes of that division. 79995

(7) Each year, the auditor of state shall conduct an audit of 79996
the uses of any amounts collected from taxes levied, extended, or 79997
deposited under division (H) of this section and shall prepare a 79998
report of the auditor of state's findings. The auditor of state 79999
shall submit the report to the legislative authority of the county 80000
that has levied, extended, or deposited the tax, the speaker of 80001
the house of representatives, the president of the senate, and the 80002

leaders of the minority parties of the house of representatives 80003
and the senate. 80004

(I)(1) As used in this division: 80005

(a) "Convention facilities authority" has the same meaning as 80006
in section 351.01 of the Revised Code. 80007

(b) "Convention center" has the same meaning as in section 80008
307.695 of the Revised Code. 80009

(2) Notwithstanding any contrary provision of division (D) of 80010
this section, the legislative authority of a county with a 80011
population of one million two hundred thousand or more according 80012
to the most recent federal decennial census or the most recent 80013
annual population estimate published or released by the United 80014
States census bureau at the time the resolution is adopted placing 80015
the levy on the ballot, that has levied a tax under division (D) 80016
of this section may, by resolution adopted by a majority of the 80017
members of the legislative authority, provide for the extension of 80018
such levy and may provide that the proceeds of that tax, to the 80019
extent that the proceeds are no longer needed for their original 80020
purpose as defined by a cooperative agreement entered into under 80021
section 307.671 of the Revised Code and after deducting the real 80022
and actual costs of administering the tax, shall be used for 80023
paying the direct and indirect costs of constructing, improving, 80024
expanding, equipping, financing, or operating a convention center. 80025
The resolution shall provide for the extension of the tax at a 80026
rate not to exceed the rate specified in division (D) of this 80027
section for a period of time determined by the legislative 80028
authority of the county, but not to exceed an additional forty 80029
years. 80030

(3) The legislative authority of a county with a population 80031
of one million two hundred thousand or more that has levied a tax 80032
under division (A)(1) of this section may, by resolution adopted 80033

by a majority of the members of the legislative authority, 80034
increase the rate of the tax levied by such county under division 80035
(A)(1) of this section to a rate not to exceed five per cent on 80036
transactions by which lodging by a hotel is or is to be furnished 80037
to transient guests. Notwithstanding any contrary provision of 80038
division (A)(1) of this section, the resolution shall provide that 80039
all collections resulting from the rate levied in excess of three 80040
per cent, after deducting the real and actual costs of 80041
administering the tax, shall be used for paying the direct and 80042
indirect costs of constructing, improving, expanding, equipping, 80043
financing, or operating a convention center. 80044

(4) The legislative authority of a county with a population 80045
of one million two hundred thousand or more that has levied a tax 80046
under division (A)(1) of this section may, by resolution adopted 80047
on or before July 1, 2008, by a majority of the members of the 80048
legislative authority, provide that all or a portion of the 80049
proceeds of the tax levied under division (A)(1) of this section, 80050
after deducting the real and actual costs of administering the tax 80051
and the amounts required to be returned to townships and municipal 80052
corporations with respect to the first three per cent levied under 80053
division (A)(1) of this section, shall be used to satisfy any 80054
pledges made in connection with an agreement entered into under 80055
section 307.695 of the Revised Code or shall otherwise be used for 80056
paying the direct and indirect costs of constructing, improving, 80057
expanding, equipping, financing, or operating a convention center. 80058

(5) Any amount collected from a tax levied or extended under 80059
division (I) of this section may be contributed to a convention 80060
facilities authority created before July 1, 2005, but no amount 80061
collected from a tax levied or extended under division (I) of this 80062
section may be contributed to a convention facilities authority, 80063
corporation, or other entity created after July 1, 2005, unless 80064
the mayor of the municipal corporation in which the convention 80065

center is to be operated by that convention facilities authority, 80066
corporation. Or other entity has consented to the creation of that 80067
convention facilities authority, corporation, or entity. 80068

Sec. 5739.10. (A) In addition to the tax levied by section 80069
5739.02 of the Revised Code and any tax levied pursuant to section 80070
5739.021, 5739.023, or 5739.026 of the Revised Code, and to secure 80071
the same objectives specified in those sections, there is hereby 80072
levied upon the privilege of engaging in the business of making 80073
retail sales, an excise tax ~~of six per cent on and after July 1,~~ 80074
~~2003, and on and before June 30, 2005, and an excise tax of five~~ 80075
~~per cent on and after July 1, 2005~~ equal to the tax levied by 80076
section 5739.02 of the Revised Code, or, in the case of retail 80077
sales subject to a tax levied pursuant to section 5739.021, 80078
5739.023, or 5739.026 of the Revised Code, a percentage equal to 80079
the aggregate rate of such taxes and the tax levied by section 80080
5739.02 of the Revised Code of the receipts derived from all 80081
retail sales, except those to which the excise tax imposed by 80082
section 5739.02 of the Revised Code is made inapplicable by 80083
division (B) of that section. 80084

(B) For the purpose of this section, no vendor shall be 80085
required to maintain records of sales of food for human 80086
consumption off the premises where sold, and no assessment shall 80087
be made against any vendor for sales of food for human consumption 80088
off the premises where sold, solely because the vendor has no 80089
records of, or has inadequate records of, such sales; provided 80090
that where a vendor does not have adequate records of receipts 80091
from the vendor's sales of food for human consumption on the 80092
premises where sold, the tax commissioner may refuse to accept the 80093
vendor's return and, upon the basis of test checks of the vendor's 80094
business for a representative period, and other information 80095
relating to the sales made by such vendor, determine the 80096
proportion that taxable retail sales bear to all of the vendor's 80097

retail sales. The tax imposed by this section shall be determined 80098
by deducting from the sum representing five and one-half or six 80099
per cent, as applicable under division (A) of this section, or, in 80100
the case of retail sales subject to a tax levied pursuant to 80101
section 5739.021, 5739.023, or 5739.026 of the Revised Code, a 80102
percentage equal to the aggregate rate of such taxes and the tax 80103
levied by section 5739.02 of the Revised Code of the receipts from 80104
such retail sales, the amount of tax paid to the state or to a 80105
clerk of a court of common pleas. The section does not affect any 80106
duty of the vendor under sections 5739.01 to 5739.19 and 5739.26 80107
to 5739.31 of the Revised Code, nor the liability of any consumer 80108
to pay any tax imposed by or pursuant to section 5739.02, 80109
5739.021, 5739.023, or 5739.026 of the Revised Code. 80110

Sec. 5739.12. (A) Each person who has or is required to have 80111
a vendor's license, on or before the twenty-third day of each 80112
month, shall make and file a return for the preceding month, on 80113
forms prescribed by the tax commissioner, and shall pay the tax 80114
shown on the return to be due. The commissioner may require a 80115
vendor that operates from multiple locations or has multiple 80116
vendor's licenses to report all tax liabilities on one 80117
consolidated return. The return shall show the amount of tax due 80118
from the vendor to the state for the period covered by the return 80119
and such other information as the commissioner deems necessary for 80120
the proper administration of this chapter. The commissioner may 80121
extend the time for making and filing returns and paying the tax, 80122
and may require that the return for the last month of any annual 80123
or semiannual period, as determined by the commissioner, be a 80124
reconciliation return detailing the vendor's sales activity for 80125
the preceding annual or semiannual period. The reconciliation 80126
return shall be filed by the last day of the month following the 80127
last month of the annual or semiannual period. The commissioner 80128
may remit all or any part of amounts or penalties that may become 80129

due under this chapter and may adopt rules relating thereto. Such 80130
return shall be filed by mailing it to the tax commissioner, 80131
together with payment of the amount of tax shown to be due thereon 80132
after deduction of any discount provided for under this section. 80133
Remittance shall be made payable to the treasurer of state. The 80134
return shall be considered filed when received by the tax 80135
commissioner, and the payment shall be considered made when 80136
received by the tax commissioner or when credited to an account 80137
designated by the treasurer of state or the tax commissioner. 80138

(B) If the return is filed and the amount of tax shown 80139
thereon to be due is paid on or before the date such return is 80140
required to be filed, the vendor shall be entitled to the 80141
following discount: 80142

(1) On and after July 1, ~~2003~~ 2005, and on and before June 80143
30, ~~2005~~ 2007, nine-tenths of one per cent of the amount shown to 80144
be due on the return; 80145

(2) On and after July 1, ~~2005~~ 2007, three-fourths of one per 80146
cent of the amount shown to be due on the return. 80147

A vendor that has selected a certified service provider as 80148
its agent shall not be entitled to the discount. Amounts paid to 80149
the clerk of courts pursuant to section 4505.06 of the Revised 80150
Code shall be subject to the applicable discount. The discount 80151
shall be in consideration for prompt payment to the clerk of 80152
courts and for other services performed by the vendor in the 80153
collection of the tax. 80154

(C)(1) Upon application to the commissioner, a vendor who is 80155
required to file monthly returns may be relieved of the 80156
requirement to report and pay the actual tax due, provided that 80157
the vendor agrees to remit to the tax commissioner payment of not 80158
less than an amount determined by the commissioner to be the 80159
average monthly tax liability of the vendor, based upon a review 80160

of the returns or other information pertaining to such vendor for 80161
a period of not less than six months nor more than two years 80162
immediately preceding the filing of the application. Vendors who 80163
agree to the above conditions shall make and file an annual or 80164
semiannual reconciliation return, as prescribed by the 80165
commissioner. The reconciliation return shall be filed by mailing 80166
or delivering it to the tax commissioner, together with payment of 80167
the amount of tax shown to be due thereon after deduction of any 80168
discount provided in this section. Remittance shall be made 80169
payable to the treasurer of state. Failure of a vendor to comply 80170
with any of the above conditions may result in immediate 80171
reinstatement of the requirement of reporting and paying the 80172
actual tax liability on each monthly return, and the commissioner 80173
may at the commissioner's discretion deny the vendor the right to 80174
report and pay based upon the average monthly liability for a 80175
period not to exceed two years. The amount ascertained by the 80176
commissioner to be the average monthly tax liability of a vendor 80177
may be adjusted, based upon a review of the returns or other 80178
information pertaining to the vendor for a period of not less than 80179
six months nor more than two years preceding such adjustment. 80180

(2) The commissioner may authorize vendors whose tax 80181
liability is not such as to merit monthly returns, as ascertained 80182
by the commissioner upon the basis of administrative costs to the 80183
state, to make and file returns at less frequent intervals. When 80184
returns are filed at less frequent intervals in accordance with 80185
such authorization, the vendor shall be allowed the discount 80186
provided in this section in consideration for prompt payment with 80187
the return, provided the return is filed together with payment of 80188
the amount of tax shown to be due thereon, at the time specified 80189
by the commissioner, but a vendor that has selected a certified 80190
service provider as its agent shall not be entitled to the 80191
discount. 80192

(D) Any vendor who fails to file a return or pay the full amount of the tax shown on the return to be due under this section and the rules of the commissioner may, for each such return the vendor fails to file or each such tax the vendor fails to pay in full as shown on the return within the period prescribed by this section and the rules of the commissioner, be required to forfeit and pay into the state treasury an additional charge not exceeding fifty dollars or ten per cent of the tax required to be paid for the reporting period, whichever is greater, as revenue arising from the tax imposed by this chapter, and such sum may be collected by assessment in the manner provided in section 5739.13 of the Revised Code. The commissioner may remit all or a portion of the additional charge and may adopt rules relating to the imposition and remission of the additional charge.

(E) If the amount required to be collected by a vendor from consumers is in excess of the applicable percentage of the vendor's receipts from sales that are taxable under section 5739.02 of the Revised Code, or in the case of sales subject to a tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, in excess of the percentage equal to the aggregate rate of such taxes and the tax levied by section 5739.02 of the Revised Code, such excess shall be remitted along with the remittance of the amount of tax due under section 5739.10 of the Revised Code.

(F) The commissioner, if the commissioner deems it necessary in order to insure the payment of the tax imposed by this chapter, may require returns and payments to be made for other than monthly periods. The returns shall be signed by the vendor or the vendor's authorized agent.

(G) Any vendor required to file a return and pay the tax under this section, whose total payment equals or exceeds the amount shown in division (A) of section 5739.122 of the Revised

Code, shall make each payment required by this section in the 80225
second ensuing and each succeeding year by electronic funds 80226
transfer as prescribed by, and on or before the dates specified 80227
in, section 5739.122 of the Revised Code, except as otherwise 80228
prescribed by that section. For a vendor that operates from 80229
multiple locations or has multiple vendor's licenses, in 80230
determining whether the vendor's total payment equals or exceeds 80231
the amount shown in division (A) of that section, the vendor's 80232
total payment amount shall be the amount of the vendor's total tax 80233
liability for the previous calendar year for all of the vendor's 80234
locations or licenses. 80235

Sec. 5739.16. (A) ~~No~~ Except as otherwise provided in this 80236
section, no assessment shall be made or issued against a vendor or 80237
consumer for any tax imposed by or pursuant to section 5739.02, 80238
5739.021, 5739.023, 5739.026, or 5739.10 of the Revised Code more 80239
than four years after the return date for the period in which the 80240
sale or purchase was made, or more than four years after the 80241
return for such period is filed, whichever is later. A consumer 80242
who provides a fully completed exemption certificate pursuant to 80243
division (B) of section 5739.03 of the Revised Code may be 80244
assessed any tax imposed by or pursuant to section 5739.02, 80245
5739.021, 5739.023, or 5739.026 of the Revised Code that results 80246
from denial of the claimed exemption within the later of a period 80247
otherwise allowed by this section or one year after the date the 80248
certificate was provided. This division does not bar an 80249
assessment: 80250

(1) When the tax commissioner has substantial evidence of 80251
amounts of taxes collected by a vendor from consumers on retail 80252
sales, which were not returned to the state; 80253

(2) When the vendor assessed failed to file a return as 80254
required by section 5739.12 of the Revised Code; 80255

(3) When the vendor or consumer and the commissioner waive in writing the time limitation. 80256
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(B) No assessment shall be made or issued against a vendor or consumer for any tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, 5739.026, or 5739.10 of the Revised Code for any period during which there was in full force and effect a rule of the tax commissioner under or by virtue of which the collection or payment of any such tax was not required. This division does not bar an assessment when the tax commissioner has substantial evidence of amounts of taxes collected by a vendor from consumers on retail sales which were not returned to the state. 80258
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(C) No assessment shall be made or issued against a person for any tax imposed pursuant to section 5739.101 of the Revised Code more than four years after the return date for the period in which the tax is imposed on the person's gross receipts, or more than four years after the return for such period is filed, whichever is later. This division does not bar an assessment when the person assessed failed to file a return as required under section 5739.102 of the Revised Code, or when the person and the commissioner waive in writing the time limitation. 80267
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Sec. 5739.17. (A) No person shall engage in making retail sales subject to a tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code as a business without having a license therefor, except as otherwise provided in divisions (A)(1), (2), and (3) of this section. 80276
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(1) In the dissolution of a partnership by death, the surviving partner may operate under the license of the partnership for a period of sixty days. 80281
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(2) The heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy, appointed by any competent authority, may operate under the license of the person 80284
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so succeeded in possession. 80287

(3) Two or more persons who are not partners may operate a 80288
single place of business under one license. In such case neither 80289
the retirement of any such person from business at that place of 80290
business, nor the entrance of any person, under an existing 80291
arrangement, shall affect the license or require the issuance of a 80292
new license, unless the person retiring from the business is the 80293
individual named on the vendor's license. 80294

Except as otherwise provided in this section, each applicant 80295
for a license shall make out and deliver to the county auditor of 80296
each county in which the applicant desires to engage in business, 80297
upon a blank to be furnished by such auditor for that purpose, a 80298
statement showing the name of the applicant, each place of 80299
business in the county where the applicant will make retail sales, 80300
the nature of the business, and any other information the tax 80301
commissioner reasonably prescribes in the form of a statement 80302
prescribed by the commissioner. 80303

At the time of making the application, the applicant shall 80304
pay into the county treasury a license fee in the sum of 80305
twenty-five dollars for each fixed place of business in the county 80306
that will be the situs of retail sales. Upon receipt of the 80307
application and exhibition of the county treasurer's receipt, 80308
showing the payment of the license fee, the county auditor shall 80309
issue to the applicant a license for each fixed place of business 80310
designated in the application, authorizing the applicant to engage 80311
in business at that location. If a vendor's identity changes, the 80312
vendor shall apply for a new license. If a vendor wishes to move 80313
an existing fixed place of business to a new location within the 80314
same county, the vendor shall obtain a new vendor's license or 80315
submit a request to the tax commissioner to transfer the existing 80316
vendor's license to the new location. When the new location has 80317
been verified as being within the same county, the commissioner 80318

shall authorize the transfer and notify the county auditor of the 80319
change of location. If a vendor wishes to move an existing fixed 80320
place of business to another county, the vendor's license shall 80321
not transfer and the vendor shall obtain a new vendor's license 80322
from the county in which the business is to be located. The form 80323
of the license shall be prescribed by the commissioner. The fees 80324
collected shall be credited to the general fund of the county. 80325

The tax commissioner may establish or participate in a 80326
registration system whereby any vendor may obtain a vendor's 80327
license by submitting to the commissioner a vendor's license 80328
application and a license fee of twenty-five dollars for each 80329
fixed place of business at which the vendor intends to make retail 80330
sales. Under this registration system, the commissioner shall 80331
issue a vendor's license to the applicant on behalf of the county 80332
auditor of the county in which the applicant desires to engage in 80333
business, and shall forward a copy of the application and license 80334
fee to that county. All such license fees received by the 80335
commissioner for the issuance of vendor's licenses shall be 80336
deposited into the vendor's license application fund, which is 80337
hereby created in the state treasury. The commissioner shall 80338
certify to the director of budget and management within ten 80339
business days after the close of a month the license fees to be 80340
transmitted to each county from the vendor's license application 80341
fund for vendor's license applications received by the 80342
commissioner during that month. License fees transmitted to a 80343
county for which payment was not received by the commissioner may 80344
be netted against a future distribution to that county, including 80345
distributions made pursuant to section 5739.21 of the Revised 80346
Code. 80347

A vendor that makes retail sales subject to tax under Chapter 80348
5739. of the Revised Code pursuant to a permit issued by the 80349
division of liquor control shall obtain a vendor's license in the 80350

identical name and for the identical address as shown on the 80351
permit. 80352

Except as otherwise provided in this section, if a vendor has 80353
no fixed place of business and sells from a vehicle, each vehicle 80354
intended to be used within a county constitutes a place of 80355
business for the purpose of this section. 80356

(B) As used in this division, "transient vendor" means any 80357
person who makes sales of tangible personal property from vending 80358
machines located on land owned by others, who leases titled motor 80359
vehicles, titled watercraft, or titled outboard motors, who 80360
effectuates leases that are taxed according to division (A)(2) of 80361
section 5739.02 of the Revised Code, or who, in the usual course 80362
of the person's business, transports inventory, stock of goods, or 80363
similar tangible personal property to a temporary place of 80364
business or temporary exhibition, show, fair, flea market, or 80365
similar event in a county in which the person has no fixed place 80366
of business, for the purpose of making retail sales of such 80367
property. A "temporary place of business" means any public or 80368
quasi-public place including, but not limited to, a hotel, rooming 80369
house, storeroom, building, part of a building, tent, vacant lot, 80370
railroad car, or motor vehicle that is temporarily occupied for 80371
the purpose of making retail sales of goods to the public. A place 80372
of business is not temporary if the same person conducted business 80373
at the place continuously for more than six months or occupied the 80374
premises as the person's permanent residence for more than six 80375
months, or if the person intends it to be a fixed place of 80376
business. 80377

Any transient vendor, in lieu of obtaining a vendor's license 80378
under division (A) of this section for counties in which the 80379
transient vendor has no fixed place of business, may apply to the 80380
tax commissioner, on a form prescribed by the commissioner, for a 80381
transient vendor's license. The transient vendor's license 80382

authorizes the transient vendor to make retail sales in any county 80383
in which the transient vendor does not maintain a fixed place of 80384
business. Any holder of a transient vendor's license shall not be 80385
required to obtain a separate vendor's license from the county 80386
auditor in that county. Upon the commissioner's determination that 80387
an applicant is a transient vendor, the applicant shall pay a 80388
license fee in the amount of twenty-five dollars, at which time 80389
the tax commissioner shall issue the license. The tax commissioner 80390
may require a vendor to be licensed as a transient vendor if, in 80391
the opinion of the commissioner, such licensing is necessary for 80392
the efficient administration of the tax. 80393

Any holder of a valid transient vendor's license may make 80394
retail sales at a temporary place of business or temporary 80395
exhibition, show, fair, flea market, or similar event, held 80396
anywhere in the state without complying with any provision of 80397
section 311.37 of the Revised Code. Any holder of a valid vendor's 80398
license may make retail sales as a transient vendor at a temporary 80399
place of business or temporary exhibition, show, fair, flea 80400
market, or similar event held in any county in which the vendor 80401
maintains a fixed place of business for which the vendor holds a 80402
vendor's license without obtaining a transient vendor's license. 80403

(C) As used in this division, "service vendor" means any 80404
person who, in the usual course of the person's business, sells 80405
services described in division (B)(3)(e), (f), (g), (h), (i), (j), 80406
(k), (l), (m), ~~(q)~~(p), or ~~(u)~~(t) of section 5739.01 of the Revised 80407
Code. 80408

Every service vendor shall make application to the tax 80409
commissioner for a service vendor's license. Each applicant shall 80410
pay a license fee in the amount of twenty-five dollars. Upon the 80411
commissioner's determination that an applicant is a service vendor 80412
and payment of the fee, the commissioner shall issue the applicant 80413
a service vendor's license. 80414

Only sales described in division (B)(3)(e), (f), (g), (h), 80415
(i), (j), (k), (l), (m), ~~(q)~~(p), or ~~(u)~~(t) of section 5739.01 of 80416
the Revised Code may be made under authority of a service vendor's 80417
license, and that license authorizes sales to be made at any place 80418
in this state. Any service vendor who makes sales of other 80419
services or tangible personal property subject to the sales tax 80420
also shall be licensed under division (A), (B), or (D) of this 80421
section. 80422

(D) As used in this division, "delivery vendor" means any 80423
vendor who engages in one or more of the activities described in 80424
divisions (D)(1) to (4) of this section, and who maintains no 80425
store, showroom, or similar fixed place of business or other 80426
location where merchandise regularly is offered for sale or 80427
displayed or shown in catalogs for selection or pick-up by 80428
consumers, or where consumers bring goods for repair or other 80429
service. 80430

(1) The vendor makes retail sales of tangible personal 80431
property; 80432

(2) The vendor rents or leases, at retail, tangible personal 80433
property, except titled motor vehicles, titled watercraft, or 80434
titled outboard motors; 80435

(3) The vendor provides a service, at retail, described in 80436
division (B)(3)(a), (b), (c), or (d) of section 5739.01 of the 80437
Revised Code; or 80438

(4) The vendor makes retail sales of warranty, maintenance or 80439
service contracts, or similar agreements as described in division 80440
(B)(7) of section 5739.01 of the Revised Code. 80441

A transient vendor or a seller registered pursuant to section 80442
5741.17 of the Revised Code is not a delivery vendor. 80443

Delivery vendors shall apply to the tax commissioner, on a 80444
form prescribed by the commissioner, for a delivery vendor's 80445

license. Each applicant shall pay a license fee of twenty-five 80446
dollars for each delivery vendor's license, to be credited to the 80447
general revenue fund. Upon the commissioner's determination that 80448
the applicant is a delivery vendor, the commissioner shall issue 80449
the license. A delivery vendor's license authorizes retail sales 80450
to be made throughout the state. All sales of the vendor must be 80451
reported under the delivery license. The commissioner may require 80452
a vendor to be licensed as a delivery vendor if, in the opinion of 80453
the commissioner, such licensing is necessary for the efficient 80454
administration of the tax. The commissioner shall not issue a 80455
delivery vendor license to a vendor who holds a license issued 80456
under division (A) of this section. 80457

(E) Any transient vendor who is issued a license pursuant to 80458
this section shall display the license or a copy of it 80459
prominently, in plain view, at every place of business of the 80460
transient vendor. Every owner, organizer, or promoter who operates 80461
a fair, flea market, show, exhibition, convention, or similar 80462
event at which transient vendors are present shall keep a 80463
comprehensive record of all such vendors, listing the vendor's 80464
name, permanent address, vendor's license number, and the type of 80465
goods sold. Such records shall be kept for four years and shall be 80466
open to inspection by the tax commissioner. 80467

Sec. 5739.36. (A) For the purpose of tracking the growth and 80468
overall economic impact of the travel and tourism industry in this 80469
state, the tax commissioner shall prepare a report summarizing the 80470
amount of tax revenue collected during each semiannual period 80471
ending on the last day of June or December, annually. The 80472
commissioner shall prepare the report by industry classification 80473
using business activity codes. The report shall include the 80474
combined total statewide collections from the taxes levied under 80475
sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 80476
5741.022, and 5741.023 of the Revised Code as reported by 80477

taxpayers with respect to collections during the semiannual 80478
period. The report shall reflect all industries included in the 80479
industrial classification system used by the commissioner the 80480
activities of which relate in any way to travel and tourism, 80481
including, but not limited to, industries such as bars and 80482
restaurants; hotels, motels, and other lodging establishments; and 80483
other industries related to travel and tourism. The first report 80484
shall be for the semiannual period ending December 31, 2005. 80485

(B) The tax commissioner shall file a copy of the report 80486
required under this section with the governor, the president of 80487
the senate, the speaker of the house of representatives, and the 80488
legislative service commission. The reports shall be filed on or 80489
before the first day of May or November, annually, that 80490
immediately follows the semiannual period to which the report 80491
relates. A copy of the commissioner's most recent report shall be 80492
made available to the public through the department of taxation's 80493
official internet web site. 80494

(C) The commissioner shall adopt rules that are necessary to 80495
administer this section. 80496

Sec. 5741.02. (A)(1) For the use of the general revenue fund 80497
of the state, an excise tax is hereby levied on the storage, use, 80498
or other consumption in this state of tangible personal property 80499
or the benefit realized in this state of any service provided. The 80500
tax shall be collected as provided in section 5739.025 of the 80501
Revised Code, provided that on and after July 1, 2003, and on or 80502
before June 30, 2005, the rate of the tax shall be six per cent. 80503
On and after July 1, 2005, the rate of the tax shall be five and 80504
one-half per cent. 80505

(2) In the case of the lease or rental, with a fixed term of 80506
more than thirty days or an indefinite term with a minimum period 80507
of more than thirty days, of any motor vehicles designed by the 80508

manufacturer to carry a load of not more than one ton, watercraft, 80509
outboard motor, or aircraft, or of any tangible personal property, 80510
other than motor vehicles designed by the manufacturer to carry a 80511
load of more than one ton, to be used by the lessee or renter 80512
primarily for business purposes, the tax shall be collected by the 80513
seller at the time the lease or rental is consummated and shall be 80514
calculated by the seller on the basis of the total amount to be 80515
paid by the lessee or renter under the lease or rental agreement. 80516
If the total amount of the consideration for the lease or rental 80517
includes amounts that are not calculated at the time the lease or 80518
rental is executed, the tax shall be calculated and collected by 80519
the seller at the time such amounts are billed to the lessee or 80520
renter. In the case of an open-end lease or rental, the tax shall 80521
be calculated by the seller on the basis of the total amount to be 80522
paid during the initial fixed term of the lease or rental, and for 80523
each subsequent renewal period as it comes due. As used in this 80524
division, "motor vehicle" has the same meaning as in section 80525
4501.01 of the Revised Code, and "watercraft" includes an outdrive 80526
unit attached to the watercraft. 80527

(3) Except as provided in division (A)(2) of this section, in 80528
the case of a transaction, the price of which consists in whole or 80529
part of the lease or rental of tangible personal property, the tax 80530
shall be measured by the installments of those leases or rentals. 80531

(B) Each consumer, storing, using, or otherwise consuming in 80532
this state tangible personal property or realizing in this state 80533
the benefit of any service provided, shall be liable for the tax, 80534
and such liability shall not be extinguished until the tax has 80535
been paid to this state; provided, that the consumer shall be 80536
relieved from further liability for the tax if the tax has been 80537
paid to a seller in accordance with section 5741.04 of the Revised 80538
Code or prepaid by the seller in accordance with section 5741.06 80539
of the Revised Code. 80540

(C) The tax does not apply to the storage, use, or 80541
consumption in this state of the following described tangible 80542
personal property or services, nor to the storage, use, or 80543
consumption or benefit in this state of tangible personal property 80544
or services purchased under the following described circumstances: 80545

(1) When the sale of property or service in this state is 80546
subject to the excise tax imposed by sections 5739.01 to 5739.31 80547
of the Revised Code, provided said tax has been paid; 80548

(2) Except as provided in division (D) of this section, 80549
tangible personal property or services, the acquisition of which, 80550
if made in Ohio, would be a sale not subject to the tax imposed by 80551
sections 5739.01 to 5739.31 of the Revised Code; 80552

(3) Property or services, the storage, use, or other 80553
consumption of or benefit from which this state is prohibited from 80554
taxing by the Constitution of the United States, laws of the 80555
United States, or the Constitution of this state. This exemption 80556
shall not exempt from the application of the tax imposed by this 80557
section the storage, use, or consumption of tangible personal 80558
property that was purchased in interstate commerce, but that has 80559
come to rest in this state, provided that fuel to be used or 80560
transported in carrying on interstate commerce that is stopped 80561
within this state pending transfer from one conveyance to another 80562
is exempt from the excise tax imposed by this section and section 80563
5739.02 of the Revised Code; 80564

(4) Transient use of tangible personal property in this state 80565
by a nonresident tourist or vacationer, or a non-business use 80566
within this state by a nonresident of this state, if the property 80567
so used was purchased outside this state for use outside this 80568
state and is not required to be registered or licensed under the 80569
laws of this state; 80570

(5) Tangible personal property or services rendered, upon 80571

which taxes have been paid to another jurisdiction to the extent 80572
of the amount of the tax paid to such other jurisdiction. Where 80573
the amount of the tax imposed by this section and imposed pursuant 80574
to section 5741.021, 5741.022, or 5741.023 of the Revised Code 80575
exceeds the amount paid to another jurisdiction, the difference 80576
shall be allocated between the tax imposed by this section and any 80577
tax imposed by a county or a transit authority pursuant to section 80578
5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion 80579
to the respective rates of such taxes. 80580

As used in this subdivision, "taxes paid to another 80581
jurisdiction" means the total amount of retail sales or use tax or 80582
similar tax based upon the sale, purchase, or use of tangible 80583
personal property or services rendered legally, levied by and paid 80584
to another state or political subdivision thereof, or to the 80585
District of Columbia, where the payment of such tax does not 80586
entitle the taxpayer to any refund or credit for such payment. 80587

(6) The transfer of a used manufactured home or used mobile 80588
home, as defined by section 5739.0210 of the Revised Code, made on 80589
or after January 1, 2000; 80590

(7) Drugs that are or are intended to be distributed free of 80591
charge to a practitioner licensed to prescribe, dispense, and 80592
administer drugs to a human being in the course of a professional 80593
practice and that by law may be dispensed only by or upon the 80594
order of such a practitioner. 80595

(8) Computer equipment and related software leased from a 80596
lessor located outside this state and initially received in this 80597
state on behalf of the consumer by a third party that will retain 80598
possession of such property for not more than ninety days and that 80599
will, within that ninety-day period, deliver such property to the 80600
consumer at a location outside this state. Division (C)(8) of this 80601
section does not provide exemption from taxation for any otherwise 80602
taxable charges associated with such property while it is in this 80603

state or for any subsequent storage, use, or consumption of such 80604
property in this state by or on behalf of the consumer. 80605

(9) Cigarettes that have a wholesale value of three hundred 80606
dollars or less used, stored, or consumed, but not for resale, in 80607
any month. 80608

(D) The tax applies to the storage, use, or other consumption 80609
in this state of tangible personal property or services, the 80610
acquisition of which at the time of sale was excepted under 80611
division (E) of section 5739.01 of the Revised Code from the tax 80612
imposed by section 5739.02 of the Revised Code, but which has 80613
subsequently been temporarily or permanently stored, used, or 80614
otherwise consumed in a taxable manner. 80615

(E)(1)(a) If any transaction is claimed to be exempt under 80616
division (E) of section 5739.01 of the Revised Code or under 80617
section 5739.02 of the Revised Code, with the exception of 80618
divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised 80619
Code, the consumer shall provide to the seller, and the seller 80620
shall obtain from the consumer, a certificate specifying the 80621
reason that the transaction is not subject to the tax. The 80622
certificate shall be in such form, and shall be provided either in 80623
a hard copy form or electronic form, as ~~prescribed by the tax~~ 80624
~~commissioner prescribes. If the transaction is claimed to be~~ 80625
~~exempt under division (B)(13) of section 5739.02 of the Revised~~ 80626
~~Code, the exemption certificate shall be provided by both the~~ 80627
~~contractor and contractee. Such contractee shall be deemed to be~~ 80628
~~the consumer of all items purchased under the claim of exemption,~~ 80629
~~if it is subsequently determined that the exemption is not~~ 80630
~~properly claimed. The certificate shall be in such form as the tax~~ 80631
~~commissioner by rule prescribes. The seller shall maintain~~ 80632
~~records, including exemption certificates, of all sales on which a~~ 80633
~~consumer has claimed an exemption, and provide them to the tax~~ 80634
~~commissioner on request.~~ 80635

+2)(b) A seller that obtains a fully completed exemption certificate from a consumer is relieved of liability for collecting and remitting tax on any sale covered by that certificate. If it is determined the exemption was improperly claimed, the consumer shall be liable for any tax due on that sale under this chapter. Relief under this division from liability does not apply to any of the following: 80636
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(i) A seller that fraudulently fails to collect tax; 80643

(ii) A seller that solicits consumers to participate in the unlawful claim of an exemption; 80644
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(iii) A seller that accepts an exemption certificate from a consumer that claims an exemption based on who purchases or who sells property or a service, when the subject of the transaction sought to be covered by the exemption certificate is actually received by the consumer at a location operated by the seller in this state, and this state has posted to its web site an exemption certificate form that clearly and affirmatively indicates that the claimed exemption is not available in this state; 80646
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(iv) A seller that accepts an exemption certificate from a consumer who claims a multiple points of use exemption under division (B) of section 5739.033 of the Revised Code, if the item purchased is tangible personal property, other than prewritten computer software. 80654
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(2) The seller shall maintain records, including exemption certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request. 80659
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(3) If no certificate is provided or obtained within the period for filing the return for the period in ninety days after the date on which the transaction is consummated, it shall be presumed that the tax applies. The failure Failure to have so provided or obtained a certificate shall not preclude a seller or 80662
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~~consumer from establishing, within one hundred twenty days of the~~ 80667
~~giving of after the tax commissioner gives written notice by the~~ 80668
~~commissioner of intention intent to levy an assessment, that from~~ 80669
~~either establishing that the transaction is not subject to the~~ 80670
~~tax, or obtaining, in good faith, a fully completed exemption~~ 80671
~~certificate.~~ 80672

(4) If a transaction is claimed to be exempt under division 80673
(B)(13) of section 5739.02 of the Revised Code, the contractor 80674
shall obtain certification of the claimed exemption from the 80675
contractee. This certification shall be in addition to an 80676
exemption certificate provided by the contractor to the seller. A 80677
contractee that provides a certification under this division shall 80678
be deemed to be the consumer of all items purchased by the 80679
contractor under the claim of exemption, if it is subsequently 80680
determined that the exemption is not properly claimed. The 80681
certification shall be in such form as the tax commissioner 80682
prescribes. 80683

(F) A seller who files a petition for reassessment contesting 80684
the assessment of tax on transactions for which the seller 80685
obtained no valid exemption certificates, and for which the seller 80686
failed to establish that the transactions were not subject to the 80687
tax during the one-hundred-twenty-day period allowed under 80688
division (E) of this section, may present to the tax commissioner 80689
additional evidence to prove that the transactions were exempt. 80690
The seller shall file such evidence within ninety days of the 80691
receipt by the seller of the notice of assessment, except that, 80692
upon application and for reasonable cause, the tax commissioner 80693
may extend the period for submitting such evidence thirty days. 80694

(G) For the purpose of the proper administration of sections 80695
5741.01 to 5741.22 of the Revised Code, and to prevent the evasion 80696
of the tax hereby levied, it shall be presumed that any use, 80697
storage, or other consumption of tangible personal property in 80698

this state is subject to the tax until the contrary is 80699
established. 80700

(H) The tax collected by the seller from the consumer under 80701
this chapter is not part of the price, but is a tax collection for 80702
the benefit of the state, and of counties levying an additional 80703
use tax pursuant to section 5741.021 or 5741.023 of the Revised 80704
Code and of transit authorities levying an additional use tax 80705
pursuant to section 5741.022 of the Revised Code. Except for the 80706
discount authorized under section 5741.12 of the Revised Code and 80707
the effects of any rounding pursuant to section 5703.055 of the 80708
Revised Code, no person other than the state or such a county or 80709
transit authority shall derive any benefit from the collection of 80710
such tax. 80711

Sec. 5741.16. ~~No~~ (A) Except as provided in division (B) or 80712
(C) of this section, no assessment shall be made or issued against 80713
a seller or consumer for any tax imposed by or pursuant to section 80714
5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code more 80715
than four years after the return date for the period in which the 80716
sale or purchase was made, or more than four years after the 80717
return for such period was filed, whichever date is later. ~~This~~ 80718

(B) A consumer who provides a fully completed exemption 80719
certificate pursuant to division (B) of section 5739.03 or 80720
division (E) of section 5741.02 of the Revised Code may be 80721
assessed any tax imposed by or pursuant to section 5741.02, 80722
5741.021, 5741.022, or 5741.023 of the Revised Code that results 80723
from denial of the claimed exemption within the later of a period 80724
allowed by division (A) of this section or one year after the date 80725
the certificate was provided. 80726

(C) This section does not bar an assessment: 80727

~~(A)~~(1) When the tax commissioner has substantial evidence of 80728
amounts of taxes collected by a seller from consumers on 80729

purchases, which were not returned to the state by direct remittance; 80730
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~~(B)~~(2) When the person assessed failed to file a return as required by section 5741.12 of the Revised Code; 80732
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~~(C)~~(3) When the seller or consumer and the commissioner waives waive in writing the time limitation. 80734
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Sec. 5743.01. As used in this chapter: 80736

(A) "Person" includes individuals, firms, partnerships, associations, joint-stock companies, corporations, combinations of individuals of any form, and the state and any of its political subdivisions. 80737
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(B) "Wholesale dealer" includes only those persons: 80741

(1) Who bring in or cause to be brought into this state unstamped cigarettes purchased directly from the manufacturer, producer, or importer of cigarettes for sale in this state but does not include persons who bring in or cause to be brought into this state cigarettes with respect to which no evidence of tax payment is required thereon as provided in section 5743.04 of the Revised Code; or 80742
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(2) Who are engaged in the business of selling cigarettes or tobacco products to others for the purpose of resale. 80749
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"Wholesale dealer" does not include any cigarette manufacturer, export warehouse proprietor, or importer with a valid permit under 26 U.S.C. 5713 if that person sells cigarettes in this state only to wholesale dealers holding valid and current licenses under section 5743.15 of the Revised Code or to an export warehouse proprietor or another manufacturer. 80751
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(C) "Retail dealer" includes: 80757

(1) In reference to dealers in cigarettes, every person other 80758

than a wholesale dealer engaged in the business of selling 80759
cigarettes in this state, irrespective regardless of whether the 80760
person is located in this state or elsewhere, and regardless of 80761
quantity, amount, or number of sales; 80762

(2) In reference to dealers in tobacco products, any person 80763
in this state engaged in the business of selling tobacco products 80764
to ultimate consumers in this state, regardless of quantity, 80765
amount, or number of sales. 80766

(D) "Sale" includes exchange, barter, gift, offer for sale, 80767
and distribution, and ~~excludes~~ includes transactions in interstate 80768
or foreign commerce. 80769

(E) "Cigarettes" includes any roll for smoking made wholly or 80770
in part of tobacco, irrespective of size or shape, and whether or 80771
not such tobacco is flavored, adulterated, or mixed with any other 80772
ingredient, the wrapper or cover of which is made of paper, 80773
reconstituted cigarette tobacco, homogenized cigarette tobacco, 80774
cigarette tobacco sheet, or any similar materials other than cigar 80775
tobacco. 80776

(F) "Package" means the individual package, box, or other 80777
container in or from which retail sales of cigarettes are normally 80778
made or intended to be made. 80779

(G) "Stamp" includes an impression made by a metering device 80780
as provided for in section 5743.04 of the Revised Code. 80781

(H) "Storage" includes any keeping or retention of cigarettes 80782
or tobacco products for use or consumption in this state. 80783

(I) "Use" includes the exercise of any right or power 80784
incidental to the ownership of cigarettes or tobacco products. 80785

(J) "Tobacco product" means any product made from tobacco, 80786
other than cigarettes, that is made for smoking or chewing, or 80787
both, and snuff. 80788

(K) "Wholesale price" means the invoice price, including all federal excise taxes, at which the manufacturer of the tobacco product sells the tobacco product to unaffiliated distributors, excluding any discounts based on the method of payment of the invoice or on time of payment of the invoice. If the taxpayer buys from other than a manufacturer, "wholesale price" means the invoice price, including all federal excise taxes and excluding any discounts based on the method of payment of the invoice or on time of payment of the invoice.

(L) "Distributor" means:

(1) Any manufacturer who sells, barter, exchanges, or distributes tobacco products to a retail dealer in the state, except when selling to a retail dealer that has filed with the manufacturer a signed statement agreeing to pay and be liable for the tax imposed by section 5743.51 of the Revised Code;

(2) Any wholesale dealer located in the state who receives tobacco products from a manufacturer, or who receives tobacco products on which the tax imposed by this chapter has not been paid;

(3) Any wholesale dealer located outside the state who sells, barter, exchanges, or distributes tobacco products to a wholesale or retail dealer in the state; or

(4) Any retail dealer who receives tobacco products on which the tax has not or will not be paid by another distributor, including a retail dealer that has filed a signed statement with a manufacturer in which the retail dealer agrees to pay and be liable for the tax that would otherwise be imposed on the manufacturer by section 5743.51 of the Revised Code.

(M) "Taxpayer" means any person liable for the tax imposed by section 5743.51, 5743.62, or 5743.63 of the Revised Code.

(N) "Seller" means any person located outside this state

engaged in the business of selling tobacco products to consumers 80820
for storage, use, or other consumption in this state. 80821

(O) "Manufacturer" means any person who manufactures and 80822
sells cigarettes or tobacco products. 80823

(P) "Importer" means any person that imports is authorized, 80824
under a valid permit issued under Section 5713 of the Internal 80825
Revenue Code, to import finished cigarettes into the United 80826
States, either directly or indirectly. 80827

Sec. 5743.02. To provide revenues for the general revenue 80828
fund, an excise tax on sales of cigarettes is hereby levied at the 80829
rate of ~~twenty-seven and one-half~~ sixty-two and one-half mills on 80830
each cigarette. 80831

Only one sale of the same article shall be used in computing 80832
the amount of tax due. 80833

The treasurer of state shall place to the credit of the tax 80834
refund fund created by section 5703.052 of the Revised Code, out 80835
of receipts from the tax levied by this section, amounts equal to 80836
the refunds certified by the tax commissioner pursuant to section 80837
5743.05 of the Revised Code. The balance of taxes collected under 80838
such section, after the credits to the tax refund fund, shall be 80839
paid into the general revenue fund. 80840

Sec. 5743.03. (A) Except as provided in section 5743.04 of 80841
the Revised Code, the taxes imposed under sections 5743.02, 80842
5743.024, and 5743.026 of the Revised Code shall be paid by the 80843
purchase of stamps. A stamp shall be affixed to each package of an 80844
aggregate denomination not less than the amount of the tax upon 80845
the contents thereof. The stamp, so affixed, shall be prima-facie 80846
evidence of payment of the tax. ~~Except~~ 80847

Except as is provided in the rules prescribed by the tax 80848
commissioner under authority of sections 5743.01 to 5743.20 of the 80849

Revised Code, and unless ~~such~~ tax stamps have been previously 80850
affixed, they shall be so affixed by each wholesale dealer, and 80851
canceled by writing or stamping across the face thereof the number 80852
assigned to such wholesale dealer by the tax commissioner for that 80853
purpose, prior to the delivery of any cigarettes to any person in 80854
this state, or in the case of a tax levied pursuant to section 80855
5743.024 or 5743.026 of the Revised Code, prior to the delivery of 80856
cigarettes to any person in the county in which the tax is levied. 80857

(B) Except as provided in the rules prescribed by the 80858
commissioner under authority of sections 5743.01 to 5743.20 of the 80859
Revised Code, ~~and unless such stamps have been previously affixed,~~ 80860
each retail dealer ~~shall,~~ within twenty-four hours after the 80861
receipt of any cigarettes at the retail dealer's place of business 80862
~~and prior to the delivery thereof, shall inspect the cigarettes to~~ 80863
ensure that tax stamps are affixed. The inspection shall be 80864
completed before the cigarettes are delivered to any person in 80865
this state, or, in the case of a tax levied pursuant to section 80866
5743.024 or 5743.026 of the Revised Code ~~prior to the delivery~~ 80867
~~thereof,~~ before the cigarettes are delivered to any person in the 80868
county in which the tax is levied, ~~so affix such stamps and cancel~~ 80869
~~same by writing or stamping across the face thereof the number~~ 80870
~~assigned to such retail dealer by the commissioner for that~~ 80871
~~purpose.~~ 80872

(C) Whenever any cigarettes are found in the place of 80873
business of any retail dealer without proper tax stamps affixed 80874
thereto and canceled, it is presumed that such cigarettes are kept 80875
therein in violation of sections 5743.01 to 5743.20 of the Revised 80876
Code. 80877

(D) Each wholesale dealer ~~and each retail dealer~~ who 80878
purchases cigarettes without proper tax stamps affixed thereto 80879
shall, on or before the thirty-first day of the month following 80880
the close of each semiannual period, which period shall end on the 80881

thirtieth day of June and the thirty-first day of December of each 80882
year, make and file a return of the preceding semiannual period, 80883
on such form as is prescribed by the tax commissioner, showing the 80884
dealer's entire purchases and sales of cigarettes and stamps or 80885
impressions for such semiannual period and accurate inventories as 80886
of the beginning and end of each semiannual period of cigarettes, 80887
stamped or unstamped; cigarette tax stamps affixed or unaffixed 80888
and unused meter impressions; and such other information as the 80889
commissioner finds necessary to the proper administration of 80890
sections 5743.01 to 5743.20 of the Revised Code. The commissioner 80891
may extend the time for making and filing returns and may remit 80892
all or any part of amounts of penalties that may become due under 80893
sections 5743.01 to 5743.20 of the Revised Code. The wholesale ~~or~~ 80894
~~retail~~ dealer shall deliver the return together with a remittance 80895
of the tax deficiency reported thereon to the treasurer of state. 80896
The treasurer of state shall stamp or otherwise mark on the return 80897
the date it was received and shall also show thereon by stamp or 80898
otherwise a payment or nonpayment of the deficiency shown by the 80899
return. Thereafter, the treasurer of state shall immediately 80900
transmit all returns filed under this section to the commissioner. 80901

(E) Any wholesale ~~or-retail~~ dealer who fails to file a return 80902
under this section and the rules of the commissioner, other than a 80903
report required pursuant to division (F) of this section, may be 80904
required, for each day the dealer so fails, to forfeit and pay 80905
into the state treasury the sum of one dollar as revenue arising 80906
from the tax imposed by sections 5743.01 to 5743.20 of the Revised 80907
Code and such sum may be collected by assessment in the manner 80908
provided in section 5743.081 of the Revised Code. If the 80909
commissioner finds it necessary in order to insure the payment of 80910
the tax imposed by sections 5743.01 to 5743.20 of the Revised 80911
Code, the commissioner may require returns and payments to be made 80912
other than semiannually. The returns shall be signed by the 80913
wholesale ~~or-retail~~ dealer or an authorized agent thereof. 80914

(F) Each person required to file a tax return under section 80915
5743.03, 5743.52, or 5743.62 of the Revised Code shall report to 80916
the commissioner the quantity of all cigarettes and roll-your-own 80917
cigarette tobacco sold in Ohio for each brand not covered by the 80918
tobacco master settlement agreement for which the person is liable 80919
for the taxes levied under section 5743.02, 5743.51, or 5743.62 of 80920
the Revised Code. 80921

As used in this division, "tobacco master settlement 80922
agreement" has the same meaning as in section 183.01 of the 80923
Revised Code. 80924

(G) The report required by division (F) of this section shall 80925
be made on a form prescribed by the commissioner and shall be 80926
filed not later than the last day of each month for the previous 80927
month, except that if the commissioner determines that the 80928
quantity reported by a person does not warrant monthly reporting, 80929
the commissioner may authorize reporting at less frequent 80930
intervals. The commissioner may assess a penalty of not more than 80931
two hundred fifty dollars for each month or portion thereof that a 80932
person fails to timely file a required report, and such sum may be 80933
collected by assessment in the manner provided in section 5743.081 80934
of the Revised Code. All money collected under this division shall 80935
be considered as revenue arising from the taxes imposed by 80936
sections 5743.01 to 5743.20 of the Revised Code. 80937

Sec. 5743.031. (A) A wholesale dealer may affix stamps only 80938
to packages of cigarettes that the dealer received directly from a 80939
manufacturer or importer of cigarettes that possesses a valid and 80940
current license under section 5743.15 of the Revised Code, or to 80941
packages of cigarettes that the dealer received from another 80942
wholesale dealer that possesses a valid and current license under 80943
section 5743.15 of the Revised Code, provided that the tax 80944
commissioner has authorized the sale of the cigarettes between 80945

those wholesale dealers and that the wholesale dealer that sells 80946
the cigarettes received them directly from a manufacturer or 80947
importer of cigarettes that possesses a valid and current license 80948
under section 5743.15 of the Revised Code. 80949

(B) Only a wholesale dealer that possesses a valid and 80950
current license under section 5743.15 of the Revised Code may 80951
purchase or obtain tax stamps. A wholesale dealer may not sell or 80952
provide such stamps to any other wholesale dealer or any other 80953
person. 80954

(C) Any person shipping unstamped packages of cigarettes into 80955
this state to a person other than a wholesale dealer licensed 80956
under section 5743.15 of the Revised Code shall, before such 80957
shipment, file notice of the shipment with the tax commissioner. 80958
Any person that transports unstamped packages of cigarettes into 80959
or within this state shall carry in the vehicle used to convey the 80960
shipment invoices or equivalent documentation of the shipment for 80961
all cigarettes in the shipment. The invoices or other 80962
documentation shall show the true name and address of the 80963
consignor or seller, the true name and address of the consignee or 80964
purchaser, and the quantity of the cigarettes being transported. 80965
This division does not apply to any common or contract carrier 80966
transporting cigarettes through this state to another location 80967
under a proper bill of lading or freight bill that states the 80968
quantity, source, and destination of the cigarettes. 80969

Sec. 5743.05. All stamps provided for by section 5743.03 of 80970
the Revised Code, when procured by the tax commissioner, shall be 80971
immediately delivered to the treasurer of state, who shall execute 80972
a receipt therefor showing the number and aggregate face value of 80973
each denomination received by the treasurer of state and any other 80974
information that the commissioner requires to enforce the 80975
collection and distribution of all taxes imposed under section 80976

5743.024 or 5743.026 of the Revised Code, and deliver the receipt 80977
to the commissioner. The treasurer of state shall sell the stamps 80978
and, on the fifth day of each month, make a report showing all 80979
sales made during the preceding month, with the names of 80980
purchasers, the number of each denomination, the aggregate face 80981
value purchased by each, and any other information as the 80982
commissioner requires to enforce the collection and distribution 80983
of all taxes imposed under section 5743.024 of the Revised Code, 80984
and deliver it to the commissioner. The treasurer of state shall 80985
be accountable for all stamps received and unsold. The stamps 80986
shall be sold and accounted for at their face value, except the 80987
commissioner shall, by rule certified to the treasurer of state, 80988
authorize the sale of stamps and meter impressions to wholesale or 80989
retail dealers in this state, or to wholesale dealers outside this 80990
state, at a discount of not less than one and eight-tenths per 80991
cent or more than ten per cent of their face value, as a 80992
commission for affixing and canceling the stamps or meter 80993
impressions. 80994

The commissioner, by rule certified to the treasurer of 80995
state, shall authorize the delivery of stamps and meter 80996
impressions to wholesale ~~and retail~~ dealers in this state and to 80997
wholesale dealers outside this state on credit. If such a dealer 80998
has not been in good credit standing with this state for five 80999
consecutive years preceding the purchase, the tax commissioner 81000
shall require the dealer to file with the commissioner a bond to 81001
the state in the amount and in the form prescribed by the 81002
commissioner, with surety to the satisfaction of the commissioner, 81003
conditioned on payment to the treasurer of state within thirty 81004
days for stamps or meter impressions delivered within that time. 81005
If such a dealer has been in good credit standing with this state 81006
for five consecutive years preceding the purchase, the tax 81007
commissioner shall not require that the dealer file such a bond 81008
but shall require payment for the stamps and meter impressions 81009

within thirty days after purchase of the stamps and meter 81010
impressions. Stamps and meter impressions sold to a dealer not 81011
required to file a bond shall be sold at face value. The maximum 81012
amount that may be sold on credit to a dealer not required to file 81013
a bond shall equal one hundred ten per cent of the dealer's 81014
average monthly purchases over the preceding calendar year. The 81015
maximum amount shall be adjusted to reflect any changes in the tax 81016
rate and may be adjusted, upon application to the tax commissioner 81017
by the dealer, to reflect changes in the business operations of 81018
the dealer. The maximum amount shall be applicable to the period 81019
of July through April. Payment by a dealer not required to file a 81020
bond shall be remitted by electronic funds transfer as prescribed 81021
by section 5743.051 of the Revised Code. If a dealer not required 81022
to file a bond fails to make the payment in full within the 81023
thirty-day period, the treasurer of state shall not thereafter 81024
sell stamps or meter impressions to that dealer until the dealer 81025
pays the outstanding amount, including penalty and interest on 81026
that amount as prescribed in this chapter, and the commissioner 81027
thereafter may require the dealer to file a bond until the dealer 81028
is restored to good standing. The commissioner shall limit 81029
delivery of stamps and meter impressions on credit to the period 81030
running from the first day of July of the fiscal year until the 81031
first day of the following May. Any discount allowed as a 81032
commission for affixing and canceling stamps or meter impressions 81033
shall be allowed with respect to sales of stamps and meter 81034
impressions on credit. 81035

The treasurer of state shall redeem and pay for any 81036
destroyed, unused, or spoiled tax stamps and any unused meter 81037
impressions at their net value, and shall refund to wholesale 81038
dealers the net amount of state and county taxes paid erroneously 81039
or paid on cigarettes that have been sold in interstate or foreign 81040
commerce or that have become unsalable, and the net amount of 81041
county taxes that were paid on cigarettes that have been sold at 81042

retail or for retail sale outside a taxing county. 81043

An application for a refund of tax shall be filed with the 81044
tax commissioner, on the form prescribed by the commissioner for 81045
that purpose, within three years from the date the tax stamps are 81046
destroyed or spoiled, from the date of the erroneous payment, or 81047
from the date that cigarettes on which taxes have been paid have 81048
been sold in interstate or foreign commerce or have become 81049
unsalable. 81050

On the filing of the application, the commissioner shall 81051
determine the amount of refund to which the applicant is entitled, 81052
payable from receipts of the state tax, and, if applicable, 81053
payable from receipts of a county tax. If the amount is less than 81054
that claimed, the commissioner shall certify the amount to the 81055
director of budget and management and treasurer of state for 81056
payment from the tax refund fund created by section 5703.052 of 81057
the Revised Code. If the amount is less than that claimed, the 81058
commissioner shall proceed in accordance with section 5703.70 of 81059
the Revised Code. 81060

If a refund is granted for payment of an illegal or erroneous 81061
assessment issued by the department, the refund shall include 81062
interest on the amount of the refund from the date of the 81063
overpayment. The interest shall be computed at the rate per annum 81064
prescribed by section 5703.47 of the Revised Code. 81065

Sec. 5743.071. ~~Each wholesale dealer and each retail dealer~~ 81066
Every person shall maintain complete and accurate records of all 81067
purchases and sales of cigarettes, and shall procure and retain 81068
all invoices, bills of lading, and other documents relating to the 81069
purchases and sales of cigarettes, except that no retail dealer 81070
shall be required to issue or maintain invoices relating to ~~his~~ 81071
the retail dealer's sales of cigarettes. The invoices or documents 81072
shall be maintained for each place of business and shall show the 81073

name and address of the other party to the purchase or sale and 81074
shall show the quantity of the cigarettes so sold or purchased. 81075

The records and documents shall be open during business hours 81076
to the inspection of the tax commissioner, and shall be preserved 81077
for a period of three years, unless the commissioner, in writing, 81078
consents to their destruction within that period, or by order 81079
requires that they be kept for a longer period. With the tax 81080
commissioner's consent, a person with multiple places of business 81081
may keep centralized records but shall transmit duplicates of the 81082
invoices or documents to each place of business within seventy-two 81083
hours after the tax commissioner or the tax commissioner's 81084
designee requests access to the records. 81085

Sec. 5743.072. Each manufacturer and each importer shipping 81086
cigarettes into or within this state shall file a monthly report 81087
with the tax commissioner in accordance with rules adopted by the 81088
tax commissioner under Chapter 119. of the Revised Code. 81089

Sec. 5743.08. Whenever the tax commissioner discovers any 81090
cigarettes which are being shipped, or which have been shipped, or 81091
transported in violation of section 2927.023 of the Revised Code, 81092
or discovers cigarettes, subject to the taxes levied under section 81093
5743.02, 5743.024, or 5743.026 of the Revised Code, and upon which 81094
the taxes have not been paid or that are held for sale or 81095
distribution in violation of any other provision of this chapter, 81096
the commissioner may seize and take possession of such cigarettes, 81097
which shall thereupon be forfeited to the state, and the 81098
commissioner ~~may,~~ within a reasonable time thereafter sell or 81099
destroy the forfeited cigarettes. ~~From the proceeds of the sale,~~ 81100
~~the tax commissioner shall pay the costs incurred in such~~ 81101
~~proceedings, and any proceeds remaining after the costs are paid~~ 81102
~~shall be considered as revenue arising from the tax; provided that~~ 81103
~~the seizure and sale shall not be deemed to~~ If the commissioner 81104

sells cigarettes under this section, the commissioner shall use 81105
proceeds from the sale to pay the costs incurred in the 81106
proceedings. Any proceeds remaining after all costs have been paid 81107
shall be considered revenue arising from the taxes levied under 81108
this chapter. Seizure and sale shall not be deemed to 81109
relieve any person from the fine or imprisonment provided for violation of 81110
sections 5743.01 to 5743.20 of the Revised Code. ~~The~~ A sale shall 81111
be made where it is most convenient and economical. The tax 81112
commissioner may order the destruction of the forfeited cigarettes 81113
if the quantity or quality of the cigarettes is not sufficient to 81114
warrant their sale. 81115

Sec. 5743.10. No ~~retail dealer~~ person shall have in ~~his~~ the 81116
person's possession ~~packages~~ packs of cigarettes not bearing the 81117
stamps required to be affixed thereto as required by Chapter 5743. 81118
of the Revised Code. 81119

Sec. 5743.111. No person shall possess ~~packages~~ packs of 81120
cigarettes not bearing the stamps required by Chapter 5743. of the 81121
Revised Code, or bearing stamps that have been affixed in 81122
violation of section 5743.21 of the Revised Code, when the 81123
~~wholesale value~~ total number of the cigarettes exceeds ~~sixty~~ 81124
~~dollars~~ one thousand two hundred. 81125

Sec. 5743.112. (A) No person shall prepare for shipment, 81126
ship, transport, deliver, prepare for distribution, or distribute 81127
cigarettes, or otherwise engage or participate in the wholesale or 81128
retail business of trafficking in cigarettes, with the intent to 81129
avoid payment of the tax imposed by this chapter, when the 81130
~~wholesale value~~ total number of ~~such~~ cigarettes in the aggregate 81131
exceeds ~~sixty dollars~~ one thousand two hundred during any 81132
twelve-month period. 81133

(B) Any vending machine containing cigarettes which do not 81134

have affixed the stamps or impressions provided for by sections 81135
5743.03 and 5743.04 of the Revised Code shall be seized and 81136
forfeited to the state in accordance with section 2933.43 of the 81137
Revised Code. Forfeiture shall not affect the rights of a holder 81138
of a valid lien. 81139

(C) A vehicle that is seized as contraband under section 81140
2933.43 of the Revised Code because of its use in violation of 81141
this chapter is subject to the procedures set forth in section 81142
2933.43 of the Revised Code. 81143

Sec. 5743.14. (A) The tax commissioner ~~may inspect any place~~ 81144
~~where cigarettes subject to the tax levied under section 5743.02,~~ 81145
~~5743.024, or 5743.026 of the Revised Code are sold or stored.~~ 81146

~~(B) or an agent of the tax commissioner may enter and inspect~~ 81147
~~the facilities and records of a person selling cigarettes or other~~ 81148
~~tobacco products. Such entrance and inspection requires a properly~~ 81149
~~issued search warrant if conducted outside the normal business~~ 81150
~~hours of the person, but does not require a search warrant if~~ 81151
~~conducted during the normal business hours of the person. No~~ 81152
person shall prevent or hinder the tax commissioner or an agent of 81153
the tax commissioner from making a full inspection of any place 81154
~~where cigarettes subject to the tax levied under section 5743.02,~~ 81155
~~5743.024, or 5743.026 of the Revised Code are sold or stored, or~~ 81156
~~prevent or hinder the full inspection of invoices, books, records,~~ 81157
~~or papers required to be kept by sections 5743.01 to 5743.20 of~~ 81158
~~the Revised Code carrying out the authority granted under this~~ 81159
division. 81160

(B) If a peace officer as defined in section 2935.01 of the 81161
Revised Code knows or has reasonable cause to believe that a motor 81162
vehicle is transporting cigarettes or other tobacco products in 81163
violation of this chapter or section 2927.023 of the Revised Code, 81164
the peace officer may stop the vehicle and inspect the vehicle to 81165

determine the presence of such cigarettes or other tobacco 81166
products. 81167

Sec. 5743.15. (A) No person shall engage in this state in the 81168
wholesale or retail business of trafficking in cigarettes ~~within~~ 81169
~~this state~~ or in the business of a manufacturer or importer of 81170
cigarettes without having a license to ~~do so~~ conduct each such 81171
activity issued by a county auditor under division (B) of this 81172
section or the tax commissioner under division (E) of this 81173
section, except that on dissolution of a partnership by death, the 81174
surviving partner may operate under the license of the partnership 81175
until expiration of the license, and the heirs or legal 81176
representatives of deceased persons, and receivers and trustees in 81177
bankruptcy appointed by any competent authority, may operate under 81178
the license of the person succeeded in possession by such heir, 81179
representative, receiver, or trustee in bankruptcy. 81180

(B) Each applicant for a license to engage in the wholesale 81181
or retail business of trafficking in cigarettes under this 81182
section, annually, on or before the fourth Monday of May, shall 81183
make and deliver to the county auditor of the county in which ~~he~~ 81184
the applicant desires to engage in the wholesale or retail 81185
business of trafficking in cigarettes, upon a blank furnished by 81186
such auditor for that purpose, a statement showing the name of the 81187
applicant, each place in the county where the applicant's business 81188
is conducted, the nature of the business, and any other 81189
information the tax commissioner requires in the form of statement 81190
prescribed by ~~him~~ the commissioner. If the applicant is a firm, 81191
partnership, or association other than a corporation, the 81192
application shall state the name and address of each of its 81193
members. If the applicant is a corporation, the application shall 81194
state the name and address of each of its officers. At the time of 81195
making the application required by this section, every person 81196
desiring to engage in the wholesale business of trafficking in 81197

cigarettes shall pay into the county treasury a license tax in the 81198
sum of two hundred dollars, or if desiring to engage in the retail 81199
business of trafficking in cigarettes, a license tax in the sum of 81200
thirty dollars for each of the first five places where ~~he~~ the 81201
person proposes to carry on such business and twenty-five dollars 81202
for each additional place. Each place of business shall be deemed 81203
such space, under lease or license to, or under the control of, or 81204
under the supervision of the applicant, as is contained in one or 81205
more contiguous, adjacent, or adjoining buildings constituting an 81206
industrial plant or a place of business operated by, or under the 81207
control of, one person, or under one roof and connected by doors, 81208
halls, stairways, or elevators, which space may contain any number 81209
of points at which cigarettes are offered for sale, provided that 81210
each additional point at which cigarettes are offered for sale 81211
shall be listed in the application. 81212

Upon receipt of the application ~~required by this section~~ and 81213
exhibition of the county treasurer's receipt showing the payment 81214
of the tax, the county auditor shall issue to the applicant a 81215
license for each place of business designated in the application, 81216
authorizing the applicant to engage in such business at such place 81217
for one year commencing on the fourth Monday of May. Companies 81218
operating club or dining cars or other cars upon which cigarettes 81219
are sold shall obtain licenses at railroad terminals within the 81220
state, under such rules as are prescribed by the commissioner. The 81221
form of the license shall be prescribed by the commissioner. A 81222
duplicate license may be obtained from the county auditor upon 81223
payment of a fifty cent fee if the original license is lost, 81224
destroyed, or defaced. When an application is filed after the 81225
fourth Monday of May, the license tax required to be paid shall be 81226
proportioned in amount to the remainder of the license year, 81227
except that it shall not be less than one fifth of the whole 81228
amount in any one year. 81229

The holder of a wholesale or retail dealer's cigarette license may transfer the license to a place of business within the same county other than that designated on the license or may assign the license to another person for use in the same county on condition that the licensee or assignee, whichever is applicable, make application to the county auditor therefor, upon forms approved by the commissioner and the payment of a fee of one dollar into the county treasury.

~~(B)~~(C)(1) The wholesale cigarette license tax revenue collected under this section shall be distributed as follows:

(a) Thirty-seven and one-half per cent shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the place of business for which the tax revenue was received is located;

(b) Fifteen per cent shall be credited to the general fund of the county;

(c) Forty-seven and one-half per cent shall be paid into the cigarette tax enforcement fund created by division (C) of this section.

(2) The revenue collected from the thirty dollar tax imposed upon the first five places of business of a person engaged in the retail business of trafficking in cigarettes shall be distributed as follows:

(a) Sixty-two and one-half per cent shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the places of business for which the tax revenue was received are located;

(b) Twenty-two and one-half per cent shall be credited to the general fund of the county;

(c) Fifteen per cent shall be paid into the cigarette tax

enforcement fund created by division (C) of this section. 81260

(3) The remainder of the revenues and fines collected under 81261
this section and the penal laws relating to cigarettes shall be 81262
distributed as follows: 81263

(a) Three-fourths shall be paid upon the warrant of the 81264
county auditor into the treasury of the municipal corporation or 81265
township in which the place of business, on account of which the 81266
revenues and fines were received, is located; 81267

(b) One-fourth shall be credited to the general fund of the 81268
county. 81269

~~(C)~~(D) There is hereby created within the state treasury the 81270
cigarette tax enforcement fund for the purpose of providing funds 81271
to assist in paying the costs of enforcing sections 1333.11 to 81272
1333.21 and Chapter 5743. of the Revised Code. 81273

The portion of cigarette license tax revenues received by a 81274
county auditor during the annual application period that ends 81275
before the fourth Monday in May which is required to be deposited 81276
in the cigarette tax enforcement fund shall be sent to the 81277
treasurer of state by the thirtieth day of June each year. The 81278
portion of license tax money received by each county auditor after 81279
the fourth Monday in May which is required to be deposited in the 81280
cigarette tax enforcement fund shall be sent to the treasurer of 81281
state by the thirty-first day of December. 81282

(E)(1) Every person who desires to engage in the business of 81283
a manufacturer or importer of cigarettes shall, annually, on or 81284
before the fourth Monday of May, make and deliver to the tax 81285
commissioner, upon a blank furnished by the commissioner for that 81286
purpose, a statement showing the name of the applicant, the nature 81287
of the applicant's business, and any other information required by 81288
the commissioner. If the applicant is a firm, partnership, or 81289
association other than a corporation, the applicant shall state 81290

the name and address of each of its members. If the applicant is a 81291
corporation, the applicant shall state the name and address of 81292
each of its officers. 81293

Upon receipt of the application, the commissioner shall issue 81294
to the applicant a license authorizing the applicant to engage in 81295
the business of manufacturer or importer, whichever the case may 81296
be, for one year commencing on the fourth Monday of May. 81297

(2) The issuing of a license under division (E) of this 81298
section to a manufacturer does not excuse a manufacturer from the 81299
certification process required under section 1346.05 of the 81300
Revised Code. A license issued under division (E) of this section 81301
to a manufacturer who is not listed on the directory required 81302
under section 1346.05 of the Revised Code shall cease to be valid 81303
and shall be revoked by the commissioner as provided in section 81304
5743.18 of the Revised Code. 81305

(3) The tax commissioner may adopt rules necessary to 81306
administer division (E) of this section. 81307

Sec. 5743.16. On or before the first Monday of June, 81308
annually, each county auditor shall certify to the tax 81309
commissioner a list showing the names of all persons licensed in 81310
~~his~~ the auditor's county to engage in the business of trafficking 81311
in cigarettes, and such other information as to each, available 81312
from the records in the office of the auditor, as the commissioner 81313
prescribes. As such licenses are issued during the year, the 81314
auditor shall certify like lists and additions thereto to the 81315
commissioner. The commissioner shall keep an alphabetical index of 81316
such licenses certified to ~~him~~ the commissioner, and shall update 81317
the index of valid license holders on a regular basis. 81318

Sec. 5743.18. Upon notice and hearing in accordance with 81319
sections 119.01 to 119.13 of the Revised Code, the tax 81320

commissioner may revoke any manufacturer, importer, wholesale, or 81321
retail cigarette license for violation of sections 5743.01 to 81322
5743.21 of the Revised Code. A In the case of a wholesale or 81323
retail cigarette license, a certified copy of the order revoking 81324
such license shall be transmitted to the county auditor of the 81325
county in which the license was issued. In the case of a license 81326
issued to a manufacturer, the commissioner shall immediately 81327
revoke any such license upon the manufacturer's removal from the 81328
directory under section 1346.05 of the Revised Code. 81329

Sec. 5743.19. No person shall engage in business as a 81330
manufacturer or importer, or in the wholesale or retail business 81331
of trafficking in cigarettes, without having a license therefor, 81332
as required by section 5743.15 of the Revised Code. 81333

Sec. 5743.20. No person shall sell any cigarettes both as a 81334
retail dealer and as a wholesale dealer at the same place of 81335
business. ~~No wholesale dealer shall sell cigarettes to any person~~ 81336
~~in this state other than to a licensed retail dealer; and no~~ No 81337
person other than a licensed wholesale dealer shall sell 81338
cigarettes to a licensed retail dealer. No retail dealer shall 81339
purchase cigarettes from any person other than a licensed 81340
wholesale dealer. 81341

Subject to section 5743.031 of the Revised Code, a licensed 81342
wholesale dealer may not sell cigarettes to any person in this 81343
state other than a licensed retail dealer, except a licensed 81344
wholesale dealer may sell cigarettes to another licensed wholesale 81345
dealer if the tax commissioner has authorized the sale of the 81346
cigarettes between those wholesale dealers and the wholesale 81347
dealer that sells the cigarettes received them directly from a 81348
licensed manufacturer or licensed importer. 81349

The tax commissioner shall adopt rules governing sales of 81350

cigarettes between licensed wholesale dealers, including rules 81351
establishing criteria for authorizing such sales. 81352

No manufacturer or importer shall sell cigarettes to any 81353
person in this state other than to a licensed wholesale dealer or 81354
licensed importer. No importer shall purchase cigarettes from any 81355
person other than a licensed manufacturer or licensed importer. 81356

A retail dealer may purchase tobacco products only from a 81357
licensed distributor. A licensed distributor may sell tobacco 81358
products only to a retail dealer, except a licensed distributor 81359
may sell tobacco products to another licensed distributor if the 81360
tax commissioner has authorized the sale of the tobacco products 81361
between those distributors and the distributor that sells the 81362
tobacco products received them directly from a manufacturer or 81363
importer of tobacco products 81364

The tax commissioner may adopt rules governing sales of 81365
tobacco products between licensed distributors, including rules 81366
establishing criteria for authorizing such sales. 81367

The identities of licensed distributors are subject to public 81368
disclosure. The tax commissioner shall maintain an alphabetical 81369
list of all such distributors, shall post the list on a web site 81370
accessible to the public through the internet, and shall 81371
periodically update the web site posting. 81372

As used in this section, "licensed" means the manufacturer, 81373
importer, wholesale dealer, retail dealer, or distributor holds a 81374
current and valid license issued under section 5743.15 or 5743.61 81375
of the Revised Code. 81376

Sec. 5743.32. To provide revenue for the general revenue fund 81377
of the state, an excise tax is hereby levied on the use, 81378
consumption, or storage for consumption of cigarettes by consumers 81379
in this state at the rate of ~~twenty seven and one half~~ sixty-two 81380

and one-half mills on each cigarette. The tax shall not apply if 81381
the tax levied by section 5743.02 of the Revised Code has been 81382
paid. 81383

The money received into the state treasury from the excise 81384
tax levied by this section shall be credited to the general 81385
revenue fund. 81386

Sec. 5743.33. ~~Every~~ Except as provided in section 5747.331 of 81387
the Revised Code, every person who has acquired cigarettes for 81388
use, storage, or other consumption subject to the tax levied under 81389
section 5743.32, 5743.323, or 5743.324 of the Revised Code, shall, 81390
on or before the fifteenth day of the month following receipt of 81391
such cigarettes, file with the tax commissioner a return showing 81392
the amount of cigarettes acquired, together with remittance of the 81393
tax thereon. No such person shall transport within this state, 81394
cigarettes that have a wholesale value in excess of ~~sixty~~ three 81395
hundred dollars, unless that person has obtained consent to 81396
transport the cigarettes from the department of taxation prior to 81397
such transportation. Such consent shall not be required if the 81398
applicable taxes levied under sections 5743.02, 5743.024, and 81399
5743.026 of the Revised Code have been paid. Application for the 81400
consent shall be in the form prescribed by the tax commissioner. 81401

Every person transporting such cigarettes shall possess the 81402
consent while transporting or possessing the cigarettes within 81403
this state and shall produce the consent upon request of any law 81404
enforcement officer or authorized agent of the tax commissioner. 81405

Any person transporting such cigarettes without the consent 81406
required by this section, shall be subject to the provisions of 81407
this chapter, including the applicable taxes imposed by sections 81408
5743.02, 5743.024, and 5743.026 of the Revised Code. 81409

Sec. 5743.331. Notwithstanding any other section in this 81410

chapter to the contrary, a person may use, store, or consume 81411
cigarettes with a wholesale value of not more than three hundred 81412
dollars in any month and not for resale without incurring 81413
liability for any tax levied under this chapter, and is not 81414
required to file any return that otherwise would be required under 81415
this chapter. 81416

Sec. 5743.71. If a person seeks to obtain cigarettes that are 81417
legal for sale in this state under section 1346.05 of the Revised 81418
Code, and such cigarettes are not reasonably available to that 81419
person at a retail location in this state, the person may apply to 81420
the tax commissioner for consent for consumer shipment. The 81421
consent for consumer shipment must be obtained prior to the 81422
purchase of the cigarettes. 81423

The consent for consumer shipment shall be filed with the 81424
commissioner on a form prescribed by the commissioner showing 81425
purchase of the cigarettes as consented to, and shall be 81426
accompanied by the purchaser's proof of age and any other 81427
information required by the commissioner. 81428

Sec. 5747.01. Except as otherwise expressly provided or 81429
clearly appearing from the context, any term used in this chapter 81430
that is not otherwise defined in this section has the same meaning 81431
as when used in a comparable context in the laws of the United 81432
States relating to federal income taxes or if not used in a 81433
comparable context in those laws, has the same meaning as in 81434
section 5733.40 of the Revised Code. Any reference in this chapter 81435
to the Internal Revenue Code includes other laws of the United 81436
States relating to federal income taxes. 81437

As used in this chapter: 81438

(A) "Adjusted gross income" or "Ohio adjusted gross income" 81439
means federal adjusted gross income, as defined and used in the 81440

Internal Revenue Code, adjusted as provided in this section: 81441

(1) Add interest or dividends on obligations or securities of 81442
any state or of any political subdivision or authority of any 81443
state, other than this state and its subdivisions and authorities. 81444

(2) Add interest or dividends on obligations of any 81445
authority, commission, instrumentality, territory, or possession 81446
of the United States to the extent that the interest or dividends 81447
are exempt from federal income taxes but not from state income 81448
taxes. 81449

(3) Deduct interest or dividends on obligations of the United 81450
States and its territories and possessions or of any authority, 81451
commission, or instrumentality of the United States to the extent 81452
that the interest or dividends are included in federal adjusted 81453
gross income but exempt from state income taxes under the laws of 81454
the United States. 81455

(4) Deduct disability and survivor's benefits to the extent 81456
included in federal adjusted gross income. 81457

(5) Deduct benefits under Title II of the Social Security Act 81458
and tier 1 railroad retirement benefits to the extent included in 81459
federal adjusted gross income under section 86 of the Internal 81460
Revenue Code. 81461

(6) In the case of a taxpayer who is a beneficiary of a trust 81462
that makes an accumulation distribution as defined in section 665 81463
of the Internal Revenue Code, add, for the beneficiary's taxable 81464
years beginning before 2002 ~~or after 2004~~, the portion, if any, of 81465
such distribution that does not exceed the undistributed net 81466
income of the trust for the three taxable years preceding the 81467
taxable year in which the distribution is made to the extent that 81468
the portion was not included in the trust's taxable income for any 81469
of the trust's taxable years beginning in 2002, ~~2003~~, or 2004 81470
thereafter. "Undistributed net income of a trust" means the 81471

taxable income of the trust increased by (a)(i) the additions to 81472
adjusted gross income required under division (A) of this section 81473
and (ii) the personal exemptions allowed to the trust pursuant to 81474
section 642(b) of the Internal Revenue Code, and decreased by 81475
(b)(i) the deductions to adjusted gross income required under 81476
division (A) of this section, (ii) the amount of federal income 81477
taxes attributable to such income, and (iii) the amount of taxable 81478
income that has been included in the adjusted gross income of a 81479
beneficiary by reason of a prior accumulation distribution. Any 81480
undistributed net income included in the adjusted gross income of 81481
a beneficiary shall reduce the undistributed net income of the 81482
trust commencing with the earliest years of the accumulation 81483
period. 81484

(7) Deduct the amount of wages and salaries, if any, not 81485
otherwise allowable as a deduction but that would have been 81486
allowable as a deduction in computing federal adjusted gross 81487
income for the taxable year, had the targeted jobs credit allowed 81488
and determined under sections 38, 51, and 52 of the Internal 81489
Revenue Code not been in effect. 81490

(8) Deduct any interest or interest equivalent on public 81491
obligations and purchase obligations to the extent that the 81492
interest or interest equivalent is included in federal adjusted 81493
gross income. 81494

(9) Add any loss or deduct any gain resulting from the sale, 81495
exchange, or other disposition of public obligations to the extent 81496
that the loss has been deducted or the gain has been included in 81497
computing federal adjusted gross income. 81498

(10) Deduct or add amounts, as provided under section 5747.70 81499
of the Revised Code, related to contributions to variable college 81500
savings program accounts made or tuition ~~credits~~ units purchased 81501
pursuant to Chapter 3334. of the Revised Code. 81502

(11)(a) Deduct, to the extent not otherwise allowable as a 81503
deduction or exclusion in computing federal or Ohio adjusted gross 81504
income for the taxable year, the amount the taxpayer paid during 81505
the taxable year for medical care insurance and qualified 81506
long-term care insurance for the taxpayer, the taxpayer's spouse, 81507
and dependents. No deduction for medical care insurance under 81508
division (A)(11) of this section shall be allowed either to any 81509
taxpayer who is eligible to participate in any subsidized health 81510
plan maintained by any employer of the taxpayer or of the 81511
taxpayer's spouse, or to any taxpayer who is entitled to, or on 81512
application would be entitled to, benefits under part A of Title 81513
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 81514
301, as amended. For the purposes of division (A)(11)(a) of this 81515
section, "subsidized health plan" means a health plan for which 81516
the employer pays any portion of the plan's cost. The deduction 81517
allowed under division (A)(11)(a) of this section shall be the net 81518
of any related premium refunds, related premium reimbursements, or 81519
related insurance premium dividends received during the taxable 81520
year. 81521

(b) Deduct, to the extent not otherwise deducted or excluded 81522
in computing federal or Ohio adjusted gross income during the 81523
taxable year, the amount the taxpayer paid during the taxable 81524
year, not compensated for by any insurance or otherwise, for 81525
medical care of the taxpayer, the taxpayer's spouse, and 81526
dependents, to the extent the expenses exceed seven and one-half 81527
per cent of the taxpayer's federal adjusted gross income. 81528

(c) For purposes of division (A)(11) of this section, 81529
"medical care" has the meaning given in section 213 of the 81530
Internal Revenue Code, subject to the special rules, limitations, 81531
and exclusions set forth therein, and "qualified long-term care" 81532
has the same meaning given in section 7702(B)(b) of the Internal 81533
Revenue Code. 81534

(12)(a) Deduct any amount included in federal adjusted gross 81535
income solely because the amount represents a reimbursement or 81536
refund of expenses that in any year the taxpayer had deducted as 81537
an itemized deduction pursuant to section 63 of the Internal 81538
Revenue Code and applicable United States department of the 81539
treasury regulations. The deduction otherwise allowed under 81540
division (A)(12)(a) of this section shall be reduced to the extent 81541
the reimbursement is attributable to an amount the taxpayer 81542
deducted under this section in any taxable year. 81543

(b) Add any amount not otherwise included in Ohio adjusted 81544
gross income for any taxable year to the extent that the amount is 81545
attributable to the recovery during the taxable year of any amount 81546
deducted or excluded in computing federal or Ohio adjusted gross 81547
income in any taxable year. 81548

(13) Deduct any portion of the deduction described in section 81549
1341(a)(2) of the Internal Revenue Code, for repaying previously 81550
reported income received under a claim of right, that meets both 81551
of the following requirements: 81552

(a) It is allowable for repayment of an item that was 81553
included in the taxpayer's adjusted gross income for a prior 81554
taxable year and did not qualify for a credit under division (A) 81555
or (B) of section 5747.05 of the Revised Code for that year; 81556

(b) It does not otherwise reduce the taxpayer's adjusted 81557
gross income for the current or any other taxable year. 81558

(14) Deduct an amount equal to the deposits made to, and net 81559
investment earnings of, a medical savings account during the 81560
taxable year, in accordance with section 3924.66 of the Revised 81561
Code. The deduction allowed by division (A)(14) of this section 81562
does not apply to medical savings account deposits and earnings 81563
otherwise deducted or excluded for the current or any other 81564
taxable year from the taxpayer's federal adjusted gross income. 81565

(15)(a) Add an amount equal to the funds withdrawn from a 81566
medical savings account during the taxable year, and the net 81567
investment earnings on those funds, when the funds withdrawn were 81568
used for any purpose other than to reimburse an account holder 81569
for, or to pay, eligible medical expenses, in accordance with 81570
section 3924.66 of the Revised Code; 81571

(b) Add the amounts distributed from a medical savings 81572
account under division (A)(2) of section 3924.68 of the Revised 81573
Code during the taxable year. 81574

(16) Add any amount claimed as a credit under section 81575
5747.059 of the Revised Code to the extent that such amount 81576
satisfies either of the following: 81577

(a) The amount was deducted or excluded from the computation 81578
of the taxpayer's federal adjusted gross income as required to be 81579
reported for the taxpayer's taxable year under the Internal 81580
Revenue Code; 81581

(b) The amount resulted in a reduction of the taxpayer's 81582
federal adjusted gross income as required to be reported for any 81583
of the taxpayer's taxable years under the Internal Revenue Code. 81584

(17) Deduct the amount contributed by the taxpayer to an 81585
individual development account program established by a county 81586
department of job and family services pursuant to sections 329.11 81587
to 329.14 of the Revised Code for the purpose of matching funds 81588
deposited by program participants. On request of the tax 81589
commissioner, the taxpayer shall provide any information that, in 81590
the tax commissioner's opinion, is necessary to establish the 81591
amount deducted under division (A)(17) of this section. 81592

(18) Beginning in taxable year 2001 but not for any taxable 81593
year beginning after December 31, 2005, if the taxpayer is married 81594
and files a joint return and the combined federal adjusted gross 81595
income of the taxpayer and the taxpayer's spouse for the taxable 81596

year does not exceed one hundred thousand dollars, or if the 81597
taxpayer is single and has a federal adjusted gross income for the 81598
taxable year not exceeding fifty thousand dollars, deduct amounts 81599
paid during the taxable year for qualified tuition and fees paid 81600
to an eligible institution for the taxpayer, the taxpayer's 81601
spouse, or any dependent of the taxpayer, who is a resident of 81602
this state and is enrolled in or attending a program that 81603
culminates in a degree or diploma at an eligible institution. The 81604
deduction may be claimed only to the extent that qualified tuition 81605
and fees are not otherwise deducted or excluded for any taxable 81606
year from federal or Ohio adjusted gross income. The deduction may 81607
not be claimed for educational expenses for which the taxpayer 81608
claims a credit under section 5747.27 of the Revised Code. 81609

(19) Add any reimbursement received during the taxable year 81610
of any amount the taxpayer deducted under division (A)(18) of this 81611
section in any previous taxable year to the extent the amount is 81612
not otherwise included in Ohio adjusted gross income. 81613

(20)(a)(i) Add five-sixths of the amount of depreciation 81614
expense allowed by subsection (k) of section 168 of the Internal 81615
Revenue Code, including the taxpayer's proportionate or 81616
distributive share of the amount of depreciation expense allowed 81617
by that subsection to a pass-through entity in which the taxpayer 81618
has a direct or indirect ownership interest. 81619

(ii) Add five-sixths of the amount of qualifying section 179 81620
depreciation expense, including a person's proportionate or 81621
distributive share of the amount of qualifying section 179 81622
depreciation expense allowed to any pass-through entity in which 81623
the person has a direct or indirect ownership. For the purposes of 81624
this division, "qualifying section 179 depreciation expense" means 81625
the difference between (I) the amount of depreciation expense 81626
directly or indirectly allowed to the taxpayer under section 179 81627
of the Internal Revenue Code, and (II) the amount of depreciation 81628

expense directly or indirectly allowed to the taxpayer under 81629
section 179 of the Internal Revenue Code as that section existed 81630
on December 31, 2002. 81631

The tax commissioner, under procedures established by the 81632
commissioner, may waive the add-backs related to a pass-through 81633
entity if the taxpayer owns, directly or indirectly, less than 81634
five per cent of the pass-through entity. 81635

(b) Nothing in division (A)(20) of this section shall be 81636
construed to adjust or modify the adjusted basis of any asset. 81637

(c) To the extent the add-back required under division 81638
(A)(20)(a) of this section is attributable to property generating 81639
nonbusiness income or loss allocated under section 5747.20 of the 81640
Revised Code, the add-back shall be situated to the same location 81641
as the nonbusiness income or loss generated by the property for 81642
the purpose of determining the credit under division (A) of 81643
section 5747.05 of the Revised Code. Otherwise, the add-back shall 81644
be apportioned, subject to one or more of the four alternative 81645
methods of apportionment enumerated in section 5747.21 of the 81646
Revised Code. 81647

(d) For the purposes of division (A) of this section, net 81648
operating loss carryback and carryforward shall not include 81649
five-sixths of the allowance of any net operating loss deduction 81650
carryback or carryforward to the taxable year to the extent such 81651
loss resulted from depreciation allowed by section 168(k) of the 81652
Internal Revenue Code and by the qualifying section 179 81653
depreciation expense amount. 81654

(21)(a) If the taxpayer was required to add an amount under 81655
division (A)(20)(a) of this section for a taxable year, deduct 81656
one-fifth of the amount so added for each of the five succeeding 81657
taxable years. 81658

(b) If the amount deducted under division (A)(21)(a) of this 81659

section is attributable to an add-back allocated under division 81660
(A)(20)(c) of this section, the amount deducted shall be situated 81661
to the same location. Otherwise, the add-back shall be apportioned 81662
using the apportionment factors for the taxable year in which the 81663
deduction is taken, subject to one or more of the four alternative 81664
methods of apportionment enumerated in section 5747.21 of the 81665
Revised Code. 81666

(c) No deduction is available under division (A)(21)(a) of 81667
this section with regard to any depreciation allowed by section 81668
168(k) of the Internal Revenue Code and by the qualifying section 81669
179 depreciation expense amount to the extent that such 81670
depreciation resulted in or increased a federal net operating loss 81671
carryback or carryforward to a taxable year to which division 81672
(A)(20)(d) of this section does not apply. 81673

(B) "Business income" means income, including gain or loss, 81674
arising from transactions, activities, and sources in the regular 81675
course of a trade or business and includes income, gain, or loss 81676
from real property, tangible property, and intangible property if 81677
the acquisition, rental, management, and disposition of the 81678
property constitute integral parts of the regular course of a 81679
trade or business operation. "Business income" includes income, 81680
including gain or loss, from a partial or complete liquidation of 81681
a business, including, but not limited to, gain or loss from the 81682
sale or other disposition of goodwill. 81683

(C) "Nonbusiness income" means all income other than business 81684
income and may include, but is not limited to, compensation, rents 81685
and royalties from real or tangible personal property, capital 81686
gains, interest, dividends and distributions, patent or copyright 81687
royalties, or lottery winnings, prizes, and awards. 81688

(D) "Compensation" means any form of remuneration paid to an 81689
employee for personal services. 81690

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.

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

(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002, ~~2003~~, or ~~2004~~ thereafter:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code and any election under section 5747.25 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.

For the purposes of division (I)(3) of this section:

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:

(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if

the trust is described in division (I)(3)(e)(i) or (ii) of this section; 81721
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(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year; 81723
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(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year. If a trust document or instrument became irrevocable upon the death of a person who at the time of death was domiciled in this state for purposes of this chapter, that person is a person described in division (I)(3)(a)(iii) of this section. 81729
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(b) A trust is irrevocable to the extent that the transferor is not considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code. 81739
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(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e)(2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code. 81742
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(d) For the purposes of division (I)(3)(a) of this section, 81752
the extent to which a trust consists directly or indirectly, in 81753
whole or in part, of assets, net of any related liabilities, that 81754
were transferred directly or indirectly, in whole or part, to the 81755
trust by any of the sources enumerated in that division shall be 81756
ascertained by multiplying the fair market value of the trust's 81757
assets, net of related liabilities, by the qualifying ratio, which 81758
shall be computed as follows: 81759

(i) The first time the trust receives assets, the numerator 81760
of the qualifying ratio is the fair market value of those assets 81761
at that time, net of any related liabilities, from sources 81762
enumerated in division (I)(3)(a) of this section. The denominator 81763
of the qualifying ratio is the fair market value of all the 81764
trust's assets at that time, net of any related liabilities. 81765

(ii) Each subsequent time the trust receives assets, a 81766
revised qualifying ratio shall be computed. The numerator of the 81767
revised qualifying ratio is the sum of (1) the fair market value 81768
of the trust's assets immediately prior to the subsequent 81769
transfer, net of any related liabilities, multiplied by the 81770
qualifying ratio last computed without regard to the subsequent 81771
transfer, and (2) the fair market value of the subsequently 81772
transferred assets at the time transferred, net of any related 81773
liabilities, from sources enumerated in division (I)(3)(a) of this 81774
section. The denominator of the revised qualifying ratio is the 81775
fair market value of all the trust's assets immediately after the 81776
subsequent transfer, net of any related liabilities. 81777

(iii) Whether a transfer to the trust is by or from any of 81778
the sources enumerated in division (I)(3)(a) of this section shall 81779
be ascertained without regard to the domicile of the trust's 81780
beneficiaries. 81781

(e) For the purposes of division (I)(3)(a)(i) of this 81782
section: 81783

(i) A trust is described in division (I)(3)(e)(i) of this section if the trust is a testamentary trust and the testator of that testamentary trust was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(ii) A trust is described in division (I)(3)(e)(ii) of this section if the transfer is a qualifying transfer described in any of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an irrevocable inter vivos trust, and at least one of the trust's qualifying beneficiaries is domiciled in this state for purposes of this chapter during all or some portion of the trust's current taxable year.

(f) For the purposes of division (I)(3)(e)(ii) of this section, a "qualifying transfer" is a transfer of assets, net of any related liabilities, directly or indirectly to a trust, if the transfer is described in any of the following:

(i) The transfer is made to a trust, created by the decedent before the decedent's death and while the decedent was domiciled in this state for the purposes of this chapter, and, prior to the death of the decedent, the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(ii) The transfer is made to a trust to which the decedent, prior to the decedent's death, had directly or indirectly transferred assets, net of any related liabilities, while the decedent was domiciled in this state for the purposes of this chapter, and prior to the death of the decedent the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the

transferor and either the decedent or the estate of the decedent 81815
at any time prior to the date of the decedent's death, and the 81816
decedent was domiciled in this state at the time of death for 81817
purposes of the taxes levied under Chapter 5731. of the Revised 81818
Code. 81819

(iv) The transfer is made to a trust on account of a 81820
contractual relationship existing directly or indirectly between 81821
the transferor and another person who at the time of the 81822
decedent's death was domiciled in this state for purposes of this 81823
chapter. 81824

(v) The transfer is made to a trust on account of the will of 81825
a testator. 81826

(vi) The transfer is made to a trust created by or caused to 81827
be created by a court, and the trust was directly or indirectly 81828
created in connection with or as a result of the death of an 81829
individual who, for purposes of the taxes levied under Chapter 81830
5731. of the Revised Code, was domiciled in this state at the time 81831
of the individual's death. 81832

(g) The tax commissioner may adopt rules to ascertain the 81833
part of a trust residing in this state. 81834

(J) "Nonresident" means an individual or estate that is not a 81835
resident. An individual who is a resident for only part of a 81836
taxable year is a nonresident for the remainder of that taxable 81837
year. 81838

(K) "Pass-through entity" has the same meaning as in section 81839
5733.04 of the Revised Code. 81840

(L) "Return" means the notifications and reports required to 81841
be filed pursuant to this chapter for the purpose of reporting the 81842
tax due and includes declarations of estimated tax when so 81843
required. 81844

(M) "Taxable year" means the calendar year or the taxpayer's 81845
fiscal year ending during the calendar year, or fractional part 81846
thereof, upon which the adjusted gross income is calculated 81847
pursuant to this chapter. 81848

(N) "Taxpayer" means any person subject to the tax imposed by 81849
section 5747.02 of the Revised Code or any pass-through entity 81850
that makes the election under division (D) of section 5747.08 of 81851
the Revised Code. 81852

(O) "Dependents" means dependents as defined in the Internal 81853
Revenue Code and as claimed in the taxpayer's federal income tax 81854
return for the taxable year or which the taxpayer would have been 81855
permitted to claim had the taxpayer filed a federal income tax 81856
return. 81857

(P) "Principal county of employment" means, in the case of a 81858
nonresident, the county within the state in which a taxpayer 81859
performs services for an employer or, if those services are 81860
performed in more than one county, the county in which the major 81861
portion of the services are performed. 81862

(Q) As used in sections 5747.50 to 5747.55 of the Revised 81863
Code: 81864

(1) "Subdivision" means any county, municipal corporation, 81865
park district, or township. 81866

(2) "Essential local government purposes" includes all 81867
functions that any subdivision is required by general law to 81868
exercise, including like functions that are exercised under a 81869
charter adopted pursuant to the Ohio Constitution. 81870

(R) "Overpayment" means any amount already paid that exceeds 81871
the figure determined to be the correct amount of the tax. 81872

(S) "Taxable income" or "Ohio taxable income" applies only to 81873
estates and trusts, and means federal taxable income, as defined 81874

and used in the Internal Revenue Code, adjusted as follows: 81875

(1) Add interest or dividends, net of ordinary, necessary, 81876
and reasonable expenses not deducted in computing federal taxable 81877
income, on obligations or securities of any state or of any 81878
political subdivision or authority of any state, other than this 81879
state and its subdivisions and authorities, but only to the extent 81880
that such net amount is not otherwise includible in Ohio taxable 81881
income and is described in either division (S)(1)(a) or (b) of 81882
this section: 81883

(a) The net amount is not attributable to the S portion of an 81884
electing small business trust and has not been distributed to 81885
beneficiaries for the taxable year; 81886

(b) The net amount is attributable to the S portion of an 81887
electing small business trust for the taxable year. 81888

(2) Add interest or dividends, net of ordinary, necessary, 81889
and reasonable expenses not deducted in computing federal taxable 81890
income, on obligations of any authority, commission, 81891
instrumentality, territory, or possession of the United States to 81892
the extent that the interest or dividends are exempt from federal 81893
income taxes but not from state income taxes, but only to the 81894
extent that such net amount is not otherwise includible in Ohio 81895
taxable income and is described in either division (S)(1)(a) or 81896
(b) of this section; 81897

(3) Add the amount of personal exemption allowed to the 81898
estate pursuant to section 642(b) of the Internal Revenue Code; 81899

(4) Deduct interest or dividends, net of related expenses 81900
deducted in computing federal taxable income, on obligations of 81901
the United States and its territories and possessions or of any 81902
authority, commission, or instrumentality of the United States to 81903
the extent that the interest or dividends are exempt from state 81904
taxes under the laws of the United States, but only to the extent 81905

that such amount is included in federal taxable income and is 81906
described in either division (S)(1)(a) or (b) of this section; 81907

(5) Deduct the amount of wages and salaries, if any, not 81908
otherwise allowable as a deduction but that would have been 81909
allowable as a deduction in computing federal taxable income for 81910
the taxable year, had the targeted jobs credit allowed under 81911
sections 38, 51, and 52 of the Internal Revenue Code not been in 81912
effect, but only to the extent such amount relates either to 81913
income included in federal taxable income for the taxable year or 81914
to income of the S portion of an electing small business trust for 81915
the taxable year; 81916

(6) Deduct any interest or interest equivalent, net of 81917
related expenses deducted in computing federal taxable income, on 81918
public obligations and purchase obligations, but only to the 81919
extent that such net amount relates either to income included in 81920
federal taxable income for the taxable year or to income of the S 81921
portion of an electing small business trust for the taxable year; 81922

(7) Add any loss or deduct any gain resulting from sale, 81923
exchange, or other disposition of public obligations to the extent 81924
that such loss has been deducted or such gain has been included in 81925
computing either federal taxable income or income of the S portion 81926
of an electing small business trust for the taxable year; 81927

(8) Except in the case of the final return of an estate, add 81928
any amount deducted by the taxpayer on both its Ohio estate tax 81929
return pursuant to section 5731.14 of the Revised Code, and on its 81930
federal income tax return in determining federal taxable income; 81931

(9)(a) Deduct any amount included in federal taxable income 81932
solely because the amount represents a reimbursement or refund of 81933
expenses that in a previous year the decedent had deducted as an 81934
itemized deduction pursuant to section 63 of the Internal Revenue 81935
Code and applicable treasury regulations. The deduction otherwise 81936

allowed under division (S)(9)(a) of this section shall be reduced 81937
to the extent the reimbursement is attributable to an amount the 81938
taxpayer or decedent deducted under this section in any taxable 81939
year. 81940

(b) Add any amount not otherwise included in Ohio taxable 81941
income for any taxable year to the extent that the amount is 81942
attributable to the recovery during the taxable year of any amount 81943
deducted or excluded in computing federal or Ohio taxable income 81944
in any taxable year, but only to the extent such amount has not 81945
been distributed to beneficiaries for the taxable year. 81946

(10) Deduct any portion of the deduction described in section 81947
1341(a)(2) of the Internal Revenue Code, for repaying previously 81948
reported income received under a claim of right, that meets both 81949
of the following requirements: 81950

(a) It is allowable for repayment of an item that was 81951
included in the taxpayer's taxable income or the decedent's 81952
adjusted gross income for a prior taxable year and did not qualify 81953
for a credit under division (A) or (B) of section 5747.05 of the 81954
Revised Code for that year. 81955

(b) It does not otherwise reduce the taxpayer's taxable 81956
income or the decedent's adjusted gross income for the current or 81957
any other taxable year. 81958

(11) Add any amount claimed as a credit under section 81959
5747.059 of the Revised Code to the extent that the amount 81960
satisfies either of the following: 81961

(a) The amount was deducted or excluded from the computation 81962
of the taxpayer's federal taxable income as required to be 81963
reported for the taxpayer's taxable year under the Internal 81964
Revenue Code; 81965

(b) The amount resulted in a reduction in the taxpayer's 81966
federal taxable income as required to be reported for any of the 81967

taxpayer's taxable years under the Internal Revenue Code. 81968

(12) Deduct any amount, net of related expenses deducted in 81969
computing federal taxable income, that a trust is required to 81970
report as farm income on its federal income tax return, but only 81971
if the assets of the trust include at least ten acres of land 81972
satisfying the definition of "land devoted exclusively to 81973
agricultural use" under section 5713.30 of the Revised Code, 81974
regardless of whether the land is valued for tax purposes as such 81975
land under sections 5713.30 to 5713.38 of the Revised Code. If the 81976
trust is a pass-through entity investor, section 5747.231 of the 81977
Revised Code applies in ascertaining if the trust is eligible to 81978
claim the deduction provided by division (S)(12) of this section 81979
in connection with the pass-through entity's farm income. 81980

Except for farm income attributable to the S portion of an 81981
electing small business trust, the deduction provided by division 81982
(S)(12) of this section is allowed only to the extent that the 81983
trust has not distributed such farm income. Division (S)(12) of 81984
this section applies only to taxable years of a trust beginning in 81985
2002,~~2003~~, or 2004 thereafter. 81986

(13) Add the net amount of income described in section 641(c) 81987
of the Internal Revenue Code to the extent that amount is not 81988
included in federal taxable income. 81989

(14) Add or deduct the amount the taxpayer would be required 81990
to add or deduct under division (A)(20) or (21) of this section if 81991
the taxpayer's Ohio taxable income were computed in the same 81992
manner as an individual's Ohio adjusted gross income is computed 81993
under this section. In the case of a trust, division (S)(14) of 81994
this section applies only to any of the trust's taxable years 81995
beginning in 2002,~~2003~~, or 2004 thereafter. 81996

(T) "School district income" and "school district income tax" 81997
have the same meanings as in section 5748.01 of the Revised Code. 81998

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 81999
of this section, "public obligations," "purchase obligations," and 82000
"interest or interest equivalent" have the same meanings as in 82001
section 5709.76 of the Revised Code. 82002

(V) "Limited liability company" means any limited liability 82003
company formed under Chapter 1705. of the Revised Code or under 82004
the laws of any other state. 82005

(W) "Pass-through entity investor" means any person who, 82006
during any portion of a taxable year of a pass-through entity, is 82007
a partner, member, shareholder, or equity investor in that 82008
pass-through entity. 82009

(X) "Banking day" has the same meaning as in section 1304.01 82010
of the Revised Code. 82011

(Y) "Month" means a calendar month. 82012

(Z) "Quarter" means the first three months, the second three 82013
months, the third three months, or the last three months of the 82014
taxpayer's taxable year. 82015

(AA)(1) "Eligible institution" means a state university or 82016
state institution of higher education as defined in section 82017
3345.011 of the Revised Code, or a private, nonprofit college, 82018
university, or other post-secondary institution located in this 82019
state that possesses a certificate of authorization issued by the 82020
Ohio board of regents pursuant to Chapter 1713. of the Revised 82021
Code or a certificate of registration issued by the state board of 82022
career colleges and schools under Chapter 3332. of the Revised 82023
Code. 82024

(2) "Qualified tuition and fees" means tuition and fees 82025
imposed by an eligible institution as a condition of enrollment or 82026
attendance, not exceeding two thousand five hundred dollars in 82027
each of the individual's first two years of post-secondary 82028
education. If the individual is a part-time student, "qualified 82029

tuition and fees" includes tuition and fees paid for the academic 82030
equivalent of the first two years of post-secondary education 82031
during a maximum of five taxable years, not exceeding a total of 82032
five thousand dollars. "Qualified tuition and fees" does not 82033
include: 82034

(a) Expenses for any course or activity involving sports, 82035
games, or hobbies unless the course or activity is part of the 82036
individual's degree or diploma program; 82037

(b) The cost of books, room and board, student activity fees, 82038
athletic fees, insurance expenses, or other expenses unrelated to 82039
the individual's academic course of instruction; 82040

(c) Tuition, fees, or other expenses paid or reimbursed 82041
through an employer, scholarship, grant in aid, or other 82042
educational benefit program. 82043

(BB)(1) "Modified business income" means the business income 82044
included in a trust's Ohio taxable income after such taxable 82045
income is first reduced by the qualifying trust amount, if any. 82046

(2) "Qualifying trust amount" of a trust means capital gains 82047
and losses from the sale, exchange, or other disposition of equity 82048
or ownership interests in, or debt obligations of, a qualifying 82049
investee to the extent included in the trust's Ohio taxable 82050
income, but only if the following requirements are satisfied: 82051

(a) The book value of the qualifying investee's physical 82052
assets in this state and everywhere, as of the last day of the 82053
qualifying investee's fiscal or calendar year ending immediately 82054
prior to the date on which the trust recognizes the gain or loss, 82055
is available to the trust. 82056

(b) The requirements of section 5747.011 of the Revised Code 82057
are satisfied for the trust's taxable year in which the trust 82058
recognizes the gain or loss. 82059

Any gain or loss that is not a qualifying trust amount is 82060
modified business income, qualifying investment income, or 82061
modified nonbusiness income, as the case may be. 82062

(3) "Modified nonbusiness income" means a trust's Ohio 82063
taxable income other than modified business income, other than the 82064
qualifying trust amount, and other than qualifying investment 82065
income, as defined in section 5747.012 of the Revised Code, to the 82066
extent such qualifying investment income is not otherwise part of 82067
modified business income. 82068

(4) "Modified Ohio taxable income" applies only to trusts, 82069
and means the sum of the amounts described in divisions (BB)(4)(a) 82070
to (c) of this section: 82071

(a) The fraction, calculated under section 5747.013, and 82072
applying section 5747.231 of the Revised Code, multiplied by the 82073
sum of the following amounts: 82074

(i) The trust's modified business income; 82075

(ii) The trust's qualifying investment income, as defined in 82076
section 5747.012 of the Revised Code, but only to the extent the 82077
qualifying investment income does not otherwise constitute 82078
modified business income and does not otherwise constitute a 82079
qualifying trust amount. 82080

(b) The qualifying trust amount multiplied by a fraction, the 82081
numerator of which is the sum of the book value of the qualifying 82082
investee's physical assets in this state on the last day of the 82083
qualifying investee's fiscal or calendar year ending immediately 82084
prior to the day on which the trust recognizes the qualifying 82085
trust amount, and the denominator of which is the sum of the book 82086
value of the qualifying investee's total physical assets 82087
everywhere on the last day of the qualifying investee's fiscal or 82088
calendar year ending immediately prior to the day on which the 82089
trust recognizes the qualifying trust amount. If, for a taxable 82090

year, the trust recognizes a qualifying trust amount with respect 82091
to more than one qualifying investee, the amount described in 82092
division (BB)(4)(b) of this section shall equal the sum of the 82093
products so computed for each such qualifying investee. 82094

(c)(i) With respect to a trust or portion of a trust that is 82095
a resident as ascertained in accordance with division (I)(3)(d) of 82096
this section, its modified nonbusiness income. 82097

(ii) With respect to a trust or portion of a trust that is 82098
not a resident as ascertained in accordance with division 82099
(I)(3)(d) of this section, the amount of its modified nonbusiness 82100
income satisfying the descriptions in divisions (B)(2) to (5) of 82101
section 5747.20 of the Revised Code. 82102

If the allocation and apportionment of a trust's income under 82103
divisions (BB)(4)(a) and (c) of this section do not fairly 82104
represent the modified Ohio taxable income of the trust in this 82105
state, the alternative methods described in division (C) of 82106
section 5747.21 of the Revised Code may be applied in the manner 82107
and to the same extent provided in that section. 82108

(5)(a) Except as set forth in division (BB)(5)(b) of this 82109
section, "qualifying investee" means a person in which a trust has 82110
an equity or ownership interest, or a person or unit of government 82111
the debt obligations of either of which are owned by a trust. For 82112
the purposes of division (BB)(2)(a) of this section and for the 82113
purpose of computing the fraction described in division (BB)(4)(b) 82114
of this section, all of the following apply: 82115

(i) If the qualifying investee is a member of a qualifying 82116
controlled group on the last day of the qualifying investee's 82117
fiscal or calendar year ending immediately prior to the date on 82118
which the trust recognizes the gain or loss, then "qualifying 82119
investee" includes all persons in the qualifying controlled group 82120
on such last day. 82121

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the proportionate share of the pass-through entity's physical assets which the pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

(iii) For the purposes of division (BB)(5)(a)(iii) of this section, "upper level pass-through entity" means a pass-through entity directly or indirectly owning any equity of another pass-through entity, and "lower level pass-through entity" means that other pass-through entity.

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the

lower level pass-through entity on each day of the upper level 82154
pass-through entity's calendar or fiscal year in which or with 82155
which ends the calendar or fiscal year of the lower level 82156
pass-through entity and if, based upon clear and convincing 82157
evidence, complete information about the location and cost of the 82158
physical assets of the lower pass-through entity is not available 82159
to the upper level pass-through entity, then solely for purposes 82160
of ascertaining if a gain or loss constitutes a qualifying trust 82161
amount, the upper level pass-through entity shall be deemed as 82162
owning no equity of the lower level pass-through entity for each 82163
day during the upper level pass-through entity's calendar or 82164
fiscal year in which or with which ends the lower level 82165
pass-through entity's calendar or fiscal year. Nothing in division 82166
(BB)(5)(a)(iii) of this section shall be construed to provide for 82167
any deduction or exclusion in computing any trust's Ohio taxable 82168
income. 82169

(b) With respect to a trust that is not a resident for the 82170
taxable year and with respect to a part of a trust that is not a 82171
resident for the taxable year, "qualifying investee" for that 82172
taxable year does not include a C corporation if both of the 82173
following apply: 82174

(i) During the taxable year the trust or part of the trust 82175
recognizes a gain or loss from the sale, exchange, or other 82176
disposition of equity or ownership interests in, or debt 82177
obligations of, the C corporation. 82178

(ii) Such gain or loss constitutes nonbusiness income. 82179

(6) "Available" means information is such that a person is 82180
able to learn of the information by the due date plus extensions, 82181
if any, for filing the return for the taxable year in which the 82182
trust recognizes the gain or loss. 82183

(CC) "Qualifying controlled group" has the same meaning as in 82184

section 5733.04 of the Revised Code. 82185

(DD) "Related member" has the same meaning as in section 82186
5733.042 of the Revised Code. 82187

~~(EE) Any term used in this chapter that is not otherwise 82188
defined in this section and that is not used in a comparable 82189
context in the Internal Revenue Code and other statutes of the 82190
United States relating to federal income taxes has the same 82191
meaning as in section 5733.40 of the Revised Code (1) For the 82192
purposes of division (EE) of this section: 82193~~

(a) "Qualifying person" means any person other than a 82194
qualifying corporation. 82195

(b) "Qualifying corporation" means any person classified for 82196
federal income tax purposes as an association taxable as a 82197
corporation, except either of the following: 82198

(i) A corporation that has made an election under subchapter 82199
S, chapter one, subtitle A, of the Internal Revenue Code for its 82200
taxable year ending within, or on the last day of, the investor's 82201
taxable year; 82202

(ii) A subsidiary that is wholly owned by any corporation 82203
that has made an election under subchapter S, chapter one, 82204
subtitle A of the Internal Revenue Code for its taxable year 82205
ending within, or on the last day of, the investor's taxable year. 82206

(2) For the purposes of this chapter, unless expressly stated 82207
otherwise, no qualifying person indirectly owns any asset directly 82208
or indirectly owned by any qualifying corporation. 82209

(FF) For purposes of this chapter and Chapter 5751. of the 82210
Revised Code: 82211

(1) "Trust" does not include a qualified pre-income tax 82212
trust. 82213

(2) A "qualified pre-income tax trust" is any pre-income tax 82214

trust that makes a qualifying pre-income tax trust election as 82215
described in division (FF)(3) of this section. 82216

(3) A "qualifying pre-income tax trust election" is an 82217
election by a pre-income tax trust to be subject to the tax 82218
imposed by section 5751.02 of the Revised Code and to be subject 82219
to the tax imposed by section 5751.02 of the Revised Code all 82220
pass-through entities in which it owns, directly, indirectly, or 82221
constructively through related interests by common owners, five 82222
per cent or more of the ownership or equity interests. The trustee 82223
shall notify the tax commissioner in writing of the election on or 82224
before April 15, 2006. The election, if timely made, shall be 82225
effective on and after January 1, 2005, and shall apply for all 82226
tax periods and tax years until revoked by the trustee of the 82227
trust. 82228

(4) A "pre-income tax trust" is a trust that satisfies both 82229
of the following requirements: 82230

(a) The document or instrument creating the trust was 82231
executed by the grantor before January 1, 1972. 82232

(b) The trust became irrevocable upon the creation of the 82233
trust. 82234

Sec. 5747.012. This section applies for the purposes of 82235
divisions (BB)(3) and (BB)(4)(a)(ii) of section 5747.01 of the 82236
Revised Code. 82237

(A) As used in this section: 82238

(1)(a) Except as set forth in division (A)(1)(b) of this 82239
section, "qualifying investment income" means the portion of a 82240
qualifying investment pass-through entity's net income 82241
attributable to transaction fees in connection with the 82242
acquisition, ownership, or disposition of intangible property; 82243
loan fees; financing fees; consent fees; waiver fees; application 82244

fees; net management fees; dividend income; interest income; net 82245
capital gains from the sale or exchange or other disposition of 82246
intangible property; and all types and classifications of income 82247
attributable to distributive shares of income from other 82248
pass-through entities. 82249

(b)(i) Notwithstanding division (A)(1)(a) of this section, 82250
"qualifying investment income" does not include any part of the 82251
qualifying investment pass-through entity's net capital gain 82252
which, after the application of section 5747.231 of the Revised 82253
Code with respect to a trust, would also constitute a qualifying 82254
trust amount. 82255

(ii) Notwithstanding division (A)(1)(a) of this section, 82256
"qualifying investment income" does not include any part of the 82257
qualifying investment pass-through entity's net income 82258
attributable to the portion of a distributive share of income 82259
directly or indirectly from another pass-through entity to the 82260
extent such portion constitutes the other pass-through entity's 82261
net capital gain which, after the application of section 5747.231 82262
of the Revised Code with respect to a trust, would also constitute 82263
a qualifying trust amount. 82264

(2) "Qualifying investment pass-through entity" means an 82265
investment pass-through entity, as defined in section 5733.401 of 82266
the Revised Code, subject to the following qualifications: 82267

(a) "Forty per cent" shall be substituted for "ninety per 82268
cent" wherever "ninety per cent" appears in section 5733.401 of 82269
the Revised Code. 82270

(b) The pass-through entity must have been formed or 82271
organized as an entity prior to June 5, 2002, and must exist as a 82272
pass-through entity for all of the taxable year of the trust. 82273

(c) The qualifying section 5747.012 trust or related persons 82274
to the qualifying section 5747.012 trust must directly or 82275

indirectly own at least five per cent of the equity of the 82276
investment pass-through entity each day of the entity's fiscal or 82277
calendar year ending within or with the last day of the qualifying 82278
section 5747.012 trust's taxable year; 82279

(d) During the investment pass-through entity's calendar or 82280
fiscal year ending within or with the last day of the qualifying 82281
section 5747.012 trust's taxable year, related persons of or to 82282
the qualifying section 5747.012 trust must, on each day of the 82283
investment pass-through entity's year, own directly, or own 82284
through equity investments in other pass-through entities, more 82285
than sixty per cent of the equity of the investment pass-through 82286
entity. 82287

(B) "Qualifying section 5747.012 trust" means a trust 82288
satisfying one of the following: 82289

(1) The trust was created prior to, and was irrevocable on, 82290
June 5, 2002; or 82291

(2) If the trust was created after June 4, 2002, or if the 82292
trust became irrevocable after June 4, 2002, then at least eighty 82293
per cent of the assets transferred to the trust must have been 82294
previously owned by related persons to the trust or by a trust 82295
created prior to June 5, 2002, under which the creator did not 82296
retain the power to change beneficiaries, amend the trust, or 82297
revoke the trust. For purposes of division (B)(2) of this section, 82298
the power to substitute property of equal value shall not be 82299
considered to be a power to change beneficiaries, amend the trust, 82300
or revoke the trust. 82301

(C) For the purposes of this section, "related persons" means 82302
the family of a qualifying individual beneficiary, as defined in 82303
division (A)(5) of section 5747.011 of the Revised Code. For the 82304
purposes of this division, "family" has the same meaning as in 82305
division (A)(6) of section 5747.011 of the Revised Code. 82306

(D) For the purposes of applying divisions (A)(2)(c), 82307
(A)(2)(d), and (B)(2) of this section, the related persons or the 82308
qualifying section 5747.012 trust, as the case may be, shall be 82309
deemed to own the equity of the investment pass-through entity 82310
after the application of division (B) of section 5747.011 of the 82311
Revised Code. 82312

(E) "Irrevocable" has the same meaning as in division 82313
(I)(3)(b) of section 5747.01 of the Revised Code. 82314

(F) Nothing in this section requires any item of income, 82315
gain, or loss not satisfying the definition of qualifying 82316
investment income to be treated as modified nonbusiness income. 82317
Any item of income, gain, or loss that is not qualifying 82318
investment income is modified business income, modified 82319
nonbusiness income, or a qualifying trust amount, as the case may 82320
be. 82321

Sec. 5747.02. (A) For the purpose of providing revenue for 82322
the support of schools and local government functions, to provide 82323
relief to property taxpayers, to provide revenue for the general 82324
revenue fund, and to meet the expenses of administering the tax 82325
levied by this chapter, there is hereby levied on every 82326
individual, trust, and estate residing in or earning or receiving 82327
income in this state, on every individual, trust, and estate 82328
earning or receiving lottery winnings, prizes, or awards pursuant 82329
to Chapter 3770. of the Revised Code, and on every individual, 82330
trust, and estate otherwise having nexus with or in this state 82331
under the Constitution of the United States, an annual tax 82332
measured in the case of individuals by Ohio adjusted gross income 82333
less an exemption for the taxpayer, the taxpayer's spouse, and 82334
each dependent as provided in section 5747.025 of the Revised 82335
Code; measured in the case of trusts by modified Ohio taxable 82336
income under division (D) of this section; and measured in the 82337

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| case of estates by Ohio taxable income. The tax imposed by this | 82338 |
| section on the balance thus obtained is hereby levied as follows: | 82339 |
| <u>(1) For taxable years beginning in 2004:</u> | 82340 |
| OHIO ADJUSTED GROSS INCOME LESS | 82341 |
| EXEMPTIONS (INDIVIDUALS) | |
| OR | 82342 |
| MODIFIED OHIO | 82343 |
| TAXABLE INCOME (TRUSTS) | 82344 |
| OR | 82345 |
| OHIO TAXABLE INCOME (ESTATES) TAX | 82346 |
| \$5,000 or less .743% | 82347 |
| More than \$5,000 but not more than \$10,000 \$37.15 plus 1.486% of the amount in excess of \$5,000 | 82348 |
| More than \$10,000 but not more than \$15,000 \$111.45 plus 2.972% of the amount in excess of \$10,000 | 82349 |
| More than \$15,000 but not more than \$20,000 \$260.05 plus 3.715% of the amount in excess of \$15,000 | 82350 |
| More than \$20,000 but not more than \$40,000 \$445.80 plus 4.457% of the amount in excess of \$20,000 | 82351 |
| More than \$40,000 but not more than \$80,000 \$1,337.20 plus 5.201% of the amount in excess of \$40,000 | 82352 |
| More than \$80,000 but not more than \$100,000 \$3,417.60 plus 5.943% of the amount in excess of \$80,000 | 82353 |
| More than \$100,000 but not more than \$200,000 \$4,606.20 plus 6.9% of the amount in excess of \$100,000 | 82354 |
| More than \$200,000 \$11,506.20 plus 7.5% of the amount in excess of \$200,000 | 82355 |
| <u>(2) For taxable years beginning in 2005:</u> | 82356 |
| <u>OHIO ADJUSTED GROSS INCOME LESS</u> | 82357 |
| <u>EXEMPTIONS (INDIVIDUALS)</u> | |
| <u>OR</u> | 82358 |
| <u>MODIFIED OHIO</u> | 82359 |

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| <u>TAXABLE INCOME (TRUSTS)</u> | | 82360 |
| <u>OR</u> | | 82361 |
| <u>OHIO TAXABLE INCOME (ESTATES)</u> | <u>TAX</u> | 82362 |
| <u>\$5,000 or less</u> | <u>.712%</u> | 82363 |
| <u>More than \$5,000 but not more than \$10,000</u> | <u>\$35.60 plus 1.424% of the amount in excess of \$5,000</u> | 82364 |
| <u>More than \$10,000 but not more than \$15,000</u> | <u>\$106.80 plus 2.847% of the amount in excess of \$10,000</u> | 82365 |
| <u>More than \$15,000 but not more than \$20,000</u> | <u>\$249.15 plus 3.559% of the amount in excess of \$15,000</u> | 82366 |
| <u>More than \$20,000 but not more than \$40,000</u> | <u>\$427.10 plus 4.27% of the amount in excess of \$20,000</u> | 82367 |
| <u>More than \$40,000 but not more than \$80,000</u> | <u>\$1,281.10 plus 4.983% of the amount in excess of \$40,000</u> | 82368 |
| <u>More than \$80,000 but not more than \$100,000</u> | <u>\$3,274.30 plus 5.693% of the amount in excess of \$80,000</u> | 82369 |
| <u>More than \$100,000 but not more than \$200,000</u> | <u>\$4,412.90 plus 6.61% of the amount in excess of \$100,000</u> | 82370 |
| <u>More than \$200,000</u> | <u>\$11,022.90 plus 7.185% of the amount in excess of \$200,000</u> | 82371 |
| <u>(3) For taxable years beginning in 2006:</u> | | 82372 |
| <u>OHIO ADJUSTED GROSS INCOME LESS</u> | | 82373 |
| <u>EXEMPTIONS (INDIVIDUALS)</u> | | |
| <u>OR</u> | | 82374 |
| <u>MODIFIED OHIO</u> | | 82375 |
| <u>TAXABLE INCOME (TRUSTS)</u> | | 82376 |
| <u>OR</u> | | 82377 |
| <u>OHIO TAXABLE INCOME (ESTATES)</u> | <u>TAX</u> | 82378 |
| <u>\$5,000 or less</u> | <u>.681%</u> | 82379 |
| <u>More than \$5,000 but not more than \$10,000</u> | <u>\$34.05 plus 1.361% of the amount in excess of \$5,000</u> | 82380 |
| <u>More than \$10,000 but not more than \$15,000</u> | <u>\$102.10 plus 2.722% of the amount in excess of \$10,000</u> | 82381 |

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| <u>More than \$15,000 but not more than \$20,000</u> | <u>\$238.20 plus 3.403% of the amount in excess of \$15,000</u> | 82382 |
| <u>More than \$20,000 but not more than \$40,000</u> | <u>\$408.35 plus 4.083% of the amount in excess of \$20,000</u> | 82383 |
| <u>More than \$40,000 but not more than \$80,000</u> | <u>\$1,224.95 plus 4.764% of the amount in excess of \$40,000</u> | 82384 |
| <u>More than \$80,000 but not more than \$100,000</u> | <u>\$3,130.55 plus 5.444% of the amount in excess of \$80,000</u> | 82385 |
| <u>More than \$100,000 but not more than \$200,000</u> | <u>\$4,219.35 plus 6.32% of the amount in excess of \$100,000</u> | 82386 |
| <u>More than \$200,000</u> | <u>\$10,539.35 plus 6.87% of the amount in excess of \$200,000</u> | 82387 |
| | | |
| <u>(4) For taxable years beginning in 2007:</u> | | 82388 |
| <u>OHIO ADJUSTED GROSS INCOME LESS</u> | | 82389 |
| <u>EXEMPTIONS (INDIVIDUALS)</u> | | |
| <u>OR</u> | | 82390 |
| <u>MODIFIED OHIO</u> | | 82391 |
| <u>TAXABLE INCOME (TRUSTS)</u> | | 82392 |
| <u>OR</u> | | 82393 |
| <u>OHIO TAXABLE INCOME (ESTATES)</u> | <u>TAX</u> | 82394 |
| <u>\$5,000 or less</u> | <u>.649%</u> | 82395 |
| <u>More than \$5,000 but not more than \$10,000</u> | <u>\$32.45 plus 1.299% of the amount in excess of \$5,000</u> | 82396 |
| <u>More than \$10,000 but not more than \$15,000</u> | <u>\$97.40 plus 2.598% of the amount in excess of \$10,000</u> | 82397 |
| <u>More than \$15,000 but not more than \$20,000</u> | <u>\$227.30 plus 3.247% of the amount in excess of \$15,000</u> | 82398 |
| <u>More than \$20,000 but not more than \$40,000</u> | <u>\$389.65 plus 3.895% of the amount in excess of \$20,000</u> | 82399 |
| <u>More than \$40,000 but not more than \$80,000</u> | <u>\$1,168.65 plus 4.546% of the amount in excess of \$40,000</u> | 82400 |
| <u>More than \$80,000 but not more than \$100,000</u> | <u>\$2,987.05 plus 5.194% of the amount in excess of \$80,000</u> | 82401 |

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| <u>More than \$100,000 but not more than \$200,000</u> | <u>\$4,025.85 plus 6.031% of the amount in excess of \$100,000</u> | 82402 |
| <u>More than \$200,000</u> | <u>\$10,056.85 plus 6.555% of the amount in excess of \$200,000</u> | 82403 |
| <u>(5) For taxable years beginning in 2008:</u> | | 82404 |
| <u>OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)</u> | | 82405 |
| <u>OR</u> | | 82406 |
| <u>MODIFIED OHIO TAXABLE INCOME (TRUSTS)</u> | | 82407 |
| <u>OR</u> | | 82408 |
| <u>OHIO TAXABLE INCOME (ESTATES)</u> | <u>TAX</u> | 82409 |
| <u>\$5,000 or less</u> | <u>.618%</u> | 82410 |
| <u>More than \$5,000 but not more than \$10,000</u> | <u>\$30.90 plus 1.236% of the amount in excess of \$5,000</u> | 82411 |
| <u>More than \$10,000 but not more than \$15,000</u> | <u>\$92.70 plus 2.473% of the amount in excess of \$10,000</u> | 82412 |
| <u>More than \$15,000 but not more than \$20,000</u> | <u>\$216.35 plus 3.091% of the amount in excess of \$15,000</u> | 82413 |
| <u>More than \$20,000 but not more than \$40,000</u> | <u>\$370.90 plus 3.708% of the amount in excess of \$20,000</u> | 82414 |
| <u>More than \$40,000 but not more than \$80,000</u> | <u>\$1,112.50 plus 4.327% of the amount in excess of \$40,000</u> | 82415 |
| <u>More than \$80,000 but not more than \$100,000</u> | <u>\$2,843.30 plus 4.945% of the amount in excess of \$80,000</u> | 82416 |
| <u>More than \$100,000 but not more than \$200,000</u> | <u>\$3,832.30 plus 5.741% of the amount in excess of \$100,000</u> | 82417 |
| <u>More than \$200,000</u> | <u>\$9,573.30 plus 6.24% of the amount in excess of \$200,000</u> | 82418 |
| <u>(6) For taxable years beginning in 2009 or thereafter:</u> | | 82419 |
| <u>OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)</u> | | 82420 |
| | | 82421 |

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| <u>OR</u> | | 82422 |
| <u>MODIFIED OHIO</u> | | 82423 |
| <u>TAXABLE INCOME (TRUSTS)</u> | | 82424 |
| <u>OR</u> | | 82425 |
| <u>OHIO TAXABLE INCOME (ESTATES)</u> | <u>TAX</u> | 82426 |
| <u>\$5,000 or less</u> | <u>.587%</u> | 82427 |
| <u>More than \$5,000 but not more than \$10,000</u> | <u>\$29.35 plus 1.174% of the amount in excess of \$5,000</u> | 82428 |
| <u>More than \$10,000 but not more than \$15,000</u> | <u>\$88.05 plus 2.348% of the amount in excess of \$10,000</u> | 82429 |
| <u>More than \$15,000 but not more than \$20,000</u> | <u>\$205.45 plus 2.935% of the amount in excess of \$15,000</u> | 82430 |
| <u>More than \$20,000 but not more than \$40,000</u> | <u>\$352.20 plus 3.521% of the amount in excess of \$20,000</u> | 82431 |
| <u>More than \$40,000 but not more than \$80,000</u> | <u>\$1,056.40 plus 4.109% of the amount in excess of \$40,000</u> | 82432 |
| <u>More than \$80,000 but not more than \$100,000</u> | <u>\$2,700.00 plus 4.695% of the amount in excess of \$80,000</u> | 82433 |
| <u>More than \$100,000 but not more than \$200,000</u> | <u>\$3,639.00 plus 5.451% of the amount in excess of \$100,000</u> | 82434 |
| <u>More than \$200,000</u> | <u>\$9,090.00 plus 5.925% of the amount in excess of \$200,000</u> | 82435 |

In July of each year, beginning in ~~2005~~ 2010, the tax commissioner shall adjust the income amounts prescribed in this division by multiplying the percentage increase in the gross domestic product deflator computed that year under section 5747.025 of the Revised Code by each of the income amounts resulting from the adjustment under this division in the preceding year, adding the resulting product to the corresponding income amount resulting from the adjustment in the preceding year, and rounding the resulting sum to the nearest multiple of fifty dollars. The tax commissioner also shall recompute each of the tax dollar amounts to the extent necessary to reflect the adjustment

of the income amounts. The rates of taxation shall not be 82447
adjusted. 82448

The adjusted amounts apply to taxable years beginning in the 82449
calendar year in which the adjustments are made. The tax 82450
commissioner shall not make such adjustments in any year in which 82451
the amount resulting from the adjustment would be less than the 82452
amount resulting from the adjustment in the preceding year. 82453

(B) If the director of budget and management makes a 82454
certification to the tax commissioner under division (B) of 82455
section 131.44 of the Revised Code, the amount of tax as 82456
determined under division (A) of this section shall be reduced by 82457
the percentage prescribed in that certification for taxable years 82458
beginning in the calendar year in which that certification is 82459
made. 82460

(C) The levy of this tax on income does not prevent a 82461
municipal corporation, a joint economic development zone created 82462
under section 715.691, or a joint economic development district 82463
created under section 715.70 or 715.71 or sections 715.72 to 82464
715.81 of the Revised Code from levying a tax on income. 82465

(D) This division applies only to taxable years of a trust 82466
beginning in 2002, ~~2003~~, or ~~2004~~ thereafter. 82467

(1) The tax imposed by this section on a trust shall be 82468
computed by multiplying the Ohio modified taxable income of the 82469
trust by the rates prescribed by division (A) of this section. 82470

(2) A credit is allowed against the tax computed under 82471
division (D) of this section equal to the lesser of (1) the tax 82472
paid to another state or the District of Columbia on the trust's 82473
modified nonbusiness income, other than the portion of the trust's 82474
nonbusiness income that is qualifying investment income as defined 82475
in section 5747.012 of the Revised Code, or (2) the effective tax 82476
rate, based on modified Ohio taxable income, multiplied by the 82477

trust's modified nonbusiness income other than the portion of 82478
trust's nonbusiness income that is qualifying investment income. 82479
The credit applies before any other applicable credits. 82480

(3) The credits enumerated in divisions (A)(1) to (13) of 82481
section 5747.98 of the Revised Code do not apply to a trust 82482
subject to this division. Any credits enumerated in other 82483
divisions of section 5747.98 of the Revised Code apply to a trust 82484
subject to this division. To the extent that the trust distributes 82485
income for the taxable year for which a credit is available to the 82486
trust, the credit shall be shared by the trust and its 82487
beneficiaries. The tax commissioner and the trust shall be guided 82488
by applicable regulations of the United States treasury regarding 82489
the sharing of credits. 82490

(E) For the purposes of this section, "trust" means any trust 82491
described in Subchapter J of Chapter 1 of the Internal Revenue 82492
Code, excluding trusts that are not irrevocable as defined in 82493
division (I)(3)(b) of section 5747.01 of the Revised Code and that 82494
have no modified Ohio taxable income for the taxable year, 82495
charitable remainder trusts, qualified funeral trusts and preneed 82496
funeral contract trusts established pursuant to section 1111.19 of 82497
the Revised Code that are not qualified funeral trusts, endowment 82498
and perpetual care trusts, qualified settlement trusts and funds, 82499
designated settlement trusts and funds, and trusts exempted from 82500
taxation under section 501(a) of the Internal Revenue Code. 82501

Sec. 5747.05. As used in this section, "income tax" includes 82502
both a tax on net income and a tax measured by net income. 82503

The following credits shall be allowed against the income tax 82504
imposed by section 5747.02 of the Revised Code on individuals and 82505
estates: 82506

(A)(1) The amount of tax otherwise due under section 5747.02 82507
of the Revised Code on such portion of the adjusted gross income 82508

of any nonresident taxpayer that is not allocable to this state 82509
pursuant to sections 5747.20 to 5747.23 of the Revised Code; 82510

(2) The credit provided under this division shall not exceed 82511
the portion of the total tax due under section 5747.02 of the 82512
Revised Code that the amount of the nonresident taxpayer's 82513
adjusted gross income not allocated to this state pursuant to 82514
sections 5747.20 to 5747.23 of the Revised Code bears to the total 82515
adjusted gross income of the nonresident taxpayer derived from all 82516
sources everywhere. 82517

(3) The tax commissioner may enter into an agreement with the 82518
taxing authorities of any state or of the District of Columbia 82519
that imposes an income tax to provide that compensation paid in 82520
this state to a nonresident taxpayer shall not be subject to the 82521
tax levied in section 5747.02 of the Revised Code so long as 82522
compensation paid in such other state or in the District of 82523
Columbia to a resident taxpayer shall likewise not be subject to 82524
the income tax of such other state or of the District of Columbia. 82525

(B) The lesser of division (B)(1) or (2) of this section: 82526

(1) The amount of tax otherwise due under section 5747.02 of 82527
the Revised Code on such portion of the adjusted gross income of a 82528
resident taxpayer that in another state or in the District of 82529
Columbia is subjected to an income tax. The credit provided under 82530
division (B)(1) of this section shall not exceed the portion of 82531
the total tax due under section 5747.02 of the Revised Code that 82532
the amount of the resident taxpayer's adjusted gross income 82533
subjected to an income tax in the other state or in the District 82534
of Columbia bears to the total adjusted gross income of the 82535
resident taxpayer derived from all sources everywhere. 82536

(2) The amount of income tax liability to another state or 82537
the District of Columbia on the portion of the adjusted gross 82538
income of a resident taxpayer that in another state or in the 82539

District of Columbia is subjected to an income tax. The credit 82540
provided under division (B)(2) of this section shall not exceed 82541
the amount of tax otherwise due under section 5747.02 of the 82542
Revised Code. 82543

(3) If the credit provided under division (B) of this section 82544
is affected by a change in either the portion of adjusted gross 82545
income of a resident taxpayer subjected to an income tax in 82546
another state or the District of Columbia or the amount of income 82547
tax liability that has been paid to another state or the District 82548
of Columbia, the taxpayer shall report the change to the tax 82549
commissioner within sixty days of the change in such form as the 82550
commissioner requires. 82551

(a) In the case of an underpayment, the report shall be 82552
accompanied by payment of any additional tax due as a result of 82553
the reduction in credit together with interest on the additional 82554
tax and is a return subject to assessment under section 5747.13 of 82555
the Revised Code solely for the purpose of assessing any 82556
additional tax due under this division, together with any 82557
applicable penalty and interest. It shall not reopen the 82558
computation of the taxpayer's tax liability under this chapter 82559
from a previously filed return no longer subject to assessment 82560
except to the extent that such liability is affected by an 82561
adjustment to the credit allowed by division (B) of this section. 82562

(b) In the case of an overpayment, an application for refund 82563
may be filed under this division within the sixty day period 82564
prescribed for filing the report even if it is beyond the period 82565
prescribed in section 5747.11 of the Revised Code if it otherwise 82566
conforms to the requirements of such section. An application filed 82567
under this division shall only claim refund of overpayments 82568
resulting from an adjustment to the credit allowed by division (B) 82569
of this section unless it is also filed within the time prescribed 82570
in section 5747.11 of the Revised Code. It shall not reopen the 82571

computation of the taxpayer's tax liability except to the extent 82572
that such liability is affected by an adjustment to the credit 82573
allowed by division (B) of this section. 82574

(4) No credit shall be allowed under division (B) of this 82575
section to the extent that for any taxable year the taxpayer has 82576
directly or indirectly deducted, or was required to directly or 82577
indirectly deduct, the amount of income tax liability to another 82578
state or the District of Columbia in computing federal adjusted 82579
gross income. 82580

(C) For a taxpayer sixty-five years of age or older during 82581
the taxable year, a credit for such year equal to fifty dollars 82582
for each return required to be filed under section 5747.08 of the 82583
Revised Code. 82584

(D) A taxpayer sixty-five years of age or older during the 82585
taxable year who has received a lump-sum distribution from a 82586
pension, retirement, or profit-sharing plan in the taxable year 82587
may elect to receive a credit under this division in lieu of the 82588
credit to which the taxpayer is entitled under division (C) of 82589
this section. A taxpayer making such election shall receive a 82590
credit for the taxable year equal to fifty dollars times the 82591
taxpayer's expected remaining life as shown by annuity tables 82592
issued under the provisions of the Internal Revenue Code and in 82593
effect for the calendar year which includes the last day of the 82594
taxable year. A taxpayer making an election under this division is 82595
not entitled to the credit authorized under division (C) of this 82596
section in subsequent taxable years except that if such election 82597
was made prior to July 1, 1983, the taxpayer is entitled to 82598
one-half the credit authorized under such division in subsequent 82599
taxable years but may not make another election under this 82600
division. 82601

(E) A taxpayer who is not sixty-five years of age or older 82602
during the taxable year who has received a lump-sum distribution 82603

from a pension, retirement, or profit-sharing plan in a taxable 82604
year ending on or before July 31, 1991, may elect to take a credit 82605
against the tax otherwise due under this chapter for such year 82606
equal to fifty dollars times the expected remaining life of a 82607
taxpayer sixty-five years of age as shown by annuity tables issued 82608
under the provisions of the Internal Revenue Code and in effect 82609
for the calendar year which includes the last day of the taxable 82610
year. A taxpayer making an election under this division is not 82611
entitled to a credit under division (C) or (D) of this section in 82612
any subsequent year except that if such election was made prior to 82613
July 1, 1983, the taxpayer is entitled to one-half the credit 82614
authorized under division (C) of this section in subsequent years 82615
but may not make another election under this division. No taxpayer 82616
may make an election under this division for a taxable year ending 82617
on or after August 1, 1991. 82618

(F) A taxpayer making an election under either division (D) 82619
or (E) of this section may make only one such election in the 82620
taxpayer's lifetime. 82621

(G)(1) On a joint return filed by a husband and wife, each of 82622
whom had adjusted gross income of at least five hundred dollars, 82623
exclusive of interest, dividends and distributions, royalties, 82624
rent, and capital gains, a credit equal to the percentage shown in 82625
the table contained in this division of the amount of tax due 82626
after allowing for any other credit that precedes the credit under 82627
this division in the order required under section 5747.98 of the 82628
Revised Code. 82629

(2) The credit to which a taxpayer is entitled under this 82630
division in any taxable year is the percentage shown in column B 82631
that corresponds with the taxpayer's adjusted gross income, less 82632
exemptions for the taxable year: 82633

| A. | B. | |
|-------------------------------|----------------------------|-------|
| IF THE ADJUSTED GROSS INCOME, | THE CREDIT FOR THE TAXABLE | 82634 |
| | | 82635 |

LESS EXEMPTIONS, FOR THE TAX YEAR YEAR IS:

IS:

| | | |
|---|-----|-------|
| \$25,000 or less | 20% | 82636 |
| More than \$25,000 but not more than \$50,000 | 15% | 82637 |
| More than \$50,000 but not more than \$75,000 | 10% | 82638 |
| More than \$75,000 | 5% | 82639 |

(3) The credit allowed under this division shall not exceed six hundred fifty dollars in any taxable year. 82640
82641

(H) No claim for credit under this section shall be allowed unless the claimant furnishes such supporting information as the tax commissioner prescribes by rules. Each credit under this section shall be claimed in the order required under section 5747.98 of the Revised Code. 82642
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(I) An individual who is a resident for part of a taxable year and a nonresident for the remainder of the taxable year is allowed the credits under divisions (A) and (B) of this section in accordance with rules prescribed by the tax commissioner. In no event shall the same income be subject to both credits. 82647
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(J) The credit allowed under division (A) of this section shall be calculated based upon the amount of tax due under section 5747.02 of the Revised Code after subtracting any other credits that precede the credit under that division in the order required under section 5747.98 of the Revised Code. The credit allowed under division (B) of this section shall be calculated based upon the amount of tax due under section 5747.02 of the Revised Code after subtracting any other credits that precede the credit under that division in the order required under section 5747.98 of the Revised Code. 82652
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(K) No credit shall be allowed under division (B) of this section unless the taxpayer furnishes such proof as the tax 82662
82663

commissioner shall require that the income tax liability has been 82664
paid to another state or the District of Columbia. 82665

(L) No credit shall be allowed under division (B) of this 82666
section for compensation that is not subject to the income tax of 82667
another state or the District of Columbia as the result of an 82668
agreement entered into by the tax commissioner under division 82669
(A)(3) of this section. 82670

Sec. 5747.056. For taxable years beginning in 2005 or 82671
thereafter, a credit shall be allowed against the tax imposed by 82672
section 5747.02 of the Revised Code for an individual whose Ohio 82673
adjusted gross income less exemptions is ten thousand dollars or 82674
less. For taxable years beginning in 2005, the credit shall equal 82675
one hundred seven dollars. For taxable years beginning in 2006, 82676
the credit shall equal one hundred two dollars. For taxable years 82677
beginning in 2007, the credit shall equal ninety-eight dollars. 82678
For taxable years beginning in 2008, the credit shall equal 82679
ninety-three dollars. For taxable years beginning in 2009 or 82680
thereafter, the credit shall equal eighty-eight dollars. The 82681
credit shall be claimed in the order required under section 82682
5747.98 of the Revised Code. 82683

Sec. 5747.08. An annual return with respect to the tax 82684
imposed by section 5747.02 of the Revised Code and each tax 82685
imposed under Chapter 5748. of the Revised Code shall be made by 82686
every taxpayer for any taxable year for which the taxpayer is 82687
liable for the tax imposed by that section or under that chapter, 82688
unless the total credits allowed under divisions (E), (F), and (G) 82689
of section 5747.05 of the Revised Code for the year are equal to 82690
or exceed the tax imposed by section 5747.02 of the Revised Code, 82691
in which case no return shall be required unless the taxpayer is 82692
liable for a tax imposed pursuant to Chapter 5748. of the Revised 82693
Code. 82694

(A) If an individual is deceased, any return or notice 82695
required of that individual under this chapter shall be made and 82696
filed by that decedent's executor, administrator, or other person 82697
charged with the property of that decedent. 82698

(B) If an individual is unable to make a return or notice 82699
required by this chapter, the return or notice required of that 82700
individual shall be made and filed by the individual's duly 82701
authorized agent, guardian, conservator, fiduciary, or other 82702
person charged with the care of the person or property of that 82703
individual. 82704

(C) Returns or notices required of an estate or a trust shall 82705
be made and filed by the fiduciary of the estate or trust. 82706

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) 82707
of this section, any pass-through entity may file a single return 82708
on behalf of one or more of the entity's investors other than an 82709
investor that is a person subject to the tax imposed under section 82710
5733.06 of the Revised Code. The single return shall set forth the 82711
name, address, and social security number or other identifying 82712
number of each of those pass-through entity investors and shall 82713
indicate the distributive share of each of those pass-through 82714
entity investor's income taxable in this state in accordance with 82715
sections 5747.20 to 5747.231 of the Revised Code. Such 82716
pass-through entity investors for whom the pass-through entity 82717
elects to file a single return are not entitled to the exemption 82718
or credit provided for by sections 5747.02 and 5747.022 of the 82719
Revised Code; shall calculate the tax before business credits at 82720
the highest rate of tax set forth in section 5747.02 of the 82721
Revised Code for the taxable year for which the return is filed; 82722
and are entitled to only their distributive share of the business 82723
credits as defined in division (D)(2) of this section. A single 82724
check drawn by the pass-through entity shall accompany the return 82725
in full payment of the tax due, as shown on the single return, for 82726

such investors, other than investors who are persons subject to 82727
the tax imposed under section 5733.06 of the Revised Code. 82728

(b)(i) A pass-through entity shall not include in such a 82729
single return any investor that is a trust to the extent that any 82730
direct or indirect current, future, or contingent beneficiary of 82731
the trust is a person subject to the tax imposed under section 82732
5733.06 of the Revised Code. 82733

(ii) A pass-through entity shall not include in such a single 82734
return any investor that is itself a pass-through entity to the 82735
extent that any direct or indirect investor in the second 82736
pass-through entity is a person subject to the tax imposed under 82737
section 5733.06 of the Revised Code. 82738

(c) Nothing in division (D) of this section precludes the tax 82739
commissioner from requiring such investors to file the return and 82740
make the payment of taxes and related interest, penalty, and 82741
interest penalty required by this section or section 5747.02, 82742
5747.09, or 5747.15 of the Revised Code. Nothing in division (D) 82743
of this section shall be construed to provide to such an investor 82744
or pass-through entity any additional deduction or credit, other 82745
than the credit provided by division (J) of this section, solely 82746
on account of the entity's filing a return in accordance with this 82747
section. Such a pass-through entity also shall make the filing and 82748
payment of estimated taxes on behalf of the pass-through entity 82749
investors other than an investor that is a person subject to the 82750
tax imposed under section 5733.06 of the Revised Code. 82751

(2) For the purposes of this section, "business credits" 82752
means the credits listed in section 5747.98 of the Revised Code 82753
excluding the following credits: 82754

(a) The retirement credit under division (B) of section 82755
5747.055 of the Revised Code; 82756

(b) The senior citizen credit under division (C) of section 82757

| | |
|---|--|
| 5747.05 of the Revised Code; | 82758 |
| (c) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code; | 82759 82760 |
| (d) The dependent care credit under section 5747.054 of the Revised Code; | 82761 82762 |
| (e) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code; | 82763 82764 |
| (f) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code; | 82765 82766 |
| (g) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code; | 82767 82768 |
| (h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code; | 82769 82770 |
| (i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code; | 82771 82772 |
| (j) The joint filing credit under division (G) of section 5747.05 of the Revised Code; | 82773 82774 |
| (k) The nonresident credit under division (A) of section 5747.05 of the Revised Code; | 82775 82776 |
| (l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code; | 82777 82778 |
| <u>(m) The low-income credit under section 5747.056 of the Revised Code.</u> | 82779 82780 |
| (3) The election provided for under division (D) of this section applies only to the taxable year for which the election is made by the pass-through entity. Unless the tax commissioner provides otherwise, this election, once made, is binding and irrevocable for the taxable year for which the election is made. Nothing in this division shall be construed to provide for any | 82781 82782 82783 82784 82785 82786 |

deduction or credit that would not be allowable if a nonresident 82787
pass-through entity investor were to file an annual return. 82788

(4) If a pass-through entity makes the election provided for 82789
under division (D) of this section, the pass-through entity shall 82790
be liable for any additional taxes, interest, interest penalty, or 82791
penalties imposed by this chapter if the tax commissioner finds 82792
that the single return does not reflect the correct tax due by the 82793
pass-through entity investors covered by that return. Nothing in 82794
this division shall be construed to limit or alter the liability, 82795
if any, imposed on pass-through entity investors for unpaid or 82796
underpaid taxes, interest, interest penalty, or penalties as a 82797
result of the pass-through entity's making the election provided 82798
for under division (D) of this section. For the purposes of 82799
division (D) of this section, "correct tax due" means the tax that 82800
would have been paid by the pass-through entity had the single 82801
return been filed in a manner reflecting the tax commissioner's 82802
findings. Nothing in division (D) of this section shall be 82803
construed to make or hold a pass-through entity liable for tax 82804
attributable to a pass-through entity investor's income from a 82805
source other than the pass-through entity electing to file the 82806
single return. 82807

(E) If a husband and wife file a joint federal income tax 82808
return for a taxable year, they shall file a joint return under 82809
this section for that taxable year, and their liabilities are 82810
joint and several, but, if the federal income tax liability of 82811
either spouse is determined on a separate federal income tax 82812
return, they shall file separate returns under this section. 82813

If either spouse is not required to file a federal income tax 82814
return and either or both are required to file a return pursuant 82815
to this chapter, they may elect to file separate or joint returns, 82816
and, pursuant to that election, their liabilities are separate or 82817
joint and several. If a husband and wife file separate returns 82818

pursuant to this chapter, each must claim the taxpayer's own 82819
exemption, but not both, as authorized under section 5747.02 of 82820
the Revised Code on the taxpayer's own return. 82821

(F) Each return or notice required to be filed under this 82822
section shall contain the signature of the taxpayer or the 82823
taxpayer's duly authorized agent and of the person who prepared 82824
the return for the taxpayer, and shall include the taxpayer's 82825
social security number. Each return shall be verified by a 82826
declaration under the penalties of perjury. The tax commissioner 82827
shall prescribe the form that the signature and declaration shall 82828
take. 82829

(G) Each return or notice required to be filed under this 82830
section shall be made and filed as required by section 5747.04 of 82831
the Revised Code, on or before the fifteenth day of April of each 82832
year, on forms that the tax commissioner shall prescribe, together 82833
with remittance made payable to the treasurer of state in the 82834
combined amount of the state and all school district income taxes 82835
shown to be due on the form, unless the combined amount shown to 82836
be due is one dollar or less, in which case that amount need not 82837
be remitted. 82838

Upon good cause shown, the tax commissioner may extend the 82839
period for filing any notice or return required to be filed under 82840
this section and may adopt rules relating to extensions. If the 82841
extension results in an extension of time for the payment of any 82842
state or school district income tax liability with respect to 82843
which the return is filed, the taxpayer shall pay at the time the 82844
tax liability is paid an amount of interest computed at the rate 82845
per annum prescribed by section 5703.47 of the Revised Code on 82846
that liability from the time that payment is due without extension 82847
to the time of actual payment. Except as provided in section 82848
5747.132 of the Revised Code, in addition to all other interest 82849
charges and penalties, all taxes imposed under this chapter or 82850

Chapter 5748. of the Revised Code and remaining unpaid after they 82851
become due, except combined amounts due of one dollar or less, 82852
bear interest at the rate per annum prescribed by section 5703.47 82853
of the Revised Code until paid or until the day an assessment is 82854
issued under section 5747.13 of the Revised Code, whichever occurs 82855
first. 82856

If the tax commissioner considers it necessary in order to 82857
ensure the payment of the tax imposed by section 5747.02 of the 82858
Revised Code or any tax imposed under Chapter 5748. of the Revised 82859
Code, the tax commissioner may require returns and payments to be 82860
made otherwise than as provided in this section. 82861

To the extent that any provision in this division conflicts 82862
with any provision in section 5747.026 of the Revised Code, the 82863
provision in that section prevails. 82864

(H) If any report, claim, statement, or other document 82865
required to be filed, or any payment required to be made, within a 82866
prescribed period or on or before a prescribed date under this 82867
chapter is delivered after that period or that date by United 82868
States mail to the agency, officer, or office with which the 82869
report, claim, statement, or other document is required to be 82870
filed, or to which the payment is required to be made, the date of 82871
the postmark stamped on the cover in which the report, claim, 82872
statement, or other document, or payment is mailed shall be deemed 82873
to be the date of delivery or the date of payment. 82874

If a payment is required to be made by electronic funds 82875
transfer pursuant to section 5747.072 of the Revised Code, the 82876
payment is considered to be made when the payment is received by 82877
the treasurer of state or credited to an account designated by the 82878
treasurer of state for the receipt of tax payments. 82879

"The date of the postmark" means, in the event there is more 82880
than one date on the cover, the earliest date imprinted on the 82881

cover by the United States postal service. 82882

(I) The amounts withheld by the employer pursuant to section 82883
5747.06 of the Revised Code shall be allowed to the recipient of 82884
the compensation as credits against payment of the appropriate 82885
taxes imposed on the recipient by section 5747.02 and under 82886
Chapter 5748. of the Revised Code. 82887

(J) If, in accordance with division (D) of this section, a 82888
pass-through entity elects to file a single return and if any 82889
investor is required to file the return and make the payment of 82890
taxes required by this chapter on account of the investor's other 82891
income that is not included in a single return filed by a 82892
pass-through entity, the investor is entitled to a refundable 82893
credit equal to the investor's proportionate share of the tax paid 82894
by the pass-through entity on behalf of the investor. The investor 82895
shall claim the credit for the investor's taxable year in which or 82896
with which ends the taxable year of the pass-through entity. 82897
Nothing in this chapter shall be construed to allow any credit 82898
provided in this chapter to be claimed more than once. For the 82899
purposes of computing any interest, penalty, or interest penalty, 82900
the investor shall be deemed to have paid the refundable credit 82901
provided by this division on the day that the pass-through entity 82902
paid the estimated tax or the tax giving rise to the credit. 82903

Sec. 5747.113. (A) Any taxpayer claiming a refund under 82904
section 5747.11 of the Revised Code for taxable years ending on or 82905
after October 14, 1983, who wishes to contribute any part of ~~his~~ 82906
the taxpayer's refund to the natural areas and preserves fund 82907
created in section 1517.11 of the Revised Code, the nongame and 82908
endangered wildlife fund created in section 1531.26 of the Revised 82909
Code, the military injury relief fund created in section 5101.98 82910
of the Revised Code, or ~~both~~ all of those funds, may designate on 82911
~~his~~ the taxpayer's income tax return the amount that ~~he~~ the 82912

taxpayer wishes to contribute to the fund or funds. A designated 82913
contribution is irrevocable upon the filing of the return and 82914
shall be made in the full amount designated if the refund found 82915
due the taxpayer upon the initial processing of ~~his~~ the taxpayer's 82916
return, after any deductions including those required by section 82917
5747.12 of the Revised Code, is greater than or equal to the 82918
designated contribution. If the refund due as initially determined 82919
is less than the designated contribution, the contribution shall 82920
be made in the full amount of the refund. The tax commissioner 82921
shall subtract the amount of the contribution from the amount of 82922
the refund initially found due the taxpayer and shall certify the 82923
difference to the director of budget and management and treasurer 82924
of state for payment to the taxpayer in accordance with section 82925
5747.11 of the Revised Code. For the purpose of any subsequent 82926
determination of the taxpayer's net tax payment, the contribution 82927
shall be considered a part of the refund paid to the taxpayer. 82928

(B) The tax commissioner shall provide a space on the income 82929
tax return form in which a taxpayer may indicate that ~~he~~ the 82930
taxpayer wishes to make a donation in accordance with this 82931
section. The tax commissioner shall also print in the instructions 82932
accompanying the income tax return form a description of the 82933
purposes for which the natural areas and preserves fund ~~and~~, the 82934
nongame and endangered wildlife fund, and the military injury 82935
relief fund were created and the use of moneys from the income tax 82936
refund contribution system established in this section. No person 82937
shall designate on ~~his~~ the person's income tax return any part of 82938
a refund claimed under section 5747.11 of the Revised Code as a 82939
contribution to any fund other than the natural areas and 82940
preserves fund, the nongame and endangered wildlife fund, the 82941
military injury relief fund or ~~both~~ all of those funds. 82942

(C) The money collected under the income tax refund 82943
contribution system established in this section shall be deposited 82944

by the tax commissioner into the natural areas and preserves fund 82945
~~and~~, the nongame and endangered wildlife fund, and the military 82946
injury relief fund in the amounts designated on the tax returns. 82947

(D) No later than the thirtieth day of September each year, 82948
the tax commissioner shall determine the total amount contributed 82949
to each fund under this section during the preceding eight months, 82950
any adjustments to prior months, and the cost to the department of 82951
taxation of administering the income tax refund contribution 82952
system during that eight-month period. The commissioner shall make 82953
an additional determination no later than the thirty-first day of 82954
January of each year of the total amount contributed to each fund 82955
under this section during the preceding four calendar months, any 82956
adjustments to prior years made during that four-month period, and 82957
the cost to the department of taxation of administering the income 82958
tax contribution system during that period. The cost of 82959
administering the income tax contribution system shall be 82960
certified by the tax commissioner to the director of budget and 82961
management, who shall transfer an amount equal to ~~one-half~~ 82962
one-third of such administrative costs from the natural areas and 82963
preserves fund ~~and one-half~~, one-third of such costs from the 82964
nongame and endangered wildlife fund, and one-third of such costs 82965
from the military injury relief fund to the litter control and 82966
natural resource tax administration fund, which is hereby created, 82967
provided that the moneys that the department receives to pay the 82968
cost of administering the income tax refund contribution system in 82969
any year shall not exceed two and one-half per cent of the total 82970
amount contributed under that system during that year. 82971

(E)(1) The director of natural resources, in January of every 82972
odd-numbered year, shall report to the general assembly on the 82973
effectiveness of the income tax refund contribution system as it 82974
pertains to the natural areas and preserves fund and the nongame 82975
and endangered wildlife fund. The report shall include the amount 82976

of money contributed to ~~the natural areas and preserves fund and~~ 82977
~~the nongame and endangered wildlife fund~~ each fund in each of the 82978
previous five years, the amount of money contributed directly to 82979
each fund in addition to or independently of the income tax refund 82980
contribution system in each of the previous five years, and the 82981
purposes for which the money was expended. 82982

(2) The director of job and family services, in January of 82983
every odd-numbered year, shall report to the general assembly on 82984
the effectiveness of the income tax refund contribution system as 82985
it pertains to the military injury relief fund. The report shall 82986
include the amount of money contributed to the fund in each of the 82987
previous five years, the amount of money contributed directly to 82988
the fund in addition to or independently of the income tax refund 82989
contribution system in each of the previous five years, and the 82990
purposes for which the money was expended. 82991

Sec. 5747.212. (A) This section applies solely for the 82992
purpose of computing the credit allowed under division (A) of 82993
section 5747.05 of the Revised Code, computing income taxable in 82994
this state under division (D) of section 5747.08 of the Revised 82995
Code, and computing the credit allowed under section 5747.057 of 82996
the Revised Code. 82997

(B) A ~~pass-through entity investor that owns taxpayer,~~ 82998
directly or indirectly, owning at any time during the three-year 82999
period ending on the last day of the taxpayer's taxable year at 83000
least twenty per cent of the ~~pass-through~~ equity voting rights of 83001
a section 5747.212 entity at any time during the current taxable 83002
year or either of the two preceding taxable years shall apportion 83003
any income, including gain or loss, realized from the each sale, 83004
exchange, or other disposition of a debt or equity interest in ~~the~~ 83005
that entity as prescribed in this section. For such purposes, in 83006
lieu of using the method prescribed by sections 5747.20 and 83007

5747.21 of the Revised Code, the investor shall apportion the 83008
income using the average of the ~~pass-through~~ section 5747.212 83009
entity's apportionment fractions otherwise applicable under 83010
section 5733.05, 5733.056, or 5747.21 of the Revised Code for the 83011
current and two preceding taxable years. If the ~~pass-through~~ 83012
section 5747.212 entity was not in business for one or more of 83013
those years, each year that the entity was not in business shall 83014
be excluded in determining the average. 83015

(C) For the purposes of this section: 83016

(1) A "section 5747.212 entity" is any qualifying person if, 83017
on at least one day of the three-year period ending on the last 83018
day of the taxpayer's taxable year, any of the following apply: 83019

(a) The qualifying person is a pass-through entity; 83020

(b) Five or fewer persons directly or indirectly own all the 83021
equity interests, with voting rights, of the qualifying person; 83022

(c) One person directly or indirectly owns at least fifty per 83023
cent of the qualifying person's equity interests with voting 83024
rights. 83025

(2) A "qualifying person" is any person other than an 83026
individual, estate, or trust. 83027

(3) "Estate" and "trust" do not include any person classified 83028
for federal income tax purposes as an association taxable as a 83029
corporation. 83030

Sec. 5747.331. (A) As used in this section: 83031

(1) "Borrower" means any person that receives a loan from the 83032
director of development under section 166.21 of the Revised Code, 83033
regardless of whether the borrower is subject to the tax imposed 83034
by section 5747.02 of the Revised Code. 83035

(2) "Related member" has the same meaning as in section 83036

5733.042 of the Revised Code. 83037

(3) "Qualified research and development loan payments" has 83038
the same meaning as in division (D) of section 166.21 of the 83039
Revised Code. 83040

(B) Beginning ~~in~~ with taxable year 2003 and ending with 83041
taxable years beginning in 2007, a nonrefundable credit is allowed 83042
against the tax imposed by section 5747.02 of the Revised Code 83043
equal to a borrower's qualified research and development loan 83044
payments made during the calendar year that includes the last day 83045
of the taxable year for which the credit is claimed. The amount of 83046
the credit for a taxable year shall not exceed one hundred fifty 83047
thousand dollars. No taxpayer is entitled to claim a credit under 83048
this section unless it has obtained a certificate issued by the 83049
director of development under division (D) of section 166.21 of 83050
the Revised Code. The credit shall be claimed in the order 83051
required under section 5747.98 of the Revised Code. The credit, to 83052
the extent it exceeds the taxpayer's tax liability for the taxable 83053
year after allowance for any other credits that precede the credit 83054
under this section in that order, shall be carried forward to the 83055
next succeeding taxable year or years until fully used. Any credit 83056
not fully utilized by the taxable year beginning in 2007 may be 83057
carried forward and applied against the tax levied by Chapter 83058
5751. of the Revised Code to the extent allowed by section 5751.52 83059
of the Revised Code. 83060

(C) A borrower entitled to a credit under this section may 83061
assign the credit, or a portion thereof, to any of the following: 83062

(1) A related member of that borrower; 83063

(2) The owner or lessee of the eligible research and 83064
development project; 83065

(3) A related member of the owner or lessee of the eligible 83066
research and development project. 83067

A borrower making an assignment under this division shall 83068
provide written notice of the assignment to the tax commissioner 83069
and the director of development, in such form as the tax 83070
commissioner prescribes, before the credit that was assigned is 83071
used. The assignor may not claim the credit to the extent it was 83072
assigned to an assignee. The assignee may claim the credit only to 83073
the extent the assignor has not claimed it. 83074

(D) If any taxpayer is a shareholder in an S corporation, a 83075
partner in a partnership, or a member in a limited liability 83076
company treated as a partnership for federal income tax purposes, 83077
the taxpayer shall be allowed the taxpayer's distributive or 83078
proportionate share of the credit available through the S 83079
corporation, partnership, or limited liability company. 83080

(E) The aggregate credit against the taxes imposed by 83081
sections 5733.06, 5733.065, 5733.066, and 5747.02 of the Revised 83082
Code that may be claimed under this section and section 5733.352 83083
of the Revised Code by a borrower as a result of qualified 83084
research and development loan payments attributable during a 83085
calendar year to any one loan shall not exceed one hundred fifty 83086
thousand dollars. 83087

Sec. 5747.70. (A) In computing Ohio adjusted gross income, a 83088
deduction from federal adjusted gross income is allowed to a 83089
contributor for the amount contributed during the taxable year to 83090
a variable college savings program account and to a purchaser of 83091
tuition ~~credits~~ units under the Ohio college savings program 83092
created by Chapter 3334. of the Revised Code to the extent that 83093
the amounts of such contributions and purchases were not deducted 83094
in determining the contributor's or purchaser's federal adjusted 83095
gross income for the taxable year. The combined amount of 83096
contributions and purchases deducted in any taxable year by a 83097
taxpayer or the taxpayer and the taxpayer's spouse, regardless of 83098

whether the taxpayer and the taxpayer's spouse file separate 83099
returns or a joint return, is limited to two thousand dollars for 83100
each beneficiary for whom contributions or purchases are made. If 83101
the combined annual contributions and purchases for a beneficiary 83102
exceed two thousand dollars, the excess may be carried forward and 83103
deducted in future taxable years until the contributions and 83104
purchases have been fully deducted. 83105

(B) In computing Ohio adjusted gross income, a deduction from 83106
federal adjusted gross income is allowed for: 83107

(1) Income related to tuition ~~credits~~ units and contributions 83108
that as of the end of the taxable year have not been refunded 83109
pursuant to the termination of a tuition payment contract or 83110
variable college savings program account under section 3334.10 of 83111
the Revised Code, to the extent that such income is included in 83112
federal adjusted gross income. 83113

(2) The excess of the total purchase price of tuition ~~credits~~ 83114
units refunded during the taxable year pursuant to the termination 83115
of a tuition payment contract under section 3334.10 of the Revised 83116
Code over the amount of the refund, to the extent the amount of 83117
the excess was not deducted in determining federal adjusted gross 83118
income. Division (B)(2) of this section applies only to ~~credits~~ 83119
units for which no deduction was allowable under division (A) of 83120
this section. 83121

(C) In computing Ohio adjusted gross income, there shall be 83122
added to federal adjusted gross income the amount of loss related 83123
to tuition ~~credits~~ units and contributions that as of the end of 83124
the taxable year have not been refunded pursuant to the 83125
termination of a tuition payment contract or variable college 83126
savings program account under section 3334.10 of the Revised Code, 83127
to the extent that such loss was deducted in determining federal 83128
adjusted gross income. 83129

(D) For taxable years in which distributions or refunds are 83130
made under a tuition payment or variable college savings program 83131
contract for any reason other than payment of tuition or other 83132
higher education expenses, or the beneficiary's death, disability, 83133
or receipt of a scholarship as described in section 3334.10 of the 83134
Revised Code: 83135

(1) If the distribution or refund is paid to the purchaser or 83136
contributor or beneficiary, any portion of the distribution or 83137
refund not included in the recipient's federal adjusted gross 83138
income shall be added to the recipient's federal adjusted gross 83139
income in determining the recipient's Ohio adjusted gross income, 83140
except that the amount added shall not exceed amounts previously 83141
deducted under division (A) of this section less any amounts added 83142
under division (D)(1) of this section in a prior taxable year. 83143

(2) If amounts paid by a purchaser or contributor on or after 83144
January 1, 2000, are distributed or refunded to someone other than 83145
the purchaser or contributor or beneficiary, the amount of the 83146
payment not included in the recipient's federal adjusted gross 83147
income, less any amounts added under division (D) of this section 83148
in a prior taxable year, shall be added to the recipient's federal 83149
adjusted gross income in determining the recipient's Ohio adjusted 83150
gross income. 83151

Sec. 5747.80. (A) Upon the issuance of a tax credit 83152
certificate by the Ohio venture capital authority under section 83153
150.07 of the Revised Code, a credit may be claimed against the 83154
tax imposed by section 5747.02 of the Revised Code. The credit 83155
shall be claimed for the taxable year specified in the certificate 83156
issued by the authority and in the order required under section 83157
5747.98 of the Revised Code. 83158

(B) If the taxpayer elected a refundable credit under section 83159
150.07 of the Revised Code and the amount of the credit shown on 83160

the certificate does not exceed the tax otherwise due under 83161
section 5747.02 of the Revised Code after all nonrefundable 83162
credits are deducted, then the taxpayer shall claim a refundable 83163
credit equal to the amount of the credit shown on the certificate. 83164

(C) If the taxpayer elected a refundable credit under section 83165
150.07 of the Revised Code, and the amount of the credit shown on 83166
the certificate exceeds the tax otherwise due under section 83167
5747.02 of the Revised Code after all nonrefundable credits, 83168
including the credit allowed under this section, are deducted in 83169
that order, the taxpayer shall receive a refund equal to 83170
seventy five per cent of that excess. If the taxpayer elected a 83171
nonrefundable credit, the amount of the credit, claimed in that 83172
order, shall not exceed the tax otherwise due after all the 83173
taxpayer's credits are deducted in that order. If claim a 83174
refundable credit equal to the sum of the following: 83175

(1) The amount, if any, of the tax otherwise due under 83176
section 5747.02 of the Revised Code after all nonrefundable 83177
credits are deducted; 83178

(2) Seventy-five per cent of the difference between the 83179
amount of the refundable credit shown on the certificate and the 83180
tax otherwise due under section 5747.02 of the Revised Code after 83181
all nonrefundable credits are deducted. 83182

(D) If the taxpayer elected a nonrefundable credit and the 83183
credit to which the taxpayer would otherwise be entitled under 83184
this section for any taxable year is greater than the tax 83185
otherwise due under section 5747.02 of the Revised Code, after 83186
allowing for any other credits that, under section 5747.98 of the 83187
Revised Code, precede the credit allowed under this section, the 83188
excess shall be allowed as a nonrefundable credit in each of the 83189
ensuing ten taxable years, but the amount of any excess credit 83190
allowed in the ensuing taxable year shall be deducted from the 83191
balance carried forward to the next taxable year. 83192

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| Sec. 5747.98. (A) To provide a uniform procedure for | 83193 |
| calculating the amount of tax due under section 5747.02 of the | 83194 |
| Revised Code, a taxpayer shall claim any credits to which the | 83195 |
| taxpayer is entitled in the following order: | 83196 |
| (1) The retirement income credit under division (B) of | 83197 |
| section 5747.055 of the Revised Code; | 83198 |
| (2) The senior citizen credit under division (C) of section | 83199 |
| 5747.05 of the Revised Code; | 83200 |
| (3) The lump sum distribution credit under division (D) of | 83201 |
| section 5747.05 of the Revised Code; | 83202 |
| (4) The dependent care credit under section 5747.054 of the | 83203 |
| Revised Code; | 83204 |
| (5) The lump sum retirement income credit under division (C) | 83205 |
| of section 5747.055 of the Revised Code; | 83206 |
| (6) The lump sum retirement income credit under division (D) | 83207 |
| of section 5747.055 of the Revised Code; | 83208 |
| (7) The lump sum retirement income credit under division (E) | 83209 |
| of section 5747.055 of the Revised Code; | 83210 |
| (8) <u>The low-income credit under section 5747.056 of the</u> | 83211 |
| <u>Revised Code;</u> | 83212 |
| <u>(9)</u> The credit for displaced workers who pay for job training | 83213 |
| under section 5747.27 of the Revised Code; | 83214 |
| (9) <u>(10)</u> The campaign contribution credit under section | 83215 |
| 5747.29 of the Revised Code; | 83216 |
| (10) <u>(11)</u> The twenty-dollar personal exemption credit under | 83217 |
| section 5747.022 of the Revised Code; | 83218 |
| (11) <u>(12)</u> The joint filing credit under division (G) of | 83219 |
| section 5747.05 of the Revised Code; | 83220 |

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| (12) (13) The nonresident credit under division (A) of section 5747.05 of the Revised Code; | 83221 83222 |
| (13) (14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code; | 83223 83224 |
| (14) (15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code; | 83225 83226 83227 |
| (15) (16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code; | 83228 83229 |
| (16) (17) The credit for adoption of a minor child under section 5747.37 of the Revised Code; | 83230 83231 |
| (17) (18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code; | 83232 83233 |
| (18) (19) The job retention credit under division (B) of section 5747.058 of the Revised Code; | 83234 83235 |
| (19) (20) The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code; | 83236 83237 83238 83239 |
| (20) (21) The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code; | 83240 83241 83242 |
| (21) (22) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code; | 83243 83244 83245 |
| (22) (23) The job training credit under section 5747.39 of the Revised Code; | 83246 83247 |
| (23) (24) The enterprise zone credit under section 5709.66 of the Revised Code; | 83248 83249 |

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| (24) <u>(25)</u> The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code; | 83250 83251 |
| (25) <u>(26)</u> The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code; | 83252 83253 |
| (26) <u>(27)</u> The ethanol plant investment credit under section 5747.75 of the Revised Code; | 83254 83255 |
| (27) <u>(28)</u> The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code; | 83256 83257 |
| (28) <u>(29)</u> The export sales credit under section 5747.057 of the Revised Code; | 83258 83259 |
| (29) <u>(30)</u> The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code; | 83260 83261 83262 |
| (30) <u>(31)</u> The enterprise zone credits under section 5709.65 of the Revised Code; | 83263 83264 |
| (31) <u>(32)</u> The research and development credit under section 5747.331 of the Revised Code; | 83265 83266 |
| (32) <u>(33)</u> The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code; | 83267 83268 |
| (33) <u>(34)</u> The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code; | 83269 83270 |
| (34) <u>(35)</u> The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code; | 83271 83272 83273 |
| (35) <u>(36)</u> The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code; | 83274 83275 |
| (36) <u>(37)</u> The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under | 83276 83277 83278 |

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| section 150.07 of the Revised Code. | 83279 |
| (B) For any credit, except the credits enumerated in | 83280 |
| divisions (A) (32) (33) to (36) (37) of this section and the credit | 83281 |
| granted under division (I) of section 5747.08 of the Revised Code, | 83282 |
| the amount of the credit for a taxable year shall not exceed the | 83283 |
| tax due after allowing for any other credit that precedes it in | 83284 |
| the order required under this section. Any excess amount of a | 83285 |
| particular credit may be carried forward if authorized under the | 83286 |
| section creating that credit. Nothing in this chapter shall be | 83287 |
| construed to allow a taxpayer to claim, directly or indirectly, a | 83288 |
| credit more than once for a taxable year. | 83289 |
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| Sec. 5748.01. As used in this chapter: | 83290 |
| (A) "School district income tax" means an income tax adopted | 83291 |
| under one of the following: | 83292 |
| (1) Former section 5748.03 of the Revised Code as it existed | 83293 |
| prior to its repeal by Amended Substitute House Bill No. 291 of | 83294 |
| the 115th general assembly; | 83295 |
| (2) Section 5748.03 of the Revised Code as enacted in | 83296 |
| Substitute Senate Bill No. 28 of the 118th general assembly; | 83297 |
| (3) Section 5748.08 of the Revised Code as enacted in Amended | 83298 |
| Substitute Senate Bill No. 17 of the 122nd general assembly. | 83299 |
| (B) "Individual" means an individual subject to the tax | 83300 |
| levied by section 5747.02 of the Revised Code. | 83301 |
| (C) "Estate" means an estate subject to the tax levied by | 83302 |
| section 5747.02 of the Revised Code. | 83303 |
| (D) "Taxable year" means a taxable year as defined in | 83304 |
| division (M) of section 5747.01 of the Revised Code. | 83305 |
| (E) "Taxable income" means: | 83306 |
| (1) In the case of an individual, adjusted <u>one of the</u> | 83307 |

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| <u>following, as specified in the resolution imposing the tax:</u> | 83308 |
| <u>(a) Ohio adjusted gross income for the taxable year as</u> | 83309 |
| defined in division (A) of section 5747.01 of the Revised Code, | 83310 |
| less the exemptions provided by section 5747.02 of the Revised | 83311 |
| Code; | 83312 |
| <u>(b) Wages, salaries, tips, and other employee compensation to</u> | 83313 |
| <u>the extent included in Ohio adjusted gross income as defined in</u> | 83314 |
| <u>section 5747.01 of the Revised Code, and net earnings from</u> | 83315 |
| <u>self-employment, as defined in section 1402(a) of the Internal</u> | 83316 |
| <u>Revenue Code, to the extent included in Ohio adjusted gross</u> | 83317 |
| <u>income.</u> | 83318 |
| (2) In the case of an estate, taxable income for the taxable | 83319 |
| year as defined in division (S) of section 5747.01 of the Revised | 83320 |
| Code. | 83321 |
| (F) Except as provided in section 5747.25 of the Revised | 83322 |
| Code, "resident" of the school district means: | 83323 |
| (1) An individual who is a resident of this state as defined | 83324 |
| in division (I) of section 5747.01 of the Revised Code during all | 83325 |
| or a portion of the taxable year and who, during all or a portion | 83326 |
| of such period of state residency, is domiciled in the school | 83327 |
| district or lives in and maintains a permanent place of abode in | 83328 |
| the school district; | 83329 |
| (2) An estate of a decedent who, at the time of death, was | 83330 |
| domiciled in the school district. | 83331 |
| (G) "School district income" means: | 83332 |
| (1) With respect to an individual, the portion of the taxable | 83333 |
| income of an individual that is received by the individual during | 83334 |
| the portion of the taxable year that the individual is a resident | 83335 |
| of the school district and the school district income tax is in | 83336 |
| effect in that school district. An individual may have school | 83337 |

district income with respect to more than one school district. 83338

(2) With respect to an estate, the taxable income of the 83339
estate for the portion of the taxable year that the school 83340
district income tax is in effect in that school district. 83341

(H) "Taxpayer" means an individual or estate having school 83342
district income upon which a school district income tax is 83343
imposed. 83344

(I) "School district purposes" means any of the purposes for 83345
which a tax may be levied pursuant to section 5705.21 of the 83346
Revised Code. 83347

Sec. 5748.02. (A) The board of education of any school 83348
district, except a joint vocational school district, may declare, 83349
by resolution, the necessity of raising annually a specified 83350
amount of money for school district purposes. The resolution shall 83351
specify whether the income that is to be subject to the tax is 83352
taxable income of individuals and estates as defined in divisions 83353
(E)(1)(a) and (2) of section 5748.01 of the Revised Code or 83354
taxable income of individuals as defined in division (E)(1)(b) of 83355
that section. A copy of the resolution shall be certified to the 83356
tax commissioner no later than eighty-five days prior to the date 83357
of the election at which the board intends to propose a levy under 83358
this section. Upon receipt of the copy of the resolution, the tax 83359
commissioner shall estimate both of the following: 83360

(1) The property tax rate that would have to be imposed in 83361
the current year by the district to produce an equivalent amount 83362
of money; 83363

(2) The income tax rate that would have had to have been in 83364
effect for the current year to produce an equivalent amount of 83365
money from a school district income tax. 83366

Within ten days of receiving the copy of the board's 83367

resolution, the commissioner shall prepare these estimates and 83368
certify them to the board. Upon receipt of the certification, the 83369
board may adopt a resolution proposing an income tax under 83370
division (B) of this section at the estimated rate contained in 83371
the certification rounded to the nearest one-fourth of one per 83372
cent. The commissioner's certification applies only to the board's 83373
proposal to levy an income tax at the election for which the board 83374
requested the certification. If the board intends to submit a 83375
proposal to levy an income tax at any other election, it shall 83376
request another certification for that election in the manner 83377
prescribed in this division. 83378

(B)(1) Upon the receipt of a certification from the tax 83379
commissioner under division (A) of this section, a majority of the 83380
members of a board of education may adopt a resolution proposing 83381
the levy of an annual tax for school district purposes on ~~the~~ 83382
school district income ~~of individuals and of estates~~. The proposed 83383
levy may be for a continuing period of time or for a specified 83384
number of years. The resolution shall set forth the purpose for 83385
which the tax is to be imposed, the rate of the tax, which shall 83386
be the rate set forth in the commissioner's certification rounded 83387
to the nearest one-fourth of one per cent, the number of years the 83388
tax will be levied or that it will be levied for a continuing 83389
period of time, the date on which the tax shall take effect, which 83390
shall be the first day of January of any year following the year 83391
in which the question is submitted, and the date of the election 83392
at which the proposal shall be submitted to the electors of the 83393
district, which shall be on the date of a primary, general, or 83394
special election the date of which is consistent with section 83395
3501.01 of the Revised Code. The resolution shall specify whether 83396
the income that is to be subject to the tax is taxable income of 83397
individuals and estates as defined in divisions (E)(1)(a) and (2) 83398
of section 5748.01 of the Revised Code or taxable income of 83399
individuals as defined in division (E)(1)(b) of that section. The 83400

specification shall be the same as the specification in the 83401
resolution adopted and certified under division (A) of this 83402
section. If the board of education currently imposes an income tax 83403
pursuant to this chapter that is due to expire and a question is 83404
submitted under this section for a proposed income tax to take 83405
effect upon the expiration of the existing tax, the board may 83406
specify in the resolution that the proposed tax renews the 83407
expiring tax and is not an additional income tax, provided that 83408
the tax rate being proposed is no higher than the tax rate that is 83409
currently imposed. 83410

(2) A board of education adopting a resolution under division 83411
(B)(1) of this section proposing a school district income tax for 83412
a continuing period of time and limited to the purpose of current 83413
expenses may propose in that resolution to reduce the rate or 83414
rates of one or more of the school district's property taxes 83415
levied for a continuing period of time in excess of the ten-mill 83416
limitation for the purpose of current expenses. The reduction in 83417
the rate of a property tax may be any amount, expressed in mills 83418
per one dollar in valuation, not exceeding the rate at which the 83419
tax is authorized to be levied. The reduction in the rate of a tax 83420
shall first take effect for the tax year that includes the day on 83421
which the school district income tax first takes effect, and shall 83422
continue for each tax year that both the school district income 83423
tax and the property tax levy are in effect. 83424

In addition to the matters required to be set forth in the 83425
resolution under division (B)(1) of this section, a resolution 83426
containing a proposal to reduce the rate of one or more property 83427
taxes shall state for each such tax the maximum rate at which it 83428
currently may be levied and the maximum rate at which the tax 83429
could be levied after the proposed reduction, expressed in mills 83430
per one dollar in valuation, and that the tax is levied for a 83431
continuing period of time. 83432

If a board of education proposes to reduce the rate of one or more property taxes under division (B)(2) of this section, the board, when it makes the certification required under division (A) of this section, shall designate the specific levy or levies to be reduced, the maximum rate at which each levy currently is authorized to be levied, and the rate by which each levy is proposed to be reduced. The tax commissioner, when making the certification to the board under division (A) of this section, also shall certify the reduction in the total effective tax rate for current expenses for each class of property that would have resulted if the proposed reduction in the rate or rates had been in effect the previous tax year. As used in this paragraph, "effective tax rate" has the same meaning as in section 323.08 of the Revised Code.

(C) A resolution adopted under division (B) of this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. Immediately after its adoption and at least seventy-five days prior to the election at which the question will appear on the ballot, a copy of the resolution shall be certified to the board of elections of the proper county, which shall submit the proposal to the electors on the date specified in the resolution. The form of the ballot shall be as provided in section 5748.03 of the Revised Code. Publication of notice of the election shall be made in one or more newspapers of general circulation in the county once a week for four consecutive weeks. The notice shall contain the time and place of the election and the question to be submitted to the electors. The question covered by the resolution shall be submitted as a separate proposition, but may be printed on the same ballot with any other proposition submitted at the same election, other than the election of officers.

(D) No board of education shall submit the question of a tax on school district income to the electors of the district more than twice in any calendar year. If a board submits the question twice in any calendar year, one of the elections on the question shall be held on the date of the general election.

Sec. 5748.03. (A) The form of the ballot on a question submitted to the electors under section 5748.02 of the Revised Code shall be as follows:

"Shall an annual income tax of (state the proposed rate of tax) on the school district income of individuals and of estates be imposed by (state the name of the school district), for (state the number of years the tax would be levied, or that it would be levied for a continuing period of time), beginning (state the date the tax would first take effect), for the purpose of (state the purpose of the tax)?

| | | |
|--|-----------------|---|
| | FOR THE TAX | |
| | AGAINST THE TAX | " |

(B)(1) If the question submitted to electors proposes a school district income tax only on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax is to be levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and of estates."

(2) If the question submitted to electors proposes to renew an expiring income tax, the ballot shall be modified by adding the following language immediately after the name of the school district that would impose the tax: "to renew an income tax

expiring at the end of (state the last year the existing 83495
income tax may be levied)." 83496

(3) If the question includes a proposal under division (B)(2) 83497
of section 5748.02 of the Revised Code to reduce the rate of one 83498
or more school district property taxes, the ballot shall state 83499
that the purpose of the school district income tax is for current 83500
expenses, and the form of the ballot shall be modified by adding 83501
the following language immediately after the statement of the 83502
purpose of the proposed income tax: ", and shall the rate of an 83503
existing tax on property, currently levied for the purpose of 83504
current expenses at the rate of mills, be REDUCED to 83505
..... mills until any such time as the income tax is repealed." 83506
In lieu of "for the tax" and "against the tax," the phrases "for 83507
the issue" and "against the issue," respectively, shall be used. 83508
If a board of education proposes a reduction in the rates of more 83509
than one tax, the ballot language shall be modified accordingly to 83510
express the rates at which those taxes currently are levied and 83511
the rates to which the taxes will be reduced. 83512

(C) The board of elections shall certify the results of the 83513
election to the board of education and to the tax commissioner. If 83514
a majority of the electors voting on the question vote in favor of 83515
it, the income tax, the applicable provisions of Chapter 5747. of 83516
the Revised Code, and the reduction in the rate or rates of 83517
existing property taxes if the question included such a reduction 83518
shall take effect on the date specified in the resolution. If the 83519
question approved by the voters includes a reduction in the rate 83520
of a school district property tax, the board of education shall 83521
not levy the tax at a rate greater than the rate to which the tax 83522
is reduced, unless the school district income tax is repealed in 83523
an election under section 5748.04 of the Revised Code. 83524

(D) If the rate at which a property tax is levied and 83525
collected is reduced pursuant to a question approved under this 83526

section, the tax commissioner shall compute the percentage 83527
required to be computed for that tax under division (D) of section 83528
319.301 of the Revised Code each year the rate is reduced as if 83529
the tax had been levied in the preceding year at the rate at which 83530
it has been reduced. If the rate of a property tax increases due 83531
to the repeal of the school district income tax pursuant to 83532
section 5748.04 of the Revised Code, the tax commissioner, for the 83533
first year for which the rate increases, shall compute the 83534
percentage as if the tax in the preceding year had been levied at 83535
the rate at which the tax was authorized to be levied prior to any 83536
rate reduction. 83537

Sec. 5748.04. (A) The question of the repeal of a school 83538
district income tax levied for more than five years may be 83539
initiated not more than once in any five-year period by filing 83540
with the board of elections of the appropriate counties not later 83541
than seventy-five days before the general election in any year 83542
after the year in which it is approved by the electors a petition 83543
requesting that an election be held on the question. The petition 83544
shall be signed by qualified electors residing in the school 83545
district levying the income tax equal in number to ten per cent of 83546
those voting for governor at the most recent gubernatorial 83547
election. 83548

The board of elections shall determine whether the petition 83549
is valid, and if it so determines, it shall submit the question to 83550
the electors of the district at the next general election. The 83551
election shall be conducted, canvassed, and certified in the same 83552
manner as regular elections for county offices in the county. 83553
Notice of the election shall be published in a newspaper of 83554
general circulation in the district once a week for four 83555
consecutive weeks prior to the election, stating the purpose, the 83556
time, and the place of the election. The form of the ballot cast 83557
at the election shall be as follows: 83558

"Shall the annual income tax of per cent, currently
levied on the school district income of individuals and estates by
..... (state the name of the school district) for the purpose
of (state purpose of the tax), be repealed?

| | | |
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| | For repeal of the income tax | |
| | Against repeal of the income tax | " |

(B)(1) If the tax is imposed on taxable income as defined in
division (E)(1)(b) of section 5748.01 of the Revised Code, the
form of the ballot shall be modified by stating that the tax
currently is levied on the "earned income of individuals residing
in the school district" in lieu of the "school district income of
individuals and estates."

(2) If the rate of one or more property tax levies was
reduced for the duration of the income tax levy pursuant to
division (B)(2) of section 5748.02 of the Revised Code, the form
of the ballot shall be modified by adding the following language
immediately after "repealed": ", and shall the rate of an existing
tax on property for the purpose of current expenses, which rate
was reduced for the duration of the income tax, be INCREASED from
..... mills to mills per one dollar of valuation beginning
in (state the first year for which the rate of the property
tax will increase)." In lieu of "for repeal of the income tax" and
"against repeal of the income tax," the phrases "for the issue"
and "against the issue," respectively, shall be substituted.

(3) If the rate of more than one property tax was reduced for
the duration of the income tax, the ballot language shall be
modified accordingly to express the rates at which those taxes
currently are levied and the rates to which the taxes would be
increased.

(C) The question covered by the petition shall be submitted 83590
as a separate proposition, but it may be printed on the same 83591
ballot with any other proposition submitted at the same election 83592
other than the election of officers. If a majority of the 83593
qualified electors voting on the question vote in favor of it, the 83594
result shall be certified immediately after the canvass by the 83595
board of elections to the board of education of the school 83596
district and the tax commissioner, who shall thereupon, after the 83597
current year, cease to levy the tax, except that if notes have 83598
been issued pursuant to section 5748.05 of the Revised Code the 83599
tax commissioner shall continue to levy and collect under 83600
authority of the election authorizing the levy an annual amount, 83601
rounded upward to the nearest one-fourth of one per cent, as will 83602
be sufficient to pay the debt charges on the notes as they fall 83603
due. 83604

(D) If a school district income tax repealed pursuant to this 83605
section was approved in conjunction with a reduction in the rate 83606
of one or more school district property taxes as provided in 83607
division (B)(2) of section 5748.02 of the Revised Code, then each 83608
such property tax may be levied after the current year at the rate 83609
at which it could be levied prior to the reduction, subject to any 83610
adjustments required by the county budget commission pursuant to 83611
Chapter 5705. of the Revised Code. Upon the repeal of a school 83612
district income tax under this section, the board of education may 83613
resume levying a property tax, the rate of which has been reduced 83614
pursuant to a question approved under section 5748.02 of the 83615
Revised Code, at the rate the board originally was authorized to 83616
levy the tax. A reduction in the rate of a property tax under 83617
section 5748.02 of the Revised Code is a reduction in the rate at 83618
which a board of education may levy that tax only for the period 83619
during which a school district income tax is levied prior to any 83620
repeal pursuant to this section. The resumption of the authority 83621
to levy the tax upon such a repeal does not constitute a tax 83622

levied in excess of the one per cent limitation prescribed by 83623
Section 2 of Article XII, Ohio Constitution, or in excess of the 83624
ten-mill limitation. 83625

(E) This section does not apply to school district income tax 83626
levies that are levied for five or fewer years. 83627

Sec. 5748.08. (A) The board of education of a city, local, or 83628
exempted village school district, at any time by a vote of 83629
two-thirds of all its members, may declare by resolution that it 83630
may be necessary for the school district to do all of the 83631
following: 83632

(1) Raise a specified amount of money for school district 83633
purposes by levying an annual tax on ~~the~~ school district income ~~of~~ 83634
~~individuals and estates;~~ 83635

(2) Issue general obligation bonds for permanent 83636
improvements, stating in the resolution the necessity and purpose 83637
of the bond issue and the amount, approximate date, estimated rate 83638
of interest, and maximum number of years over which the principal 83639
of the bonds may be paid; 83640

(3) Levy a tax outside the ten-mill limitation to pay debt 83641
charges on the bonds and any anticipatory securities; 83642

(4) Submit the question of the school district income tax and 83643
bond issue to the electors of the district at a special election. 83644

The resolution shall specify whether the income that is to be 83645
subject to the tax is taxable income of individuals and estates as 83646
defined in divisions (E)(1)(a) and (2) of section 5748.01 of the 83647
Revised Code or taxable income of individuals as defined in 83648
division (E)(1)(b) of that section. 83649

On adoption of the resolution, the board shall certify a copy 83650
of it to the tax commissioner and the county auditor no later than 83651
ninety days prior to the date of the special election at which the 83652

board intends to propose the income tax and bond issue. Not later 83653
than ten days of receipt of the resolution, the tax commissioner, 83654
in the same manner as required by division (A) of section 5748.02 83655
of the Revised Code, shall estimate the rates designated in 83656
division (A)(1) and (2) of that section and certify them to the 83657
board. Not later than ten days of receipt of the resolution, the 83658
county auditor shall estimate and certify to the board the average 83659
annual property tax rate required throughout the stated maturity 83660
of the bonds to pay debt charges on the bonds, in the same manner 83661
as under division (C) of section 133.18 of the Revised Code. 83662

(B) On receipt of the tax commissioner's and county auditor's 83663
certifications prepared under division (A) of this section, the 83664
board of education of the city, local, or exempted village school 83665
district, by a vote of two-thirds of all its members, may adopt a 83666
resolution proposing for a specified number of years or for a 83667
continuing period of time the levy of an annual tax for school 83668
district purposes on ~~the school district income of individuals and~~ 83669
~~of estates~~ and declaring that the amount of taxes that can be 83670
raised within the ten-mill limitation will be insufficient to 83671
provide an adequate amount for the present and future requirements 83672
of the school district; that it is necessary to issue general 83673
obligation bonds of the school district for specified permanent 83674
improvements and to levy an additional tax in excess of the 83675
ten-mill limitation to pay the debt charges on the bonds and any 83676
anticipatory securities; and that the question of the bonds and 83677
taxes shall be submitted to the electors of the school district at 83678
a special election, which shall not be earlier than seventy-five 83679
days after certification of the resolution to the board of 83680
elections, and the date of which shall be consistent with section 83681
3501.01 of the Revised Code. The resolution shall specify all of 83682
the following: 83683

(1) The purpose for which the school district income tax is 83684

to be imposed and the rate of the tax, which shall be the rate set 83685
forth in the tax commissioner's certification rounded to the 83686
nearest one-fourth of one per cent; 83687

(2) Whether the income that is to be subject to the tax is 83688
taxable income of individuals and estates as defined in divisions 83689
(E)(1)(a) and (2) of section 5748.01 of the Revised Code or 83690
taxable income of individuals as defined in division (E)(1)(b) of 83691
that section. The specification shall be the same as the 83692
specification in the resolution adopted and certified under 83693
division (A) of this section. 83694

(3) The number of years the tax will be levied, or that it 83695
will be levied for a continuing period of time; 83696

~~(3)~~(4) The date on which the tax shall take effect, which 83697
shall be the first day of January of any year following the year 83698
in which the question is submitted; 83699

~~(4)~~(5) The county auditor's estimate of the average annual 83700
property tax rate required throughout the stated maturity of the 83701
bonds to pay debt charges on the bonds. 83702

(C) A resolution adopted under division (B) of this section 83703
shall go into immediate effect upon its passage, and no 83704
publication of the resolution shall be necessary other than that 83705
provided for in the notice of election. Immediately after its 83706
adoption and at least seventy-five days prior to the election at 83707
which the question will appear on the ballot, the board of 83708
education shall certify a copy of the resolution, along with 83709
copies of the auditor's estimate and its resolution under division 83710
(A) of this section, to the board of elections of the proper 83711
county. The board of education shall make the arrangements for the 83712
submission of the question to the electors of the school district, 83713
and the election shall be conducted, canvassed, and certified in 83714
the same manner as regular elections in the district for the 83715

election of county officers. 83716

The resolution shall be put before the electors as one ballot 83717
question, with a majority vote indicating approval of the school 83718
district income tax, the bond issue, and the levy to pay debt 83719
charges on the bonds and any anticipatory securities. The board of 83720
elections shall publish the notice of the election in one or more 83721
newspapers of general circulation in the school district once a 83722
week for four consecutive weeks. The notice of election shall 83723
state all of the following: 83724

(1) The questions to be submitted to the electors; 83725

(2) The rate of the school district income tax; 83726

(3) The principal amount of the proposed bond issue; 83727

(4) The permanent improvements for which the bonds are to be 83728
issued; 83729

(5) The maximum number of years over which the principal of 83730
the bonds may be paid; 83731

(6) The estimated additional average annual property tax rate 83732
to pay the debt charges on the bonds, as certified by the county 83733
auditor; 83734

(7) The time and place of the special election. 83735

(D) The form of the ballot on a question submitted to the 83736
electors under this section shall be as follows: 83737

"Shall the school district be authorized to do both 83738
of the following: 83739

(1) Impose an annual income tax of (state the proposed 83740
rate of tax) on the school district income of individuals and of 83741
estates, for (state the number of years the tax would be 83742
levied, or that it would be levied for a continuing period of 83743
time), beginning (state the date the tax would first take 83744
effect), for the purpose of (state the purpose of the 83745

tax)? 83746

(2) Issue bonds for the purpose of in the principal 83747
 amount of \$....., to be repaid annually over a maximum period of 83748
 years, and levy a property tax outside the ten-mill 83749
 limitation estimated by the county auditor to average over the 83750
 bond repayment period mills for each one dollar of tax 83751
 valuation, which amounts to (rate expressed in cents or 83752
 dollars and cents, such as "36 cents" or "\$1.41") for each \$100 of 83753
 tax valuation, to pay the annual debt charges on the bonds, and to 83754
 pay debt charges on any notes issued in anticipation of those 83755
 bonds? 83756

| | | |
|--|---------------------------------------|---|
| | FOR THE INCOME TAX AND BOND ISSUE | |
| | AGAINST THE INCOME TAX AND BOND ISSUE | " |

83757
 83758
 83759
 83760

(E) If the question submitted to electors proposes a school 83761
 district income tax only on the taxable income of individuals as 83762
 defined in division (E)(1)(b) of section 5748.01 of the Revised 83763
 Code, the form of the ballot shall be modified by stating that the 83764
 tax is to be levied on the "earned income of individuals residing 83765
 in the school district" in lieu of the "school district income of 83766
 individuals and of estates." 83767

~~(E)~~(F) The board of elections promptly shall certify the 83768
 results of the election to the tax commissioner and the county 83769
 auditor of the county in which the school district is located. If 83770
 a majority of the electors voting on the question vote in favor of 83771
 it, the income tax and the applicable provisions of Chapter 5747. 83772
 of the Revised Code shall take effect on the date specified in the 83773
 resolution, and the board of education may proceed with issuance 83774
 of the bonds and with the levy and collection of the property 83775
 taxes to pay debt charges on the bonds, at the additional rate or 83776

any lesser rate in excess of the ten-mill limitation. Any 83777
securities issued by the board of education under this section are 83778
Chapter 133. securities, as that term is defined in section 133.01 83779
of the Revised Code. 83780

~~(F)~~(G) After approval of a question under this section, the 83781
board of education may anticipate a fraction of the proceeds of 83782
the school district income tax in accordance with section 5748.05 83783
of the Revised Code. Any anticipation notes under this division 83784
shall be issued as provided in section 133.24 of the Revised Code, 83785
shall have principal payments during each year after the year of 83786
their issuance over a period not to exceed five years, and may 83787
have a principal payment in the year of their issuance. 83788

~~(G)~~(H) The question of repeal of a school district income tax 83789
levied for more than five years may be initiated and submitted in 83790
accordance with section 5748.04 of the Revised Code. 83791

~~(H)~~(I) No board of education shall submit a question under 83792
this section to the electors of the school district more than 83793
twice in any calendar year. If a board submits the question twice 83794
in any calendar year, one of the elections on the question shall 83795
be held on the date of the general election. 83796

Sec. 5749.02. (A) For the purpose of providing revenue to 83797
administer the state's coal mining and reclamation regulatory 83798
program, to meet the environmental and resource management needs 83799
of this state, and to reclaim land affected by mining, an excise 83800
tax is hereby levied on the privilege of engaging in the severance 83801
of natural resources from the soil or water of this state. The tax 83802
shall be imposed upon the severer and shall be: 83803

(1) Seven cents per ton of coal; 83804

(2) Four cents per ton of salt; 83805

(3) Two cents per ton of limestone or dolomite; 83806

| | |
|---|---|
| (4) Two cents per ton of sand and gravel; | 83807 |
| (5) Ten cents per barrel of oil; | 83808 |
| (6) Two and one-half cents per thousand cubic feet of natural gas; | 83809 83810 |
| (7) One cent per ton of clay, sandstone or conglomerate, shale, gypsum, or quartzite. | 83811 83812 |
| (B) Of the moneys received by the treasurer of state from the tax levied in division (A)(1) of this section, six and three-tenths per cent shall be credited to the geological mapping fund created in section 1505.09 of the Revised Code, fourteen and two-tenths per cent shall be credited to the reclamation forfeiture fund created in section 1513.18 of the Revised Code, fifty-seven and nine-tenths per cent shall be credited to the coal mining administration and reclamation reserve fund created in section 1513.181 of the Revised Code, and the remainder shall be credited to the unreclaimed lands fund created in section 1513.30 of the Revised Code. When, at any time during a fiscal year, the chief of the division of mineral resources management finds that the balance of the coal mining administration and reclamation reserve fund is below two million dollars, the chief shall certify that fact to the director of budget and management. Upon receipt of the chief's certification, the director shall direct the treasurer of state <u>tax commissioner</u> to instead credit to the coal mining administration and reclamation reserve fund during the remainder of the fiscal year for which the certification is made the fourteen and two-tenths per cent of the moneys collected from the tax levied in division (A)(1) of this section and otherwise required by this division to be credited to the reclamation forfeiture fund. | 83813 83814 83815 83816 83817 83818 83819 83820 83821 83822 83823 83824 83825 83826 83827 83828 83829 83830 83831 83832 83833 83834 83835 |
| Fifteen per cent of the moneys received by the treasurer of state from the tax levied in division (A)(2) of this section shall | 83836 83837 |

be credited to the geological mapping fund and the remainder shall 83838
be credited to the unreclaimed lands fund. 83839

Of the moneys received by the treasurer of state from the tax 83840
levied in divisions (A)(3) and (4) of this section, seven and 83841
five-tenths per cent shall be credited to the geological mapping 83842
fund, forty-two and five-tenths per cent shall be credited to the 83843
unreclaimed lands fund, and the remainder shall be credited to the 83844
surface mining fund created in section 1514.06 of the Revised 83845
Code. 83846

Of the moneys received by the treasurer of state from the tax 83847
levied in divisions (A)(5) and (6) of this section, ninety per 83848
cent shall be credited to the oil and gas well fund created in 83849
section 1509.02 of the Revised Code and ten per cent shall be 83850
credited to the geological mapping fund. All of the moneys 83851
received by the treasurer of state from the tax levied in division 83852
(A)(7) of this section shall be credited to the surface mining 83853
fund. 83854

(C) For the purpose of paying the state's expenses for 83855
reclaiming mined lands that the operator failed to reclaim under a 83856
coal mining and reclamation permit issued under Chapter 1513. of 83857
the Revised Code, or under a surface mining permit issued under 83858
Chapter 1514. of the Revised Code, for which the operator's bond 83859
is not sufficient to pay the state's expense for reclamation, 83860
there is hereby levied an excise tax on the privilege of engaging 83861
in the severance of coal from the soil or water of this state in 83862
addition to the taxes levied by divisions (A)(1) and (D) of this 83863
section. The tax shall be imposed at the rate of one cent per ton 83864
of coal. Moneys received by the treasurer of state from the tax 83865
levied under this division shall be credited to the reclamation 83866
forfeiture fund created in section 1513.18 of the Revised Code. 83867

(D) For the purpose of paying the state's expenses for 83868
reclaiming coal mined lands that the operator failed to reclaim in 83869

accordance with Chapter 1513. of the Revised Code under a coal 83870
mining and reclamation permit issued after April 10, 1972, but 83871
before September 1, 1981, for which the operator's bond is not 83872
sufficient to pay the state's expense for reclamation and paying 83873
the expenses for administering the state's coal mining and 83874
reclamation regulatory program, there is hereby levied an excise 83875
tax on the privilege of engaging in the severance of coal from the 83876
soil or water of this state in addition to the taxes levied by 83877
divisions (A)(1) and (C) of this section. The tax shall be imposed 83878
at the rate of one cent per ton of coal as prescribed in this 83879
division. Moneys received by the treasurer of state from the tax 83880
levied by this division shall be credited to the reclamation 83881
forfeiture fund created in section 1513.18 of the Revised Code. 83882

When, at the close of any fiscal year, the chief finds that 83883
the balance of the reclamation forfeiture fund, plus estimated 83884
transfers to it from the coal mining and reclamation reserve fund 83885
under section 1513.181 of the Revised Code, plus the estimated 83886
revenues from the tax levied by this division for the remainder of 83887
the calendar year that includes the close of the fiscal year, are 83888
sufficient to complete the reclamation of such lands, the purposes 83889
for which the tax under this division is levied shall be deemed 83890
accomplished at the end of that calendar year. The chief, within 83891
thirty days after the close of the fiscal year, shall certify 83892
those findings to the tax commissioner, and the tax shall cease to 83893
be imposed after the last day of that calendar year. 83894

(E) On the day fixed for the payment of the severance taxes 83895
required to be paid by this section, the taxes with any penalties 83896
or interest on them shall become a lien on all property of the 83897
taxpayer in this state whether the property is employed by the 83898
taxpayer in the prosecution of its business or is in the hands of 83899
an assignee, trustee, or receiver for the benefit of creditors or 83900
stockholders. The lien shall continue until the taxes and any 83901

penalties or interest thereon are paid. 83902

Upon failure of the taxpayer to pay a tax on the day fixed 83903
for payment, the tax commissioner may file, for which no filing 83904
fee shall be charged, in the office of the county recorder in each 83905
county in this state in which the taxpayer owns or has a 83906
beneficial interest in real estate, notice of the lien containing 83907
a brief description of the real estate. The lien shall not be 83908
valid as against any mortgagee, purchaser, or judgment creditor 83909
whose rights have attached prior to the time the notice is filed 83910
in the county in which the real estate that is the subject of the 83911
mortgage, purchase, or judgment lien is located. The notice shall 83912
be recorded in a book kept by the recorder called the "severance 83913
tax lien record" and indexed under the name of the taxpayer 83914
charged with the tax. When the tax has been paid, the tax 83915
commissioner shall furnish to the taxpayer an acknowledgement of 83916
payment, which the taxpayer may record with the recorder of each 83917
county in which notice of the lien has been filed. 83918

Sec. 5751.01. As used in this chapter: 83919

(A) "Person" means, but is not limited to, individuals, 83920
combinations of individuals of any form, receivers, assignees, 83921
trustees in bankruptcy, firms, companies, joint-stock companies, 83922
business trusts, estates, partnerships, limited liability 83923
partnerships, limited liability companies, associations, joint 83924
ventures, clubs, societies, for-profit corporations, S 83925
corporations, qualified subchapter S subsidiaries, qualified 83926
subchapter S trusts, trusts, entities that are disregarded for 83927
federal income tax purposes, and any other entities. "Person" does 83928
not include nonprofit organizations or the state, its agencies, 83929
its instrumentalities, and its political subdivisions. 83930

(B) "Consolidated elected taxpayer" means a group of two or 83931
more persons treated as a single taxpayer for purposes of this 83932

chapter as the result of an election made under section 5751.011 83933
of the Revised Code. 83934

(C) "Combined taxpayer" means a group of two or more persons 83935
treated as a single taxpayer for purposes of this chapter under 83936
section 5751.012 of the Revised Code. 83937

(D) "Taxpayer" means any person, or any group of persons in 83938
the case of a consolidated elected taxpayer or combined taxpayer 83939
treated as one taxpayer, required to register or pay tax under 83940
this chapter. "Taxpayer" does not include excluded persons. 83941

(E) "Excluded person" means any of the following: 83942

(1) Any person with not more than one hundred fifty thousand 83943
dollars of taxable gross receipts during the calendar year. 83944
Division (E)(1) of this section does not apply to a person that is 83945
a member of a group that is a consolidated elected taxpayer or a 83946
combined taxpayer; 83947

(2) A public utility that paid the excise tax imposed by 83948
section 5727.24 or 5727.30 of the Revised Code based on one or 83949
more measurement periods that include the entire tax period under 83950
this chapter, except that a public utility that is a combined 83951
company is a taxpayer with regard to the following gross receipts: 83952

(a) Taxable gross receipts directly attributed to a public 83953
utility activity, but not directly attributed to an activity that 83954
is subject to the excise tax imposed by section 5727.24 or 5727.30 83955
of the Revised Code; 83956

(b) Taxable gross receipts that cannot be directly attributed 83957
to any activity, multiplied by a fraction whose numerator is the 83958
taxable gross receipts described in division (E)(2)(a) of this 83959
section and whose denominator is the total taxable gross receipts 83960
that can be directly attributed to any activity; 83961

(c) Except for any differences resulting from the use of an 83962

accrual basis method of accounting for purposes of determining 83963
gross receipts under this chapter and the use of the cash basis 83964
method of accounting for purposes of determining gross receipts 83965
under section 5727.24 of the Revised Code, the gross receipts 83966
directly attributed to the activity of a natural gas company shall 83967
be determined in a manner consistent with division (D) of section 83968
5727.03 of the Revised Code. 83969

As used in division (E)(2) of this section, "combined 83970
company" and "public utility" have the same meanings as in section 83971
5727.01 of the Revised Code. 83972

(3) A financial institution, as defined in section 5725.01 of 83973
the Revised Code, that paid the corporation franchise tax charged 83974
by division (D) of section 5733.06 of the Revised Code based on 83975
one or more taxable years that include the entire tax period under 83976
this chapter; 83977

(4) A dealer in intangibles, as defined in section 5725.01 of 83978
the Revised Code, that paid the dealer in intangibles tax levied 83979
by division (D) of section 5707.03 of the Revised Code based on 83980
one or more measurement periods that include the entire tax period 83981
under this chapter; 83982

(5) A financial holding company as defined in the "Bank 83983
Holding Company Act," 12 U.S.C. 1841(p); 83984

(6) A bank holding company as defined in the "Bank Holding 83985
Company Act," 12 U.S.C. 1841(a); 83986

(7) A savings and loan holding company as defined in the 83987
"Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging 83988
only in activities or investments permissible for a financial 83989
holding company under 12 U.S.C. 1843(k); 83990

(8) A person directly or indirectly owned by one or more 83991
financial institutions, financial holding companies, bank holding 83992
companies, or savings and loan holding companies described in 83993

division (E)(3), (5), (6), or (7) of this section that is engaged 83994
in activities permissible for a financial holding company under 12 83995
U.S.C. 1843(k), except that any such person held pursuant to 83996
merchant banking authority under 12 U.S.C. 1843(k)(4)(H) or 12 83997
U.S.C. 1843(k)(4)(I) is not an excluded person, or a person 83998
directly or indirectly owned by one or more insurance companies 83999
described in division (E)(9) of this section that is authorized to 84000
do the business of insurance in this state. 84001

For the purposes of division (E)(8) of this section, a person 84002
owns another person under the following circumstances: 84003

(a) In the case of corporations issuing capital stock, one 84004
corporation owns another corporation if it owns fifty per cent or 84005
more of the other corporation's capital stock with current voting 84006
rights; 84007

(b) In the case of a limited liability company, one person 84008
owns the company if that person's membership interest, as defined 84009
in section 1705.01 of the Revised Code, is fifty per cent or more 84010
of the combined membership interests of all persons owning such 84011
interests in the company; 84012

(c) In the case of a partnership, trust, or other 84013
unincorporated business organization other than a limited 84014
liability company, one person owns the organization if, under the 84015
articles of organization or other instrument governing the affairs 84016
of the organization, that person has a beneficial interest in the 84017
organization's profits, surpluses, losses, or distributions of 84018
fifty per cent or more of the combined beneficial interests of all 84019
persons having such an interest in the organization; 84020

(d) In the case of multiple ownership, the ownership 84021
interests of more than one person may be aggregated to meet the 84022
fifty per cent ownership tests in this division only when each 84023
such owner is described in division (E)(3), (5), (6), or (7) of 84024

this section and is engaged in activities permissible for a 84025
financial holding company under 12 U.S.C. 1843(k) or is a person 84026
directly or indirectly owned by one or more insurance companies 84027
described in division (E)(9) of this section that is authorized to 84028
do the business of insurance in this state; 84029

(9) A domestic insurance company or foreign insurance 84030
company, as defined in section 5725.01 of the Revised Code, that 84031
paid the insurance company premiums tax imposed by section 5725.18 84032
or Chapter 5729. of the Revised Code based on one or more 84033
measurement periods that include the entire tax period under this 84034
chapter; 84035

(10) A person that solely facilitates or services one or more 84036
securitizations or similar transactions for any person described 84037
in division (E)(3), (5), (6), (7), (8), or (9) of this section. 84038
For purposes of this division, "securitization" means transferring 84039
one or more assets to one or more persons and then issuing 84040
securities backed by the right to receive payment from the asset 84041
or assets so transferred. 84042

(11) Except as otherwise provided in this division, a 84043
pre-income tax trust as defined in division (FF)(4) of section 84044
5747.01 of the Revised Code and any pass-through entity in which 84045
such pre-income tax trust owns, directly, indirectly, or 84046
constructively through related interests by common owners, more 84047
than five per cent of the ownership or equity interests. If the 84048
pre-income tax trust has made a qualifying pre-income tax trust 84049
election under division (FF)(3) of section 5747.01 of the Revised 84050
Code, then the trust and the pass-through entities in which it 84051
owns, directly, indirectly, or constructively through related 84052
interests by common owners, more than five per cent of the 84053
ownership or equity interests, shall not be excluded persons for 84054
purposes of the tax imposed under section 5751.02 of the Revised 84055
Code. 84056

(F) Except as otherwise provided in divisions (F)(2), (3), (4), and (5) of this section, "gross receipts" means the total amount realized by a person, without deduction for the cost of goods sold or other expenses incurred, that contributes to the production of gross income of the person, including the fair market value of any property and any services received, and any debt transferred or forgiven as consideration. 84057
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(1) The following are examples of gross receipts: 84064

(a) Amounts realized from the sale, exchange, or other disposition of the taxpayer's property to or with another; 84065
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(b) Amounts realized from the taxpayer's performance of services for another; 84067
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(c) Amounts realized from another's use or possession of the taxpayer's property or capital; 84069
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(d) Any combination of the foregoing amounts. 84071

(2) "Gross receipts" excludes the following amounts: 84072

(a) Interest income except interest on credit sales; 84073

(b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code; 84074
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(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset; 84078
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(d) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument; 84082
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(e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized 84085
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| <u>as a loan to the person;</u> | 84087 |
| <u>(f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;</u> | 84088 84089 84090 84091 |
| <u>(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;</u> | 84092 84093 84094 84095 84096 84097 84098 84099 84100 |
| <u>(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;</u> | 84101 84102 84103 |
| <u>(i) Proceeds received on the account of payments from life insurance policies;</u> | 84104 84105 |
| <u>(j) Gifts or charitable contributions received, membership dues received, and payments received for educational courses, meetings, meals, or similar payments to a trade, professional, or other similar association; fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes; and proceeds received by a nonprofit organization including proceeds realized with regard to its unrelated business taxable income;</u> | 84106 84107 84108 84109 84110 84111 84112 84113 |
| <u>(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;</u> | 84114 84115 84116 |
| <u>(l) Property, money, and other amounts received or acquired</u> | 84117 |

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| <u>by an agent on behalf of another in excess of the agent's</u> | 84118 |
| <u>commission, fee, or other remuneration;</u> | 84119 |
| <u>(m) Tax refunds and other tax benefit recoveries;</u> | 84120 |
| <u>(n) Pension reversions;</u> | 84121 |
| <u>(o) Contributions to capital;</u> | 84122 |
| <u>(p) Sales or use taxes collected as a vendor or an</u> | 84123 |
| <u>out-of-state seller on behalf of the taxing jurisdiction from a</u> | 84124 |
| <u>consumer;</u> | 84125 |
| <u>(q) In the case of receipts from the sale of cigarettes or</u> | 84126 |
| <u>tobacco products by a wholesale dealer, retail dealer,</u> | 84127 |
| <u>distributor, manufacturer, or seller, all as defined in section</u> | 84128 |
| <u>5743.01 of the Revised Code, an amount equal to the federal and</u> | 84129 |
| <u>state excise taxes paid by any person on or for such cigarettes or</u> | 84130 |
| <u>tobacco products under subtitle E of the Internal Revenue Code or</u> | 84131 |
| <u>Chapter 5743. of the Revised Code;</u> | 84132 |
| <u>(r) In the case of receipts from the sale of motor fuel by a</u> | 84133 |
| <u>licensed motor fuel dealer, licensed retail dealer, or licensed</u> | 84134 |
| <u>permissive motor fuel dealer, all as defined in section 5735.01 of</u> | 84135 |
| <u>the Revised Code, an amount equal to federal and state excise</u> | 84136 |
| <u>taxes paid by any person on such motor fuel under section 4081 of</u> | 84137 |
| <u>the Internal Revenue Code or Chapter 5735. of the Revised Code;</u> | 84138 |
| <u>(s) In the case of receipts from the sale of beer or</u> | 84139 |
| <u>intoxicating liquor, as defined in section 4301.01 of the Revised</u> | 84140 |
| <u>Code, by a person holding a permit issued under Chapter 4301. or</u> | 84141 |
| <u>4303. of the Revised Code, an amount equal to federal and state</u> | 84142 |
| <u>excise taxes paid by any person on or for such beer or</u> | 84143 |
| <u>intoxicating liquor under subtitle E of the Internal Revenue Code</u> | 84144 |
| <u>or Chapter 4301. or 4305. of the Revised Code;</u> | 84145 |
| <u>(t) Receipts realized by a new motor vehicle dealer or used</u> | 84146 |
| <u>motor vehicle dealer, as defined in section 4517.01 of the Revised</u> | 84147 |

Code, from the sale or other transfer of a motor vehicle, as 84148
defined in that section, to another motor vehicle dealer for the 84149
purpose of resale by the transferee motor vehicle dealer, but only 84150
if the sale or other transfer was based upon the transferee's need 84151
to meet a specific customer's preference for a motor vehicle; 84152

(u) Receipts from a financial institution described in 84153
division (E)(3) of this section for services provided to the 84154
financial institution in connection with the issuance, processing, 84155
servicing, and management of loans or credit accounts, if such 84156
financial institution and the recipient of such receipts have at 84157
least fifty per cent of their ownership interests owned or 84158
controlled, directly or constructively through related interests, 84159
by common owners; 84160

(v) Receipts realized from administering anti-neoplastic 84161
drugs and other cancer chemotherapy, biologicals, therapeutic 84162
agents, and supportive drugs in a physician's office to patients 84163
with cancer; 84164

(w) Funds received or used by a mortgage broker that is not a 84165
dealer in intangibles, other than fees or other consideration, 84166
pursuant to a table-funding mortgage loan or warehouse-lending 84167
mortgage loan. Terms used in division (F)(2)(x) of this section 84168
have the same meanings as in section 1322.01 of the Revised Code, 84169
except "mortgage broker" means a person assisting a buyer in 84170
obtaining a mortgage loan for a fee or other consideration paid by 84171
the buyer or a lender, or a person engaged in table-funding or 84172
warehouse-lending mortgage loans that are first lien mortgage 84173
loans. 84174

(x) Property, money, and other amounts received by a 84175
professional employer organization, as defined in 4125.01 of the 84176
Revised Code, from a client employer, as defined in that section, 84177
in excess of the administrative fee charged by the professional 84178
employer organization to the client employer; 84179

(y) In the case of amounts retained as commissions by a permit holder under Chapter 3769. of the Revised Code, an amount equal to the amounts specified under that chapter that must be paid to or collected by the tax commissioner as a tax and the amounts specified under that chapter to be used as purse money; 84180
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(z) Any receipts for which the tax imposed by this chapter is prohibited by the constitution or laws of the United States or the constitution of this state. 84185
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(3) In the case of a taxpayer when acting as a real estate broker, "gross receipts" includes only the portion of any fee for the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker. For the purposes of this division, "real estate broker" and "real estate salesperson" have the same meanings as in section 4735.01 of the Revised Code. 84188
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(4) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's federal taxable year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, its method of accounting for gross receipts under this chapter shall be changed accordingly. 84196
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In calculating gross receipts, the following shall be deducted: 84203
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(a) Cash discounts allowed and taken; 84205

(b) Returns and allowances; 84206

(c) Bad debts from receipts upon which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purposes of this division, "bad debts" mean any debts that have become worthless or uncollectible between the preceding and 84207
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current quarterly tax payment periods, have been uncollected for 84211
at least six months, and may be claimed as a deduction under 84212
section 166 of the Internal Revenue Code and the regulations 84213
adopted pursuant thereto, or that could be claimed as such if the 84214
taxpayer kept its accounts on the accrual basis. "Bad debts" does 84215
not include uncollectible amounts on property that remains in the 84216
possession of the taxpayer until the full purchase price is paid, 84217
expenses in attempting to collect any account receivable or for 84218
any portion of the debt recovered, and repossessed property; 84219

(d) Any amount realized from the sale of an account 84220
receivable but only to the extent the receipts from the underlying 84221
transaction giving rise to the account receivable were included in 84222
the gross receipts of the taxpayer. 84223

(G) "Taxable gross receipts" means gross receipts sitused to 84224
this state under section 5751.033 of the Revised Code. 84225

(H) A person has "substantial nexus with this state" if any 84226
of the following applies. The person: 84227

(1) Owns or uses a part or all of its capital in this state; 84228

(2) Holds a certificate of compliance with the laws of this 84229
state authorizing the person to do business in this state; 84230

(3) Has bright-line presence in this state; 84231

(4) Otherwise has nexus with this state to an extent that the 84232
person can be required to remit the tax imposed under this chapter 84233
under the constitution of the United States. 84234

(I) A person has "bright-line presence" in this state for a 84235
reporting period and for the remaining portion of the calendar 84236
year if any of the following applies. The person: 84237

(1) Has at any time during the calendar year property in this 84238
state with an aggregate value of at least fifty thousand dollars. 84239
For the purpose of division (I)(1) of this section, owned property 84240

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| <u>is valued at original cost and rented property is valued at eight</u> | 84241 |
| <u>times the net annual rental charge.</u> | 84242 |
| <u>(2) Has during the calendar year payroll in this state of at</u> | 84243 |
| <u>least fifty thousand dollars. Payroll in this state includes all</u> | 84244 |
| <u>of the following:</u> | 84245 |
| <u>(a) Any amount subject to withholding by the person under</u> | 84246 |
| <u>section 5747.06 of the Revised Code;</u> | 84247 |
| <u>(b) Any other amount the person pays as compensation to an</u> | 84248 |
| <u>individual under the supervision or control of the person for work</u> | 84249 |
| <u>done in this state; and</u> | 84250 |
| <u>(c) Any amount the person pays for services performed in this</u> | 84251 |
| <u>state on its behalf by another.</u> | 84252 |
| <u>(3) Has during the calendar year taxable gross receipts in</u> | 84253 |
| <u>this state of at least five hundred thousand dollars.</u> | 84254 |
| <u>(4) Has at any time during the calendar year within this</u> | 84255 |
| <u>state at least twenty-five per cent of the person's total</u> | 84256 |
| <u>property, total payroll, or total sales.</u> | 84257 |
| <u>(5) Is domiciled in this state as an individual or for</u> | 84258 |
| <u>corporate, commercial, or other business purposes.</u> | 84259 |
| <u>(J) "Tangible personal property" has the same meaning as in</u> | 84260 |
| <u>section 5739.01 of the Revised Code.</u> | 84261 |
| <u>(K) "Internal Revenue Code" means the Internal Revenue Code</u> | 84262 |
| <u>of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in</u> | 84263 |
| <u>this chapter that is not otherwise defined has the same meaning as</u> | 84264 |
| <u>when used in a comparable context in the laws of the United States</u> | 84265 |
| <u>relating to federal income taxes unless a different meaning is</u> | 84266 |
| <u>clearly required. Any reference in this chapter to the Internal</u> | 84267 |
| <u>Revenue Code includes other laws of the United States relating to</u> | 84268 |
| <u>federal income taxes.</u> | 84269 |
| <u>(L) "Calendar quarter" means a three-month period ending on</u> | 84270 |

the thirty-first day of March, the thirtieth day of June, the 84271
thirtieth day of September, or the thirty-first day of December. 84272

(M) "Tax period" means the calendar quarter or calendar year 84273
on the basis of which a taxpayer is required to pay the tax 84274
imposed under this chapter. 84275

(N) "Calendar year taxpayer" means a taxpayer for which the 84276
tax period is a calendar year. 84277

(O) "Calendar quarter taxpayer" means a taxpayer for which 84278
the tax period is a calendar quarter. 84279

(P) "Agent" means a person authorized by another person to 84280
act on its behalf to undertake a transaction for the other, 84281
including any of the following: 84282

(1) A person receiving a fee to sell financial instruments; 84283

(2) A person retaining only a commission from a transaction 84284
with the other proceeds from the transaction being remitted to 84285
another person; 84286

(3) A person issuing licenses and permits under section 84287
1533.13 of the Revised Code; 84288

(4) A lottery sales agent holding a valid license issued 84289
under section 3770.05 of the Revised Code; 84290

(5) A person acting as an agent of the division of liquor 84291
control under section 4301.17 of the Revised Code. 84292

(O) "Received" includes amounts accrued under the accrual 84293
method of accounting. 84294

Sec. 5751.011. (A) A group of two or more persons may elect 84295
to be a consolidated elected taxpayer for the purposes of this 84296
chapter if the group satisfies all of the following requirements: 84297

(1) The group elects to include all persons, including 84298
persons enumerated in divisions (E)(2) to (10) of section 5751.01 84299

of the Revised Code, having at least eighty per cent, or having at 84300
least fifty per cent, of the value of their ownership interests 84301
owned or controlled, directly or constructively through related 84302
interests, by common owners during all or any portion of the tax 84303
period, together with the common owners. At the election of the 84304
group, all foreign corporations meeting the elected ownership test 84305
shall either be included in the group or all shall be excluded 84306
from the group. The group shall notify the tax commissioner of the 84307
foregoing elections at the time of filing the initial registration 84308
required under section 5751.04 of the Revised Code. If fifty per 84309
cent of the value of a person's ownership interests is owned or 84310
controlled by each of two consolidated elected taxpayer groups 84311
formed under the fifty per cent ownership or control test, that 84312
person is a member of each group for the purposes of this section, 84313
and each group shall include in the group's taxable gross receipts 84314
fifty per cent of that person's taxable gross receipts. Otherwise, 84315
all of that person's taxable gross receipts shall be included in 84316
the taxable gross receipts of the consolidated elected taxpayer 84317
group of which the person is a member. In no event shall the 84318
ownership or control of fifty per cent of the value of a person's 84319
ownership interests by two otherwise unrelated groups form the 84320
basis for consolidating the groups into a single consolidated 84321
elected taxpayer group or permit any exclusion under division (C) 84322
of this section of taxable gross receipts between members of the 84323
two groups. Division (A)(3) of this section applies with respect 84324
to the elections described in this division. 84325

(2) The group applies to the tax commissioner for approval to 84326
be treated as a consolidated elected taxpayer pursuant to division 84327
(D) of this section. 84328

(3) The group agrees that if the commissioner approves the 84329
election, all of the following apply: 84330

(a) The group shall file reports as a single taxpayer for at 84331

least the next eight calendar quarters following the election so long as at least two or more of the members of the group meet the requirements of division (A)(1) of this section. 84332
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(b) Before the expiration of the eighth such calendar quarter, the group shall notify the commissioner if it elects to cancel its designation as a consolidated elected taxpayer. If the group does not so notify the tax commissioner, the election remains in effect for another eight calendar quarters. 84335
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(c) If, at any time during any of those eight calendar quarters following the election, a former member of the group no longer meets the requirements under division (A)(1) of this section, that member shall report and pay the tax imposed under this chapter separately, as a member of a combined taxpayer, or, if the former member satisfies such requirements with respect to another consolidated elected group, as a member of that consolidated elected group. 84340
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(d) The group agrees to the application of division (B) of this section. 84348
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(B) A group of persons making the election under this section shall report and pay tax on all of the group's taxable gross receipts even if substantial nexus with this state does not exist for one or more persons in the group. 84350
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(C)(1) A consolidated elected taxpayer shall exclude taxable gross receipts between its members and taxable gross receipts received by a person enumerated in divisions (E)(2) to (10) of section 5751.01 of the Revised Code, except for taxable gross receipts received by a member described in division (E)(4) of section 5751.01 of the Revised Code that is not a qualifying dealer as defined in section 5725.24 of the Revised Code. Except as provided in division (C)(2) of this section, nothing in this section shall have the effect of excluding taxable gross receipts 84354
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received from persons that are not members of the group. 84363

(2) Gross receipts related to the sale or transmission of 84364
electricity through the use of an intermediary regional 84365
transmission organization approved by the federal energy 84366
regulatory commission shall be excluded from taxable gross 84367
receipts under division (C)(1) of this section if all other 84368
requirements of that division are met, even if the receipts are 84369
from and to the same member of the group. 84370

(D) To make the election to be a consolidated elected 84371
taxpayer, a group of persons shall apply to the tax commissioner 84372
and pay the commissioner a registration fee equal to the lesser of 84373
two hundred dollars or twenty dollars for each person in the 84374
group. No additional fee shall be imposed for the addition of new 84375
members to the group once the group has remitted a fee in the 84376
amount of two hundred dollars. The application shall be filed and 84377
the fee paid before the later of the beginning of the first 84378
calendar quarter to which the election applies or November 15, 84379
2005. The fee shall be collected and used in the same manner as 84380
provided in section 5751.04 of the Revised Code. 84381

The election shall be made on a form prescribed by the tax 84382
commissioner for that purpose and shall be signed by one or more 84383
individuals with authority, separately or together, to make a 84384
binding election on behalf of all persons in the group. The tax 84385
commissioner shall approve a group's election if the group 84386
satisfies the requirements of division (A) of this section. 84387

Any person acquired or formed after the filing of the 84388
registration shall be included in the group if the person meets 84389
the requirements of division (A)(1) of this section, and the group 84390
shall notify the tax commissioner of any additions to the group 84391
with the next tax return it files with the commissioner. 84392

(E) Each member of a consolidated elected taxpayer is jointly 84393

and severally liable for the tax imposed by this chapter and any penalties or interest thereon. The tax commissioner may require one person in the group to be the taxpayer for purposes of registration and remittance of the tax, but all members of the group are subject to assessment under section 5751.09 of the Revised Code. 84394
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Sec. 5751.012. (A) All persons, other than persons enumerated in divisions (E)(2) to (10) of section 5751.01 of the Revised Code, having more than fifty per cent of the value of their ownership interest owned or controlled, directly or constructively through related interests, by common owners during all or any portion of the tax period, together with the common owners, shall be members of a combined taxpayer if those persons are not members of a consolidated elected taxpayer pursuant to an election under section 5751.011 of the Revised Code. 84400
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(B) A combined taxpayer shall register, file returns, and pay taxes under this chapter as a single taxpayer. 84409
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(C) A combined taxpayer shall neither exclude taxable gross receipts between its members nor from others that are not members. 84411
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(D) A combined taxpayer shall pay to the tax commissioner a registration fee equal to the lesser of two hundred dollars or twenty dollars for each person in the group. No additional fee shall be imposed for the addition of new members to the group once the group has remitted a fee in the amount of two hundred dollars. The fee shall be timely paid before the later of the beginning of the first calendar quarter or November 15, 2005. The fee shall be collected and used in the same manner as provided in section 5751.04 of the Revised Code. 84413
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Any person acquired or formed after the filing of the registration shall be included in the group if the person meets the requirements of division (A) of this section, and the group 84422
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must notify the tax commissioner of any additions with the next 84425
quarterly tax return it files with the commissioner. 84426

(E) Each member of a combined taxpayer is jointly and 84427
severally liable for the tax imposed by this chapter and any 84428
penalties or interest thereon. The tax commissioner may require 84429
one person in the group to be the taxpayer for purposes of 84430
registration and remittance of the tax, but all members of the 84431
group are subject to assessment under section 5751.09 of the 84432
Revised Code. 84433

Sec. 5751.013. (A) Except as provided in division (B) of this 84434
section: 84435

(1) A person shall include as taxable gross receipts the 84436
value of property the person transfers into this state for the 84437
person's own use within one year after the person receives the 84438
property outside this state; and 84439

(2) In the case of an elected consolidated taxpayer or a 84440
combined taxpayer, the taxpayer shall include as taxable gross 84441
receipts the value of property that any of the taxpayer's members 84442
transferred into this state for the use of any of the taxpayer's 84443
members within one year after the taxpayer receives the property 84444
outside this state. 84445

(B) Property brought into this state within one year after it 84446
is received outside this state by a person or group described in 84447
division (A)(1) or (2) of this section shall not be included as 84448
taxable gross receipts as required under those divisions if the 84449
tax commissioner ascertains that the property's receipt outside 84450
this state by the person or group followed by its transfer into 84451
this state within one year was not intended in whole or in part to 84452
avoid in whole or in part the tax imposed under this chapter. 84453

(C) The tax commissioner may adopt rules necessary to 84454

administer this section. 84455

Sec. 5751.02. (A) For the purpose of funding the needs of 84456
this state and its local governments beginning with the tax period 84457
that commences July 1, 2005, and continuing for every tax period 84458
thereafter, there is hereby levied a commercial activity tax on 84459
each person with taxable gross receipts for the privilege of doing 84460
business in this state. For the purposes of this chapter, "doing 84461
business" means engaging in any activity, whether legal or 84462
illegal, that is conducted for, or results in, gain, profit, or 84463
income, at any time during the calendar year. Persons on which the 84464
commercial activity tax is levied include, but are not limited to, 84465
persons with substantial nexus with this state. The tax imposed 84466
under this section is not a transactional tax and is not subject 84467
to Public Law No. 86-272, 73 Stat. 555. The tax imposed under this 84468
section is in addition to any other taxes or fees imposed under 84469
the Revised Code. The tax levied under this section is imposed on 84470
the person receiving the gross receipts and is not a tax imposed 84471
directly on a purchaser. The tax imposed by this section is an 84472
annual privilege tax for the calendar year that, in the case of 84473
calendar year taxpayers, is the annual tax period and, in the case 84474
of calendar quarter taxpayers, contains all quarterly tax periods 84475
in the calendar year. A taxpayer is subject to the annual 84476
privilege tax for doing business during any portion of such 84477
calendar year. 84478

(B) The tax imposed by this section is a tax on the taxpayer 84479
and, except as otherwise provided in this section, shall not be 84480
billed or invoiced to another person. Even if the tax or any 84481
portion thereof is billed or invoiced and separately stated, such 84482
amounts remain part of the price for purposes of the sales and use 84483
taxes levied under Chapters 5739. and 5741. of the Revised Code. 84484
Nothing in division (B) of this section prohibits a person from 84485
including in the price charged for a good or service an amount 84486

sufficient to recover the tax imposed by this section or from 84487
recovering the amount of the tax imposed by this section as a 84488
combined or separately stated overhead charge or other charge as 84489
part of any legal contract, including an existing, an amended, or 84490
a future contract. 84491

Sec. 5751.03. (A) Except as provided in divisions (B) and (D) 84492
of this section and in sections 5751.031 and 5751.032 of the 84493
Revised Code, the tax levied under this section for each tax 84494
period shall be the product of two and six-tenths mills per dollar 84495
times the remainder of the taxpayer's taxable gross receipts for 84496
the tax period after subtracting the exclusion amount provided for 84497
in division (C) of this section. 84498

(B) Notwithstanding division (C) of this section, the tax on 84499
the first one million dollars in taxable gross receipts each 84500
calendar year shall be one hundred fifty dollars. For calendar 84501
year 2006, the tax imposed under this division shall be paid not 84502
later than May 10, 2006, by both calendar year taxpayers and 84503
calendar quarter taxpayers. For calendar year 2007 and thereafter, 84504
the tax imposed under this division shall be paid with the 84505
fourth-quarter tax return or annual tax return for the prior 84506
calendar year by both calendar year taxpayers and calendar quarter 84507
taxpayers. 84508

(C)(1) Each calendar quarter taxpayer may exclude the first 84509
two hundred fifty thousand dollars of taxable gross receipts for a 84510
calendar quarter and may carry forward and apply any unused 84511
exclusion amount to the three subsequent calendar quarters. Each 84512
calendar year taxpayer may exclude the first one million dollars 84513
of taxable gross receipts for a calendar year. 84514

(2) A taxpayer switching from a calendar year tax period to a 84515
calendar quarter tax period may, for the first quarter of the 84516
change, apply the prior calendar quarter exclusion amounts to the 84517

first calendar quarter return the taxpayer files that calendar 84518
year. The tax rate shall be based on the rate imposed that 84519
calendar quarter when the taxpayer switches from a calendar year 84520
to a calendar quarter tax period. 84521

(D) There is hereby allowed a credit against the tax imposed 84522
under this chapter for each of the following calendar years if a 84523
transfer was made in the preceding calendar year from the general 84524
revenue fund to the commercial activity tax refund fund under 84525
division (D) of section 5751.032 of the Revised Code: calendar 84526
years 2008, 2010, and 2012. The credit is allowed for taxpayers 84527
that paid in full the tax imposed under this chapter for the 84528
calendar year in which the transfer was made. The amount of a 84529
taxpayer's credit equals the amount computed under division (D) of 84530
section 5751.032 of the Revised Code. 84531

Sec. 5751.031. This section applies only to calendar quarter 84532
taxpayers. The tax imposed per calendar quarter under division (A) 84533
of section 5751.03 of the Revised Code shall be computed as 84534
follows: 84535

(A) From January 1, 2006, to March 31, 2006, by multiplying 84536
the tax otherwise due under that division by twenty-three per 84537
cent; 84538

(B) From April 1, 2006, to March 31, 2007, by multiplying the 84539
tax otherwise due under that division by forty per cent; 84540

(C) From April 1, 2007, to March 31, 2008, by multiplying the 84541
tax otherwise due under that division by sixty per cent; 84542

(D) From April 1, 2008, to March 31, 2009, by multiplying the 84543
tax otherwise due under that division by eighty per cent; 84544

(E) After March 31, 2009, one hundred per cent of the tax due 84545
under that division. 84546

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| <u>Sec. 5751.032. As used in this section:</u> | 84547 |
| <u>(1) "CAT" refers to the tax levied by this chapter.</u> | 84548 |
| <u>(2) "CAT collected" means, with regard to a CAT test period,</u> <u>the net amount of CAT, exclusive of registration fees, received in</u> <u>the period after subtracting any CAT refunded in the period.</u> | 84549 84550 84551 |
| <u>(3) "First CAT test period" means the twenty-four month</u> <u>period beginning July 1, 2005, and ending June 30, 2007.</u> | 84552 84553 |
| <u>(4) "Second CAT test period" means the twelve-month period</u> <u>beginning July 1, 2008, and ending June 30, 2009.</u> | 84554 84555 |
| <u>(5) "Third CAT test period" means the twelve-month period</u> <u>beginning July 1, 2010, and ending June 30, 2011.</u> | 84556 84557 |
| <u>(B) Not later than the last day of September immediately</u> <u>following the end of each CAT test period, the tax commissioner</u> <u>shall compute the amount of CAT collected during that test period.</u> <u>If the amount is less than ninety per cent or greater than one</u> <u>hundred ten per cent of the prescribed CAT collections for that</u> <u>period, the commissioner shall proceed as provided in division (C)</u> <u>or (D) of this section, as applicable. For the purposes of</u> <u>division (B) of this section, the prescribed CAT collections for</u> <u>the CAT test periods are as follows:</u> | 84558 84559 84560 84561 84562 84563 84564 84565 84566 |
| <u>(1) For the first CAT test period, eight hundred fifteen</u> <u>million dollars;</u> | 84567 84568 |
| <u>(2) For the second CAT test period, one billion one hundred</u> <u>ninety million dollars less any amount credited to the commercial</u> <u>activity tax reduction fund with regard to the first CAT test</u> <u>period;</u> | 84569 84570 84571 84572 |
| <u>(3) For the third CAT test period, one billion six hundred</u> <u>ten million dollars less any amount credited to the commercial</u> <u>activity tax reduction fund with regard to the second CAT test</u> <u>period.</u> | 84573 84574 84575 84576 |

(C)(1) If the amount of CAT collected during a CAT test period is less than ninety per cent of the prescribed CAT collections for that test period, the tax commissioner shall determine a new tax rate equal to the tax rate that would have yielded the prescribed CAT collections during that test period. The tax rate shall be the rate that would have to be imposed under division (A) of section 5751.03 of the Revised Code before any applicable phase-in percentages under section 5751.031 of the Revised Code or otherwise provided by law to yield the prescribed CAT collection after applying any applicable phase-in percentages.

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(2) If the amount of CAT collected during a CAT test period exceeds one hundred ten per cent of the prescribed CAT collections for that test period, the tax commissioner shall determine a new tax rate equal to the tax rate that would have yielded the prescribed CAT collections during that test period less one-half of the amount of the excess that was certified to the director of budget and management for the test period under division (D) of this section. The tax rate shall be the rate that would have to be imposed under division (A) of section 5751.03 of the Revised Code before any applicable phase-in percentages under section 5751.031 of the Revised Code or otherwise provided by law to yield the prescribed CAT collection after applying any applicable phase-in percentages.

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(3) A new tax rate computed under division (C)(1) or (2) of this section shall be expressed as a number of mills per dollar, rounded to the nearest one-hundredth of one mill. The rate shall be rounded upward by one-hundredth of one mill only if the next decimal digit is five or more.

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(4) Not later than the last day of September following the end of the CAT test period on the basis of which a new tax rate is computed, the tax commissioner shall certify the new tax rate to the governor, the president of the senate, the speaker of the

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house of representatives, and all other members of the general 84609
assembly. The commissioner shall publish the new tax rate by 84610
journal entry and provide notice of the new tax rate to taxpayers. 84611
The new tax rate shall be the rate imposed under division (A) of 84612
section 5751.03 of the Revised Code beginning with the ensuing 84613
calendar year, and is subject to any applicable phase-in 84614
percentages provided for under section 5751.031 of the Revised 84615
Code. 84616

(D) If the amount of CAT collected during a CAT test period 84617
exceeds one hundred ten per cent of the prescribed CAT collections 84618
for that test period, the tax commissioner shall certify the 84619
excess amount to the director of budget and management not later 84620
than the last day of September immediately following the end of 84621
that test period. The director shall forthwith transfer from the 84622
general revenue fund one-half of the amount of the excess so 84623
certified to the commercial activity tax refund fund, which is 84624
hereby created in the state treasury, and the remaining one-half 84625
of the amount of the excess to the budget stabilization fund. All 84626
money credited to the commercial activity tax refund fund shall be 84627
applied to reimburse the general revenue fund, school district 84628
tangible property tax replacement fund, and local government 84629
tangible property tax replacement fund for the diminution in 84630
revenue caused by the credit provided under division (D) of 84631
section 5751.03 of the Revised Code. On or before the last day of 84632
May, August, and October of the calendar year that begins after 84633
the end of the test period, and on or before the last day of 84634
February of the following calendar year, the director of budget 84635
and management shall transfer one-fourth of the amount that had 84636
been transferred to the commercial activity tax refund fund to 84637
each of those funds in the proportions specified under division 84638
(B) of section 5751.21 of the Revised Code. 84639

In the calendar year that begins immediately after the year 84640

in which a transfer is made to the commercial activity tax refund fund, the tax commissioner shall compute the amount to be credited, under division (D) of section 5751.03 of the Revised Code, to each taxpayer that paid in full the tax imposed under this chapter for the calendar year in which the transfer was made. The credit allowed to each such taxpayer shall equal the amount transferred to the commercial activity tax refund fund multiplied by a fraction, the numerator of which is the amount of tax paid by that taxpayer for that calendar year and the denominator of which is the total of the taxes paid by all such taxpayers for which the credit is allowed. The credit applies only to the calendar year that begins immediately after the year in which a transfer is made to the commercial activity tax refund fund under this division."

(E) It is the intent of the General Assembly to conduct a review of the prescribed CAT collections and rate adjustments provided for under divisions (A) to (D) of this section every two years in conjunction with its biennial budget deliberations, and to establish lower prescribed CAT collections or reduce the rate of tax levied under this chapter on the basis of the following three factors:

(1) The revenue yield of the tax;

(2) The condition of the Ohio economy;

(3) Savings realized by ongoing reform to medicaid and other policy initiatives.

Sec. 5751.033. For the purposes of this chapter, gross receipts shall be sitused to this state as follows:

(A) Gross rents and royalties from real property located in this state shall be sitused to this state.

(B) Gross rents and royalties from tangible personal property shall be sitused to this state to the extent the tangible personal

property is located or used in this state. 84671

(C) Gross receipts from the sale of electricity and electric transmission and distribution services shall be sitused to this state in the manner provided under section 5733.059 of the Revised Code. 84672
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(D) Gross receipts from the sale of real property located in this state shall be sitused to this state. 84676
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(E) Gross receipts from the sale of tangible personal property shall be sitused to this state if the property is received in this state by the purchaser. In the case of delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be considered the place where the purchaser receives the property. For purposes of this section, the phrase "delivery of tangible personal property by common carrier or by other means of transportation" includes the situation in which a purchaser accepts the property in this state and then transports the property directly or by other means to a location outside this state. Direct delivery in this state, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in this state, and direct delivery outside this state to a person or firm designated by a purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale. 84678
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(F) Gross receipts from the sale, exchange, disposition, or other grant of the right to use trademarks, trade names, patents, copyrights, and similar intellectual property shall be sitused to this state to the extent that the receipts are based on the amount of use of the property in this state. If the receipts are not based on the amount of use of the property, but rather on the 84697
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right to use the property, and the payor has the right to use the 84703
property in this state, then the receipts from the sale, exchange, 84704
disposition, or other grant of the right to use such property 84705
shall be sitused to this state to the extent the receipts are 84706
based on the right to use the property in this state. 84707

(G) Gross receipts from the sale of transportation services 84708
by a common or contract carrier shall be sitused to this state in 84709
proportion to the mileage traveled by the carrier during the tax 84710
period on roadways, waterways, airways, and railways in this state 84711
to the mileage traveled by the carrier during the tax period on 84712
roadways, waterways, airways, and railways everywhere. With prior 84713
written approval of the tax commissioner, a common or contract 84714
carrier may use an alternative situsing procedure for 84715
transportation services. 84716

(H) Gross receipts from dividends, interest, and other 84717
sources of income from financial instruments described in division 84718
(F)(4), (5), (6), (7), (8), (9), (10), (11), and (13) of section 84719
5733.056 of the Revised Code shall be sitused to this state in 84720
accordance with the situsing provisions set forth in those 84721
divisions. When applying the provisions of divisions (F)(6), (8), 84722
and (13) of section 5733.056 of the Revised Code, "gross receipts" 84723
shall be substituted for "net gains" wherever "net gains" appears 84724
in those divisions. Nothing in this division limits or modifies 84725
the exclusions enumerated in divisions (E) and (F)(2) of section 84726
5751.01 of the Revised Code. The tax commissioner may promulgate 84727
rules to further specify the manner in which to situs gross 84728
receipts subject to this division. 84729

(I) Gross receipts from the sale of all other services, and 84730
all other gross receipts not otherwise sitused under this section, 84731
shall be sitused to this state in the proportion that the 84732
purchaser's benefit in this state with respect to what was 84733
purchased bears to the purchaser's benefit everywhere with respect 84734

to what was purchased. The physical location where the purchaser 84735
ultimately uses or receives the benefit of what was purchased 84736
shall be paramount in determining the proportion of the benefit in 84737
this state to the benefit everywhere. 84738

(J) If the situsing provisions of divisions (A) to (H) of 84739
this section do not fairly represent the extent of a person's 84740
activity in this state, the person may request, or the tax 84741
commissioner may require or permit, an alternative method. Such 84742
request by a person must be made within the applicable statute of 84743
limitations set forth in this chapter. 84744

(K) The tax commissioner may adopt rules to provide 84745
additional guidance to the application of this section, and 84746
provide alternative methods of situsing gross receipts that apply 84747
to all persons, or subset of persons, that are engaged in similar 84748
business or trade activities. 84749

Sec. 5751.04. (A) Not later than the later of November 15, 84750
2005, or thirty days after a person first has more than one 84751
hundred fifty thousand dollars in taxable gross receipts in a 84752
calendar year, each person subject to this chapter shall register 84753
with the tax commissioner on the form prescribed by the 84754
commissioner. The form shall include the following: 84755

(1) The person's name; 84756

(2) If applicable, the name of the state or country under the 84757
laws of which the person is incorporated; 84758

(3) If applicable, the location of a person's principal 84759
office, and, in the case of a foreign corporation, the location of 84760
its principal place of business in this state and the name and 84761
address of the officer or agent of the corporation in charge of 84762
the business in this state; 84763

(4) If applicable, the names of the person's president, 84764

secretary, treasurer, and statutory agent designated pursuant to 84765
section 1703.041 of the Revised Code, with the post office address 84766
of each; 84767

(5) The kind of business in which the person is engaged, 84768
including applicable business or industry codes; 84769

(6) The date of the beginning of the person's annual 84770
accounting period that includes the first day of January of the 84771
taxable calendar year; 84772

(7) If the person is not a corporation or a sole proprietor, 84773
the names of all the person's owners and officers; 84774

(8) The person's federal employer identification number or 84775
numbers or, if those are not applicable, the person's social 84776
security number or equivalent; 84777

(9) All other information that the commissioner requires to 84778
administer and enforce this chapter. 84779

(B) Except as otherwise provided in this division, each 84780
person registering with the tax commissioner as required by 84781
division (A) of this section shall pay a registration fee. The fee 84782
shall be in the amount of fifteen dollars if a person registers 84783
electronically and twenty dollars if a person does not register 84784
electronically. The registration fee shall be paid in the manner 84785
prescribed by the tax commissioner at the same time the 84786
registration is due if a person is subject to the tax imposed 84787
under this chapter before January 1, 2006. If a person first 84788
becomes subject to the tax after that date, the registration fee 84789
is payable with the first tax period return the person is required 84790
to file as prescribed by section 5751.051 of the Revised Code. If 84791
a registration fee is not paid when due, an additional fee is 84792
imposed in the amount of one hundred dollars per month or part 84793
thereof the fee is outstanding, not to exceed one thousand 84794
dollars. The tax commissioner may abate the additional fee. The 84795

fee imposed under this division may be assessed in the same manner 84796
as the tax imposed under this chapter. Proceeds from the fee shall 84797
be credited to the commercial activity tax administrative fund, 84798
which is hereby created in the state treasury for the commissioner 84799
to use in implementing and administering the tax imposed under 84800
this chapter. 84801

No registration fee is payable by a person for a calendar 84802
year if the person first begins business operations in this state 84803
after the thirtieth day of November of that calendar year or if 84804
the person's taxable gross receipts for the calendar year exceed 84805
one hundred fifty thousand dollars but do not exceed one hundred 84806
fifty thousand dollars as of the first day of December of the 84807
calendar year. 84808

Registration fees paid under this section, excluding any 84809
additional fee imposed for late payment of the registration fee, 84810
shall be credited against the first payment of tax payable under 84811
section 5751.03 of the Revised Code after the registration fee is 84812
paid. 84813

(C) If a person that has registered under this section is no 84814
longer a taxpayer subject to this chapter, including no longer 84815
being a taxpayer because of the application of division (E)(1) of 84816
section 5751.01 of the Revised Code, the person shall notify the 84817
commissioner that the person's registration should be cancelled. 84818

Sec. 5751.05. (A) If a person subject to this chapter 84819
anticipates that the person's taxable gross receipts will be less 84820
than one million dollars in calendar year 2006, the person may 84821
elect to be a calendar year taxpayer. If a person is not required 84822
to be registered under this section for calendar year 2006 and 84823
anticipates that the person's taxable gross receipts will be less 84824
than one million dollars in the first calendar year the person is 84825
required to register under this section, the person may elect to 84826

be a calendar year taxpayer. 84827

(B) Any person that is a calendar year taxpayer pursuant to 84828
an election under division (A) of this section shall become a 84829
calendar quarter taxpayer in the subsequent calendar year if the 84830
person's taxable gross receipts for the prior calendar year are 84831
one million dollars or more, and shall remain a calendar quarter 84832
taxpayer until the person notifies the tax commissioner, and 84833
receives approval in writing from the tax commissioner, to switch 84834
back to being a calendar year taxpayer. Nothing in this division 84835
prohibits a person that has elected to be a calendar year taxpayer 84836
from notifying the tax commissioner, using the procedures 84837
prescribed by the commissioner, that it is switching back to being 84838
a calendar quarter taxpayer. 84839

(C) Any taxpayer that is not a calendar year taxpayer 84840
pursuant to this section is a calendar quarter taxpayer. The tax 84841
commissioner may grant written approval for a calendar quarter 84842
taxpayer to use an alternative reporting schedule or estimate the 84843
amount of tax due for a calendar quarter if the taxpayer 84844
demonstrates to the commissioner the need for such a deviation. 84845
The commissioner may adopt a rule to apply division (C) of this 84846
section to a group of taxpayers without the taxpayers having to 84847
receive written approval from the commissioner. 84848

Sec. 5751.051. (A)(1) Not later than forty days after the end 84849
of each calendar quarter, every taxpayer other than a calendar 84850
year taxpayer shall file with the tax commissioner a tax return in 84851
such form as the commissioner prescribes. The return shall 84852
include, but is not limited to, the amount of the taxpayer's 84853
taxable gross receipts for the calendar quarter and shall indicate 84854
the amount of tax due under section 5751.03 of the Revised Code 84855
for the calendar quarter. 84856

(2)(a) Subject to division (C) of section 5751.05 of the Revised Code, a calendar quarter taxpayer shall report the taxable gross receipts for that calendar quarter. 84857
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(b) With respect to taxable gross receipts incorrectly reported in a calendar quarter that has a lower tax rate, the tax shall be computed at the tax rate in effect for the quarterly return in which such receipts should have been reported. Nothing in division (A)(2)(b) of this section prohibits a taxpayer from filing an application for refund under section 5751.08 of the Revised Code with regard to the incorrect reporting of taxable gross receipts discovered after filing the annual return described in division (A)(3) of this section. 84860
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A tax return shall not be deemed to be an incorrect reporting of taxable gross receipts for the purposes of division (A)(2)(b) of this section if the return reflects between ninety-five and one hundred five per cent of the actual taxable gross receipts for the calendar quarter. 84869
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(3) The tax return filed for the fourth calendar quarter of a calendar year is the annual return for the privilege tax imposed by this chapter. Such return shall report any additional taxable gross receipts not previously reported in the calendar year and shall adjust for any over-reported taxable gross receipts in the calendar year. If the taxpayer ceases to be a taxpayer before the end of the calendar year, the last return the taxpayer is required to file shall be the annual return for the taxpayer and the taxpayer shall report any additional taxable gross receipts not previously reported in the calendar year and shall adjust for any over-reported taxable gross receipts in the calendar year. 84874
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(4) Because the tax imposed by this chapter is a privilege tax, the tax rate with respect to taxable gross receipts for a calendar quarter is not fixed until the end of the measurement period for each calendar quarter. Subject to division (A)(2)(b) of 84885
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this section, the total amount of taxable gross receipts reported 84889
for a given calendar quarter shall be subject to the tax rate in 84890
effect in that quarter. 84891

(5) Not later than forty days after the end of each calendar 84892
year, every calendar year taxpayer shall file with the tax 84893
commissioner a tax return in such form as the commissioner 84894
prescribes. The return shall include, but is not limited to, the 84895
amount of the taxpayer's taxable gross receipts for the calendar 84896
year and shall indicate the amount of tax due under section 84897
5751.03 of the Revised Code for the calendar year. 84898

(B) A person that first becomes subject to this chapter 84899
during a calendar quarter on or after January 1, 2006, shall pay 84900
the minimum tax imposed under division (B) of section 5751.03 of 84901
the Revised Code along with the registration fee imposed under 84902
this section on or before the day the return is required to be 84903
filed for that quarter under division (A)(1) of this section, 84904
regardless of whether the person elects to be a calendar year 84905
taxpayer under section 5751.05 of the Revised Code. 84906

The amount of the minimum tax shall be reduced to 84907
seventy-five dollars if the registration is timely filed after the 84908
first day of May and before the first day of December of the 84909
calendar year. 84910

Sec. 5751.06. (A) Any taxpayer that fails to file a return or 84911
pay the full amount of the tax due within the period prescribed 84912
therefor under this chapter shall pay a penalty in an amount not 84913
exceeding the greater of fifty dollars or ten per cent of the tax 84914
required to be paid for the tax period. 84915

(B)(1) If any additional tax is found to be due, the tax 84916
commissioner may impose an additional penalty of up to fifteen per 84917
cent on the additional tax found to be due. 84918

(2) Any delinquent payments of the tax made after a taxpayer is notified of an audit or a tax discrepancy by the commissioner is subject to the penalty imposed by division (B) of this section. If an assessment is issued under section 5751.10 of the Revised Code in connection with such delinquent payments, the payments shall be credited to the assessment. 84919
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(C) After calendar year 2008, the tax commissioner may impose an additional penalty against a taxpayer that fails to switch to being a calendar quarter taxpayer at the time it had over two million in taxable gross receipts in the calendar year, as required under section 5751.04 of the Revised Code. The penalty may be imposed in an amount not to exceed ten per cent of the tax due above two million dollars in taxable gross receipts for the calendar year. Any penalty imposed under this division is in addition to any other penalties imposed under this section. 84925
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(D) If the tax commissioner notifies a person required to register under section 5751.05 of the Revised Code of such requirement and of the requirement to remit the tax due under this chapter, and the person fails to so register and remit the tax within sixty days after such notice, the tax commissioner may impose an additional penalty of up to thirty-five per cent of the tax due. The penalty imposed under this division is in addition to any other penalties imposed under this section. 84934
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(E) The tax commissioner may collect any penalty or interest imposed by this section in the same manner as the tax imposed under this chapter. Penalties and interest so collected shall be considered as revenue arising from the tax imposed under this chapter. 84942
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(F) The tax commissioner may abate all or a portion of any penalties imposed under this section and may adopt rules governing such abatements. 84947
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(G) If any tax due is not timely paid in accordance with this chapter, the taxpayer shall pay interest, calculated at the rate per annum prescribed by section 5703.47 of the Revised Code, from the date the tax payment was due to the date of payment or to the date an assessment was issued, whichever occurs first. 84950
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(H) The tax commissioner may impose a penalty of up to ten per cent for any additional tax that is due under division (A)(2)(b) of section 5751.051 of the Revised Code from a taxpayer incorrectly reporting its taxable gross receipts. 84955
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Sec. 5751.07. (A) Any person required to file returns for a calendar quarter shall remit each tax payment, and, if required by the tax commissioner, file the tax return or the annual report, electronically. The commissioner may require taxpayers to use the Ohio business gateway as defined in section 718.051 of the Revised Code to file returns and remit the tax, or may provide another means for taxpayers to file and remit the tax electronically. 84959
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(B) A person required by this section to remit taxes or file returns electronically may apply to the tax commissioner, on the form prescribed by the commissioner, to be excused from that requirement. The commissioner may excuse a person from the requirements of this division for good cause. 84966
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(C)(1) If a person required to remit taxes or file a return electronically under this section fails to do so, the commissioner may impose a penalty not to exceed the following: 84971
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(a) For either of the first two calendar quarters the person so fails, five per cent of the amount of the payment that was required to be remitted; 84974
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(b) For the third and any subsequent calendar quarters the person so fails, ten per cent of the amount of the payment that was required to be remitted. 84977
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(2) The penalty imposed under division (C)(1) of this section 84980
is in addition to any other penalty imposed under this chapter and 84981
shall be considered as revenue arising from the tax imposed under 84982
this chapter. A penalty may be collected by assessment in the 84983
manner prescribed by section 5751.09 of the Revised Code. The tax 84984
commissioner may abate all or a portion of such a penalty. 84985

Sec. 5751.08. (A) An application for refund to the taxpayer 84986
of the amount of taxes imposed under this chapter that are 84987
overpaid, paid illegally or erroneously, or paid on any illegal or 84988
erroneous assessment shall be filed with the tax commissioner, on 84989
the form prescribed by the commissioner, within four years after 84990
the date of the illegal or erroneous payment of the tax. The 84991
applicant shall provide the amount of the requested refund along 84992
with the claimed reasons for, and documentation to support, the 84993
issuance of a refund. 84994

(B) On the filing of the refund application, the tax 84995
commissioner shall determine the amount of refund to which the 84996
applicant is entitled. If the amount is not less than that 84997
claimed, the commissioner shall certify the amount to the director 84998
of budget and management and treasurer of state for payment from 84999
the tax refund fund created under section 5703.052 of the Revised 85000
Code. If the amount is less than that claimed, the commissioner 85001
shall proceed in accordance with section 5703.70 of the Revised 85002
Code. 85003

(C) Interest on a refund applied for under this section, 85004
computed at the rate provided for in section 5703.47 of the 85005
Revised Code, shall be allowed from the later of the date the tax 85006
was paid or when the tax payment was due. 85007

(D) A calendar quarter taxpayer with more than one million 85008
dollars in taxable gross receipts in a calendar year other than 85009
calendar year 2005 and that is not able to exclude one million 85010

dollars in taxable gross receipts because of the operation of the 85011
taxpayer's business in that calendar year may file for a refund 85012
under this section to obtain the full exclusion of one million 85013
dollars in taxable gross receipts for that calendar year. 85014

(E) No person with an active registration as a taxpayer under 85015
this chapter may claim a refund under this section for the tax 85016
imposed under division (B) of section 5751.03 of the Revised Code 85017
unless the person cancelled the registration before the tenth day 85018
of February of the current calendar year pursuant to division (C) 85019
of section 5751.04 of the Revised Code. 85020

(F) Except as provided in section 5751.091 of the Revised 85021
Code, the tax commissioner may, with the consent of the taxpayer, 85022
provide for the crediting against tax due for a tax year the 85023
amount of any refund due the taxpayer under this chapter for a 85024
preceding tax year. 85025

Sec. 5751.081. As used in this section, "debt to this state" 85026
means unpaid taxes due the state, unpaid workers' compensation 85027
premiums due under section 4123.35 of the Revised Code, unpaid 85028
unemployment compensation contributions due under section 4141.25 85029
of the Revised Code, unpaid unemployment compensation payment in 85030
lieu of contribution under section 4141.241 of the Revised Code, 85031
unpaid fee payable to the state or to the clerk of courts pursuant 85032
to section 4505.06 of the Revised Code, incorrect medical 85033
assistance payments under section 5111.02 of the Revised Code, or 85034
any unpaid charge, penalty, or interest arising from any of the 85035
foregoing. 85036

If a taxpayer entitled to a refund under section 5751.08 of 85037
the Revised Code owes any debt to this state, the amount 85038
refundable may be applied in satisfaction of the debt. If the 85039
amount refundable is less than the amount of the debt, it may be 85040
applied in partial satisfaction of the debt. If the amount 85041

refundable is greater than the amount of the debt, the amount 85042
remaining after satisfaction of the debt shall be refunded. This 85043
section applies only to debts that have become final. For the 85044
purposes of this section, a debt becomes final when, under the 85045
applicable law, any time provided for petition for reassessment, 85046
request for reconsideration, or other appeal of the legality or 85047
validity of the amount giving rise to the debt expires without an 85048
appeal having been filed in the manner provided by law. 85049

Sec. 5751.09. (A) The tax commissioner may make an 85050
assessment, based on any information in the commissioner's 85051
possession, against any person that fails to file a return or pay 85052
any tax as required by this chapter. The commissioner shall give 85053
the person assessed written notice of the assessment as provided 85054
in section 5703.37 of the Revised Code. With the notice, the 85055
commissioner shall provide instructions on the manner in which to 85056
petition for reassessment and request a hearing with respect to 85057
the petition. 85058

(B) Unless the person assessed, within sixty days after 85059
service of the notice of assessment, files with the tax 85060
commissioner, either personally or by certified mail, a written 85061
petition signed by the person or the person's authorized agent 85062
having knowledge of the facts, the assessment becomes final, and 85063
the amount of the assessment is due and payable from the person 85064
assessed to the treasurer of state. The petition shall indicate 85065
the objections of the person assessed, but additional objections 85066
may be raised in writing if received by the commissioner prior to 85067
the date shown on the final determination. 85068

If a petition for reassessment has been properly filed, the 85069
commissioner shall proceed under section 5703.60 of the Revised 85070
Code. 85071

(C)(1) After an assessment becomes final, if any portion of 85072

the assessment, including accrued interest, remains unpaid, a 85073
certified copy of the tax commissioner's entry making the 85074
assessment final may be filed in the office of the clerk of the 85075
court of common pleas in the county in which the person resides or 85076
has its principal place of business in this state, or in the 85077
office of the clerk of court of common pleas of Franklin county. 85078

(2) Immediately upon the filing of the entry, the clerk shall 85079
enter judgment for the state against the person assessed in the 85080
amount shown on the entry. The judgment may be filed by the clerk 85081
in a loose-leaf book entitled, "special judgments for the 85082
commercial activity tax" and shall have the same effect as other 85083
judgments. Execution shall issue upon the judgment at the request 85084
of the tax commissioner, and all laws applicable to sales on 85085
execution shall apply to sales made under the judgment. 85086

(3) The portion of the assessment not paid within sixty days 85087
after the day the assessment was issued shall bear interest at the 85088
rate per annum prescribed by section 5703.47 of the Revised Code 85089
from the day the tax commissioner issues the assessment until it 85090
is paid. Interest shall be paid in the same manner as the tax and 85091
may be collected by the issuance of an assessment under this 85092
section. 85093

(D) If the tax commissioner believes that collection of the 85094
tax will be jeopardized unless proceedings to collect or secure 85095
collection of the tax are instituted without delay, the 85096
commissioner may issue a jeopardy assessment against the person 85097
liable for the tax. Immediately upon the issuance of the jeopardy 85098
assessment, the commissioner shall file an entry with the clerk of 85099
the court of common pleas in the manner prescribed by division (C) 85100
of this section. Notice of the jeopardy assessment shall be served 85101
on the person assessed or the person's authorized agent in the 85102
manner provided in section 5703.37 of the Revised Code within five 85103
days of the filing of the entry with the clerk. The total amount 85104

assessed is immediately due and payable, unless the person 85105
assessed files a petition for reassessment in accordance with 85106
division (B) of this section and provides security in a form 85107
satisfactory to the commissioner and in an amount sufficient to 85108
satisfy the unpaid balance of the assessment. Full or partial 85109
payment of the assessment does not prejudice the commissioner's 85110
consideration of the petition for reassessment. 85111

(E) The tax commissioner shall immediately forward to the 85112
treasurer of state all amounts the commissioner receives under 85113
this section, and such amounts shall be considered as revenue 85114
arising from the tax imposed under this chapter. 85115

(F) Except as otherwise provided in this division, no 85116
assessment shall be made or issued against a taxpayer for the tax 85117
imposed under this chapter more than four years after the due date 85118
for the filing of the return for the tax period for which the tax 85119
was reported, or more than four years after the return for the tax 85120
period was filed, whichever is later. Nothing in this division 85121
bars an assessment against a taxpayer that fails to file a return 85122
required by this chapter or that files a fraudulent return. 85123

(G) If the tax commissioner possesses information that 85124
indicates that the amount of tax a taxpayer is required to pay 85125
under this chapter exceeds the amount the taxpayer paid, the tax 85126
commissioner may audit a sample of the taxpayer's gross receipts 85127
over a representative period of time to ascertain the amount of 85128
tax due, and may issue an assessment based on the audit. The tax 85129
commissioner shall make a good faith effort to reach agreement 85130
with the taxpayer in selecting a representative sample. The tax 85131
commissioner may apply a sampling method only if the commissioner 85132
has prescribed the method by rule. 85133

(H) If the whereabouts of a person subject to this chapter is 85134
not known to the tax commissioner, the secretary of state is 85135
hereby deemed to be that person's agent for purposes of service of 85136

process of notice of any assessment, action, or proceedings 85137
instituted in this state against the person under this chapter. 85138
Such process or notice shall be served on such person by the 85139
commissioner or by one of the commissioner's agents by leaving at 85140
the office of the secretary of state, at least fifteen days before 85141
the return day of such process or notice, a true and attested copy 85142
of the notice, and by sending to such person by ordinary mail, 85143
with an endorsement thereon of the service upon the secretary of 85144
state, addressed to such person at the person's last known 85145
address. 85146

Sec. 5751.10. If any person liable for the tax imposed under 85147
this chapter sells the trade or business, disposes in any manner 85148
other than in the regular course of business at least seventy-five 85149
per cent of assets of the trade or business, or quits the trade or 85150
business, any tax owed by such person shall become due and payable 85151
immediately, and the person shall pay the tax under this section, 85152
including any applicable penalties and interest, within fifteen 85153
days after the date of selling or quitting the trade or business. 85154
The person's successor shall withhold a sufficient amount of the 85155
purchase money to cover the amount due and unpaid until the former 85156
owner produces a receipt from the tax commissioner showing that 85157
the amounts are paid or a certificate indicating that no taxes are 85158
due. If a purchaser fails to withhold purchase money, that person 85159
is personally liable up to the purchase money amount, for such 85160
amounts that are unpaid during the operation of the business by 85161
the former owner. 85162

The tax commissioner may adopt rules regarding the issuance 85163
of certificates under this section, including the waiver of the 85164
need for a certificate if certain criteria are met. 85165

Sec. 5751.11. If any person subject to this chapter fails to 85166
report or pay the tax as required under this chapter, or fails to 85167

pay any penalty imposed under this chapter within ninety days 85168
after the time prescribed for payment of the penalty, the attorney 85169
general, on the request of the tax commissioner, shall commence an 85170
action in quo warranto in the court of appeals of the county in 85171
which the person has its principal place of business to forfeit 85172
and annul its privileges or franchise within this state. If the 85173
court finds that the person is in default for the amount claimed, 85174
it shall render judgment revoking the person's privileges or 85175
franchise within this state and shall otherwise proceed as 85176
provided in Chapter 2733. of the Revised Code. 85177

Sec. 5751.12. The tax commissioner may prescribe requirements 85178
for the keeping of records and other pertinent documents, the 85179
filing of copies of federal income tax returns and determinations, 85180
and computations reconciling federal income tax returns with the 85181
returns and reports required by section 5751.05 of the Revised 85182
Code. The commissioner may require any person, by rule or notice 85183
served on that person, to keep those records that the commissioner 85184
considers necessary to show whether, and the extent to which, a 85185
person is subject to this chapter. Those records and other 85186
documents shall be open during business hours to the inspection of 85187
the commissioner, and shall be preserved for a period of four 85188
years unless the commissioner, in writing, consents to their 85189
destruction within that period, or by order requires that they be 85190
kept longer. If such records are normally kept by the person 85191
electronically, the person shall provide such records to the 85192
commissioner electronically at the commissioner's request. 85193

Any information required by the tax commissioner under this 85194
chapter is confidential as provided for in section 5703.21 of the 85195
Revised Code. However, the commissioner shall make public an 85196
electronic list of all actively registered persons required to 85197
remit the tax under this chapter, including legal names, trade 85198

names, addresses, and account numbers. In addition, such list 85199
shall include all persons that cancelled their registration at any 85200
time during the preceding four calendar years, including the date 85201
the registration was cancelled. 85202

Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of 85203
the Revised Code: 85204

(1) "School district," "joint vocational school district," 85205
"local taxing unit," "state education aid," "recognized 85206
valuation," "fixed-rate levy," and "fixed-sum levy" have the same 85207
meanings as used in section 5727.84 of the Revised Code. 85208

(2) "State education aid offset" means the amount determined 85209
for each school district or joint vocational school district under 85210
division (A)(1) of section 5751.21 of the Revised Code. 85211

(3) "Machinery and equipment property tax value loss" means 85212
the amount determined under division (C)(1) of this section. 85213

(4) "Inventory property tax value loss" means the amount 85214
determined under division (C)(2) of this section. 85215

(5) "Furniture and fixtures property tax value loss" means 85216
the amount determined under division (C)(3) of this section. 85217

(6) "Machinery and equipment fixed-rate levy loss" means the 85218
amount determined under division (D)(1) of this section. 85219

(7) "Inventory fixed-rate levy loss" means the amount 85220
determined under division (D)(2) of this section. 85221

(8) "Furniture and fixtures fixed-rate levy loss" means the 85222
amount determined under division (D)(3) of this section. 85223

(9) "Total fixed-rate levy loss" means the sum of the 85224
machinery and equipment fixed-rate levy loss, the inventory 85225
fixed-rate levy loss, the furniture and fixtures fixed-rate levy 85226
loss, and the telephone company fixed-rate levy loss. 85227

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| <u>(10) "Fixed-sum levy loss" means the amount determined under</u> | 85228 |
| <u>division (E) of this section.</u> | 85229 |
| <u>(11) "Machinery and equipment" means personal property</u> | 85230 |
| <u>subject to the assessment rate specified in division (F) of</u> | 85231 |
| <u>section 5711.22 of the Revised Code.</u> | 85232 |
| <u>(12) "Inventory" means personal property subject to the</u> | 85233 |
| <u>assessment rate specified in division (E) of section 5711.22 of</u> | 85234 |
| <u>the Revised Code.</u> | 85235 |
| <u>(13) "Furniture and fixtures" means personal property subject</u> | 85236 |
| <u>to the assessment rate specified in division (G) of section</u> | 85237 |
| <u>5711.22 of the Revised Code.</u> | 85238 |
| <u>(14) "Qualifying levies" are levies in effect for tax year</u> | 85239 |
| <u>2004 or applicable to tax year 2005 or approved at an election</u> | 85240 |
| <u>conducted before September 1, 2005, and first levied in tax year</u> | 85241 |
| <u>2006. For the purpose of determining the rate of a qualifying levy</u> | 85242 |
| <u>authorized by section 5705.212 or 5705.213 of the Revised Code,</u> | 85243 |
| <u>the rate shall be the rate that would be in effect for tax year</u> | 85244 |
| <u>2010.</u> | 85245 |
| <u>(15) "Telephone property" means tangible personal property of</u> | 85246 |
| <u>a telephone, telegraph, or interexchange telecommunications</u> | 85247 |
| <u>company subject to an assessment rate specified in section</u> | 85248 |
| <u>5727.111 of the Revised Code in tax year 2004.</u> | 85249 |
| <u>(16) "Telephone property tax value loss" means the amount</u> | 85250 |
| <u>determined under division (C)(4) of this section.</u> | 85251 |
| <u>(17) "Telephone property fixed-rate levy loss" means the</u> | 85252 |
| <u>amount determined under division (D)(4) of this section.</u> | 85253 |
| <u>(B) The commercial activities tax receipts fund is hereby</u> | 85254 |
| <u>created in the state treasury and shall consist of money arising</u> | 85255 |
| <u>from the tax imposed under this chapter. All money in that fund</u> | 85256 |
| <u>shall be credited for each fiscal year in the following</u> | 85257 |

percentages to the general revenue fund, to the school district 85258
tangible property tax replacement fund, which is hereby created in 85259
the state treasury for the purpose of making the payments 85260
described in section 5751.21 of the Revised Code, and to the local 85261
government tangible property tax replacement fund, which is hereby 85262
created in the state treasury for the purpose of making the 85263
payments described in section 5751.22 of the Revised Code, in the 85264
following percentages: 85265

| <u>Fiscal year</u> | <u>General Revenue</u> | <u>School District</u> | <u>Local Government</u> | |
|--------------------|------------------------|-------------------------|-------------------------|-------|
| | <u>Fund</u> | <u>Tangible</u> | <u>Tangible</u> | |
| | | <u>Property Tax</u> | <u>Property Tax</u> | |
| | | <u>Replacement Fund</u> | <u>Replacement Fund</u> | |
| <u>2006</u> | <u>67.7%</u> | <u>22.6%</u> | <u>9.7%</u> | 85267 |
| <u>2007</u> | <u>0%</u> | <u>70.0%</u> | <u>30.0%</u> | 85268 |
| <u>2008</u> | <u>0%</u> | <u>70.0%</u> | <u>30.0%</u> | 85269 |
| <u>2009</u> | <u>0%</u> | <u>70.0%</u> | <u>30.0%</u> | 85270 |
| <u>2010</u> | <u>0%</u> | <u>70.0%</u> | <u>30.0%</u> | 85271 |
| <u>2011</u> | <u>0%</u> | <u>70.0%</u> | <u>30.0%</u> | 85272 |
| <u>2012</u> | <u>5.3%</u> | <u>70.0%</u> | <u>24.7%</u> | 85273 |
| <u>2013</u> | <u>19.4%</u> | <u>70.0%</u> | <u>10.6%</u> | 85274 |
| <u>2014</u> | <u>14.1%</u> | <u>70.0%</u> | <u>15.9%</u> | 85275 |
| <u>2015</u> | <u>17.6%</u> | <u>70.0%</u> | <u>12.4%</u> | 85276 |
| <u>2016</u> | <u>21.1%</u> | <u>70.0%</u> | <u>8.9%</u> | 85277 |
| <u>2017</u> | <u>24.6%</u> | <u>70.0%</u> | <u>5.4%</u> | 85278 |
| <u>2018</u> | <u>28.1%</u> | <u>70.0%</u> | <u>1.9%</u> | 85279 |
| <u>2019 and</u> | <u>100%</u> | <u>0%</u> | <u>0%</u> | 85280 |
| <u>thereafter</u> | | | | |

(C) Not later than September 15, 2005, the tax commissioner 85281
shall determine for each school district, joint vocational school 85282
district, and local taxing unit its machinery and equipment, 85283
inventory property, furniture and fixtures property, and telephone 85284
property tax value losses, which are the applicable amounts 85285
described in divisions (C)(1), (2), (3), and (4) of this section: 85286

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| <u>(1) Machinery and equipment property tax value loss is the taxable value of machinery and equipment property as reported by taxpayers for tax year 2004 multiplied by:</u> | 85287 |
| | 85288 |
| | 85289 |
| <u>(a) For tax year 2006, thirty-three and eight-tenths per cent;</u> | 85290 |
| | 85291 |
| <u>(b) For tax year 2007, sixty-one and three-tenths per cent;</u> | 85292 |
| <u>(c) For tax year 2008, eighty-three per cent;</u> | 85293 |
| <u>(d) For tax year 2009 and thereafter, one hundred per cent.</u> | 85294 |
| <u>(2) Inventory property tax value loss is the taxable value of inventory property as reported by taxpayers for tax year 2004 multiplied by:</u> | 85295 |
| | 85296 |
| | 85297 |
| <u>(a) For tax year 2006, a fraction, the numerator of which is five and three-fourths and the denominator of which is twenty-three;</u> | 85298 |
| | 85299 |
| | 85300 |
| <u>(b) For tax year 2007, a fraction, the numerator of which is nine and one-half and the denominator of which is twenty-three;</u> | 85301 |
| | 85302 |
| <u>(c) For tax year 2008, a fraction, the numerator of which is thirteen and one-fourth and the denominator of which is twenty-three;</u> | 85303 |
| | 85304 |
| | 85305 |
| <u>(d) For tax year 2009 and thereafter a fraction, the numerator of which is seventeen and the denominator of which is twenty-three.</u> | 85306 |
| | 85307 |
| | 85308 |
| <u>(3) Furniture and fixtures property tax value loss is the taxable value of furniture and fixture property as reported by taxpayers for tax year 2004 multiplied by:</u> | 85309 |
| | 85310 |
| | 85311 |
| <u>(a) For tax year 2006, twenty-five per cent;</u> | 85312 |
| <u>(b) For tax year 2007, fifty per cent;</u> | 85313 |
| <u>(c) For tax year 2008, seventy-five per cent;</u> | 85314 |
| <u>(d) For tax year 2009 and thereafter, one hundred per cent.</u> | 85315 |

The taxable value of property reported by taxpayers used in divisions (C)(1), (2), and (3) of this section shall be such values as determined to be final by the tax commissioner as of August 31, 2005. Such determinations shall be final except for any correction of a clerical error that was made prior to August 31, 2005, by the tax commissioner.

(4) Telephone property tax value loss is the taxable value of telephone property as taxpayers would have reported that property for tax year 2004 if the assessment rate for all telephone property for that year were twenty-five per cent, multiplied by:

(a) For tax year 2006, zero per cent;

(b) For tax year 2007, zero per cent;

(c) For tax year 2008, zero per cent;

(d) For tax year 2009, sixty per cent;

(e) For tax year 2010, eighty per cent;

(f) For tax year 2011 and thereafter, one hundred per cent.

To facilitate the calculations required under division (C) of this section, the county auditor, upon request from the tax commissioner, shall provide by August 1, 2005, the values of machinery and equipment, inventory, and furniture and fixtures for all single-county personal property taxpayers for tax year 2004.

(D) Not later than September 15, 2005, the tax commissioner shall determine for each tax year from 2006 through 2009 for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory, and furniture and fixtures fixed-rate levy losses, and for each tax year from 2006 through 2011 its telephone property fixed-rate levy loss, which are the applicable amounts described in divisions (D)(1), (2), (3), and (4) of this section:

(1) The machinery and equipment fixed-rate levy loss is the

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| <u>machinery and equipment property tax value loss multiplied by the</u> | 85346 |
| <u>sum of the tax rates of fixed-rate qualifying levies.</u> | 85347 |
| <u>(2) The inventory fixed-rate loss is the inventory property</u> | 85348 |
| <u>tax value loss multiplied by the sum of the tax rates of</u> | 85349 |
| <u>fixed-rate qualifying levies.</u> | 85350 |
| <u>(3) The furniture and fixtures fixed-rate levy loss is the</u> | 85351 |
| <u>furniture and fixture property tax value loss multiplied by the</u> | 85352 |
| <u>sum of the tax rates of fixed-rate qualifying levies.</u> | 85353 |
| <u>(4) The telephone property fixed-rate levy loss is the</u> | 85354 |
| <u>telephone property tax value loss multiplied by the sum of the tax</u> | 85355 |
| <u>rates of fixed-rate qualifying levies.</u> | 85356 |
| <u>(E) Not later than September 15, 2005, the tax commissioner</u> | 85357 |
| <u>shall determine for each school district, joint vocational school</u> | 85358 |
| <u>district, and local taxing unit its fixed-sum levy loss. The</u> | 85359 |
| <u>fixed-sum levy loss is the amount obtained by subtracting the</u> | 85360 |
| <u>amount described in division (E)(2) of this section from the</u> | 85361 |
| <u>amount described in division (E)(1) of this section:</u> | 85362 |
| <u>(1) The sum of the machinery and equipment property tax value</u> | 85363 |
| <u>loss, the inventory property tax value loss, and the furniture and</u> | 85364 |
| <u>fixtures property tax value loss, and, for 2008 through 2017 the</u> | 85365 |
| <u>telephone property tax value loss of the district or unit</u> | 85366 |
| <u>multiplied by the sum of the fixed-sum tax rates of qualifying</u> | 85367 |
| <u>levies. For 2006 through 2010, this computation shall include all</u> | 85368 |
| <u>qualifying levies remaining in effect for the current tax year and</u> | 85369 |
| <u>any school district emergency levies that are qualifying levies</u> | 85370 |
| <u>not remaining in effect for the current year. For 2011 through</u> | 85371 |
| <u>2017, this computation shall include only qualifying levies</u> | 85372 |
| <u>remaining in effect for the current year. For purposes of this</u> | 85373 |
| <u>computation, a qualifying school district emergency levy remains</u> | 85374 |
| <u>in effect in a year after 2010 only if, for that year, the board</u> | 85375 |
| <u>of education levies a school district emergency levy for an annual</u> | 85376 |

sum at least equal to the annual sum levied by the board in tax year 2004 less the amount of the payment certified under this division for 2006. 85377
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(2) The total taxable value in tax year 2004 less the sum of the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses in each school district, joint vocational school district, and local taxing unit multiplied by one-half of one mill per dollar. 85380
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(3) For the calculations in divisions (E)(1) and (2) of this section, the tax value losses are those that would be calculated for tax year 2009 under divisions (C)(1), (2), and (3) of this section and for tax year 2011 under division (C)(4) of this section. 85385
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(4) To facilitate the calculation under divisions (D) and (E) of this section, not later than September 1, 2005, any school district, joint vocational school district, or local taxing unit that has a qualifying levy that was approved at an election conducted during 2005 before September 1, 2005, shall certify to the tax commissioner a copy of the county auditor's certificate of estimated property tax millage for such levy as required under division (B) of section 5705.03 of the Revised Code, which is the rate that shall be used in the calculations under such divisions. 85390
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If the amount determined under division (E) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the reimbursement to be paid pursuant to division (D) of section 5751.21 or division (A)(3) of section 5751.22 of the Revised Code, and the one-half of one mill that is subtracted under division (E)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion that each levy bears to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit. 85399
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(F) Not later than October 1, 2005, the tax commissioner shall certify to the department of education for every school district and joint vocational school district the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses determined under division (C) of this section, the machinery and equipment, inventory, furniture and fixtures, and telephone fixed-rate levy losses determined under division (D) of this section, and the fixed-sum levy losses calculated under division (E) of this section. The calculations under divisions (D) and (E) of this section shall separately display the levy loss for each levy eligible for reimbursement. 85409
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(G) Not later than October 1, 2005, the tax commissioner shall certify the amount of the fixed-sum levy losses to the county auditor of each county in which a school district, joint vocational school district, or local taxing unit with a fixed-sum levy loss reimbursement has territory. 85420
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Sec. 5751.21. (A) Not later than the thirty-first day of July of 2007 through 2017, the department of education shall determine the following for each school district and each joint vocational school district eligible for payment under division (B) of this section: 85425
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(1) The state education aid offset, which is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section: 85430
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(a) The state education aid computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July; 85434
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(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July if the 85437
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recognized valuation included the machinery and equipment, 85440
inventory, furniture and fixtures, and telephone property tax 85441
value losses for the school district or joint vocational school 85442
district for the second preceding tax year. 85443

(2) The greater of zero or the difference obtained by 85444
subtracting the state education aid offset determined under 85445
division (A)(1) of this section from the sum of the machinery and 85446
equipment fixed-rate levy loss, the inventory fixed-rate levy 85447
loss, furniture and fixtures fixed-rate levy loss, and telephone 85448
property fixed-rate levy loss certified under division (F) of 85449
section 5751.20 of the Revised Code for all taxing districts in 85450
each school district and joint vocational school district for the 85451
second preceding tax year. 85452

By the fifth day of August of each such year, the department 85453
of education shall certify the amount so determined under division 85454
(A)(1) of this section to the director of budget and management. 85455

(B) The department of education shall pay from the school 85456
district tangible property tax replacement fund to each school 85457
district and joint vocational school district all of the following 85458
for fixed-rate levy losses certified under division (F) of section 85459
5751.20 of the Revised Code: 85460

(1) On or before May 31, 2006, one-seventh of the total 85461
fixed-rate levy loss for tax year 2006; 85462

(2) On or before August 31, 2006, and October 31, 2006, 85463
one-half of six-sevenths of the total fixed-rate levy loss fox tax 85464
year 2006; 85465

(3) On or before May 31, 2007, one-seventh of the total 85466
fixed-rate levy loss for tax year 2007; 85467

(4) On or before August 31, 2007, and October 31, 2007, 85468
forty-three per cent of the amount determined under division 85469
(A)(2) of this section for fiscal year 2008, but not less than 85470

zero, plus one-half of six-sevenths of the difference between the 85471
total fixed-rate levy loss for tax year 2007 and the total 85472
fixed-rate levy loss for tax year 2006. 85473

(5) On or before May 31, 2008, fourteen per cent of the 85474
amount determined under division (A)(2) of this section for fiscal 85475
year 2008, but not less than zero, plus one-seventh of the 85476
difference between the total fixed-rate levy loss for tax year 85477
2008 and the total fixed-rate levy loss for tax year 2006. 85478

(6) On or before August 31, 2008, and October 31, 2008, 85479
forty-three per cent of the amount determined under division 85480
(A)(2) of this section for fiscal year 2009, but not less than 85481
zero, plus one-half of six-sevenths of the difference between the 85482
total fixed-rate levy loss in tax year 2008 and the total 85483
fixed-rate levy loss in tax year 2007. 85484

(7) On or before May 31, 2009, fourteen per cent of the 85485
amount determined under division (A)(2) of this section for fiscal 85486
year 2009, but not less than zero, plus one-seventh of the 85487
difference between the total fixed-rate levy loss for tax year 85488
2009 and the total fixed-rate levy loss for tax year 2007. 85489

(8) On or before August 31, 2009, and October 31, 2009, 85490
forth-three per cent of the amount determined under division 85491
(A)(2) of this section for fiscal year 2010, but not less than 85492
zero, plus one-half of six-sevenths of the difference between the 85493
total fixed-rate levy loss in tax year 2009 and the total 85494
fixed-rate levy loss in tax year 2008. 85495

(9) On or before May 31, 2010, fourteen per cent of the 85496
amount determined under division (A)(2) of this section for fiscal 85497
year 2010, but not less than zero, plus one-seventh of the 85498
difference between the total fixed-rate levy loss in tax year 2010 85499
and the total fixed-rate levy loss in tax year 2008. 85500

(10) On or before August 31, 2010, and October 31, 2010, 85501

one-third of the amount determined under division (A)(2) of this section for fiscal year 2011, but not less than zero, plus one-half of six-sevenths of the difference between the telephone property fixed-rate levy loss for tax year 2010 and the telephone property fixed-rate levy loss for tax year 2009.

(11) On or before May 31, 2011, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2011, but not less than zero, plus one-seventh of the difference between the telephone property fixed-rate levy loss for tax year 2011 and the telephone property fixed-rate levy loss for tax year 2009.

(12) On or before August 31, 2011, October 31, 2011, and May 31, 2012, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is fourteen and the denominator of which is seventeen, but not less than zero, multiplied by one-third, plus one-half of six-sevenths of the difference between the telephone property fixed-rate levy loss for tax year 2011 and the telephone property fixed-rate levy loss for tax year 2010.

(13) On or before May 31, 2012, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2012, multiplied by a fraction, the numerator of which is fourteen and the denominator of which is seventeen, plus one-seventh of the difference between the telephone property fixed-rate levy loss for tax year 2011 and the telephone property fixed-rate levy loss for tax year 2010.

(14) On or before August 31, 2012, October 31, 2012, and May 31, 2013, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is eleven and the denominator of which is seventeen, but not less than zero, multiplied by one-third.

(15) On or before August 31, 2013, October 31, 2013, and May 31, 2014, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is nine and the denominator of which is seventeen, but not less than zero, multiplied by one-third. 85533
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(16) On or before August 31, 2014, October 31, 2014, and May 31, 2015, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is seven and the denominator of which is seventeen, but not less than zero, multiplied by one-third. 85538
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(17) On or before August 31, 2015, October 31, 2015, and May 31, 2016, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is five and the denominator of which is seventeen, but not less than zero, multiplied by one-third. 85543
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(18) On or before August 31, 2016, October 31, 2016, and May 31, 2017, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is three and the denominator of which is seventeen, but not less than zero, multiplied by one-third. 85548
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(19) On or before August 31, 2017, October 31, 2017, and May 31, 2018, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is one and the denominator of which is seventeen, but not less than zero, multiplied by one-third. 85553
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(20) After May 31, 2018, no payments shall be made under this section. 85558
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The department of education shall report to each school district and joint vocational school district the apportionment of the payments among the school district's or joint vocational school district's funds based on the certifications under division 85560
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(F) of section 5751.20 of the Revised Code. 85564

Any qualifying levy that is a fixed-rate levy that is not 85565
applicable to a tax year after 2010 does not qualify for any 85566
reimbursement after the tax year to which it is last applicable. 85567

(C) For taxes levied within the ten-mill limitation for debt 85568
purposes in tax year 2005, payments shall be made equal to one 85569
hundred per cent of the loss computed as if the tax were a 85570
fixed-rate levy, but those payments shall extend from fiscal year 85571
2006 through fiscal year 2018, as long as the qualifying levy 85572
continues to be used for debt purposes. If the purpose of such a 85573
qualifying levy is changed, that levy becomes subject to the 85574
payments determined in division (B) of this section. 85575

(D)(1) Not later than January 1, 2006, for each fixed-sum 85576
levy of each school district or joint vocational school district 85577
and for each year for which a determination is made under division 85578
(F) of section 5751.20 of the Revised Code that a fixed-sum levy 85579
loss is to be reimbursed, the tax commissioner shall certify to 85580
the department of education the fixed-sum levy loss determined 85581
under that division. The certification shall cover a time period 85582
sufficient to include all fixed-sum levies for which the 85583
commissioner made such a determination. The department shall pay 85584
from the school district property tax replacement fund to the 85585
school district or joint vocational school district one-third of 85586
the fixed-sum levy loss so certified for each year on or before 85587
the last day of May, August, and November of the current year. 85588

(2) Beginning in 2006, by the first day of January of each 85589
year, the tax commissioner shall review the certification 85590
originally made under division (D)(1) of this section. If the 85591
commissioner determines that a debt levy that had been scheduled 85592
to be reimbursed in the current year has expired, a revised 85593
certification for that and all subsequent years shall be made to 85594
the department of education. 85595

(E) Beginning in September 2007 and through June 2018, the 85596
director of budget and management shall transfer from the school 85597
district tangible property tax replacement fund to the general 85598
revenue fund each of the following: 85599

(1) On the first day of September, the lesser of one-fourth 85600
of the amount certified for that fiscal year under division (A)(1) 85601
of this section or the balance in the school district tangible 85602
property tax replacement fund; 85603

(2) On the first day of December, the lesser of one-fourth of 85604
the amount certified for that fiscal year under division (A)(1) of 85605
this section or the balance in the school district tangible 85606
property tax replacement fund; 85607

(3) On the first day of March, the lesser of one-fourth of 85608
the amount certified for that fiscal year under division (A)(1) of 85609
this section or the balance in the school district tangible 85610
property tax replacement fund; 85611

(4) On the first day of June, the lesser of one-fourth of the 85612
amount certified for that fiscal year under division (A)(1) of 85613
this section or the balance in the school district tangible 85614
property tax replacement fund. 85615

(F) For each of the fiscal years 2006 through 2018, if the 85616
total amount in the school district tangible property tax 85617
replacement fund is insufficient to make all payments under 85618
divisions (B), (C), or (D) of this section at the times the 85619
payments are to be made, the director of budget and management 85620
shall transfer from the general revenue fund to the school 85621
district tangible property tax replacement fund the difference 85622
between the total amount to be paid and the amount in the school 85623
district tangible property tax replacement fund. For each fiscal 85624
year after 2018, at the time payments under division (D) of this 85625
section are to be made, the director of budget and management 85626

shall transfer from the general revenue fund to the school 85627
district property tax replacement fund the amount necessary to 85628
make such payments. 85629

(G) On the fifteenth day of June of 2006 through 2011, the 85630
director of budget and management may transfer any balance in the 85631
school district tangible property tax replacement fund to the 85632
general revenue fund. At the end of fiscal years 2012 through 85633
2018, any balance in the school district tangible property tax 85634
replacement fund shall remain in the fund to be used in future 85635
fiscal years for school purposes. 85636

(H) If all of the territory of a school district or joint 85637
vocational school district is merged with another district, or if 85638
a part of the territory of a school district or joint vocational 85639
school district is transferred to an existing or newly created 85640
district, the department of education, in consultation with the 85641
tax commissioner, shall adjust the payments made under this 85642
section as follows: 85643

(1) For a merger of two or more districts, the machinery and 85644
equipment, inventory, furniture and fixtures, and telephone 85645
property fixed-rate levy losses and the fixed-sum levy losses of 85646
the successor district shall be equal to the sum of the machinery 85647
and equipment, inventory, furniture and fixtures, and telephone 85648
property fixed-rate levy losses and debt levy losses as determined 85649
in section 5751.20 of the Revised Code, for each of the districts 85650
involved in the merger. 85651

(2) If property is transferred from one district to a 85652
previously existing district, the amount of machinery and 85653
equipment, inventory, furniture and fixtures, and telephone 85654
property fixed-rate levy losses that shall be transferred to the 85655
recipient district shall be an amount equal to the total machinery 85656
and equipment, inventory, furniture and fixtures, and telephone 85657
property fixed-rate levy losses times a fraction, the numerator of 85658

which is the value of business tangible personal property on the 85659
land being transferred in the most recent year for which data are 85660
available, and the denominator of which is the total value of 85661
business tangible personal property in the district from which the 85662
land is being transferred in the most recent year for which data 85663
are available. 85664

(3) After December 31, 2004, if property is transferred from 85665
one or more districts to a district that is newly created out of 85666
the transferred property, the newly created district shall be 85667
deemed not to have any machinery and equipment, inventory, 85668
furniture and fixtures, or telephone property fixed-rate levy 85669
losses and the districts from which the property was transferred 85670
shall have no reduction in their machinery and equipment, 85671
inventory, furniture and fixtures, and telephone property 85672
fixed-rate levy losses. 85673

(4) If the recipient district under division (H)(2) of this 85674
section or the newly created district under divisions (H)(3) of 85675
this section is assuming debt from one or more of the districts 85676
from which the property was transferred and any of the districts 85677
losing the property had fixed-sum levy losses, the department of 85678
education, in consultation with the tax commissioner, shall make 85679
an equitable division of the fixed-sum levy loss reimbursements. 85680

Sec. 5751.22. (A) Not later than January 1, 2006, the tax 85681
commissioner shall compute the payments to be made to each local 85682
taxing unit for each year according to divisions (A)(1), (2), (3), 85683
and (4) of this section, and shall distribute the payments in the 85684
manner prescribed by division (C) of this section. The calculation 85685
of the fixed-sum levy loss shall cover a time period sufficient to 85686
include all fixed-sum levies for which the commissioner 85687
determined, pursuant to division (E) of section 5751.20 of the 85688
Revised Code, that a fixed-sum levy loss is to be reimbursed. 85689

(1) Except as provided in division (A)(4) of this section, 85690
for machinery and equipment, inventory, and furniture and fixtures 85691
fixed-rate levy losses determined under division (D) of section 85692
5751.20 of the Revised Code, payments shall be made in an amount 85693
equal to each of those losses multiplied by the following: 85694

(a) For tax years 2006 through 2010, one hundred per cent; 85695

(b) For tax year 2011, a fraction, the numerator of which is 85696
fourteen and the denominator of which is seventeen; 85697

(c) For tax year 2012, a fraction, the numerator of which is 85698
eleven and the denominator of which is seventeen; 85699

(d) For tax year 2013, a fraction, the numerator of which is 85700
nine and the denominator of which is seventeen; 85701

(e) For tax year 2014, a fraction, the numerator of which is 85702
seven and the denominator of which is seventeen; 85703

(f) For tax year 2015, a fraction, the numerator of which is 85704
five and the denominator of which is seventeen; 85705

(g) For tax year 2016, a fraction, the numerator of which is 85706
three and the denominator of which is seventeen; 85707

(h) For tax year 2017, a fraction, the numerator of which is 85708
one and the denominator of which is seventeen; 85709

(i) For tax years 2018 and thereafter, no fixed-rate payments 85710
shall be made. 85711

Any qualifying levy that is a fixed-rate levy that is not 85712
applicable to a tax year after 2010 shall not qualify for any 85713
reimbursement after the tax year to which it is last applicable. 85714

(2) Except as provided in division (A)(4) of this section, 85715
for telephone property fixed-rate levy losses determined under 85716
division (D)(4) of section 5751.20 of the Revised Code, payments 85717
shall be made in an amount equal to each of those losses 85718
multiplied by the following: 85719

| | |
|--|--|
| <u>(a) For tax years 2009 through 2011, one hundred per cent;</u> | 85720 |
| <u>(b) For tax year 2012, seven-eighths;</u> | 85721 |
| <u>(c) For tax year 2013, six-eighths;</u> | 85722 |
| <u>(d) For tax year 2014, five-eighths;</u> | 85723 |
| <u>(e) For tax year 2015, four-eighths;</u> | 85724 |
| <u>(f) For tax year 2016, three-eighths;</u> | 85725 |
| <u>(g) For tax year 2017, two-eighths;</u> | 85726 |
| <u>(h) For tax year 2018, one-eighth;</u> | 85727 |
| <u>(i) For tax years 2019 and thereafter, no fixed-rate payments shall be made.</u> | 85728 85729 |
| <u>Any qualifying levy that is a fixed-rate levy that is not applicable to a tax year after 2011 shall not qualify for any reimbursement after the tax year to which it is last applicable.</u> | 85730 85731 85732 |
| <u>(3) For fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code, payments shall be made in the amount of one hundred per cent of the fixed-sum levy loss for payments required to be made in 2006 and thereafter.</u> | 85733 85734 85735 85736 |
| <u>(4) For taxes levied within the ten-mill limitation for debt purposes in tax year 2005, payments shall be made based on the schedule in division (A)(1) of this section for each of the calendar years 2006 through 2010. For each of the calendar years 2011 through 2017, the percentages for calendar year 2010 shall be used, as long as the qualifying levy continues to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payment schedules in divisions (A)(1)(a) to (h) of this section. No payments shall be made for such levies after calendar year 2017.</u> | 85737 85738 85739 85740 85741 85742 85743 85744 85745 85746 |
| <u>(B) Beginning in 2007, by the thirty-first day of January of each year, the tax commissioner shall review the calculation</u> | 85747 85748 |

originally made under division (A) of this section of the 85749
fixed-sum levy losses determined under division (E) of section 85750
5751.20 of the Revised Code. If the commissioner determines that a 85751
fixed-sum levy that had been scheduled to be reimbursed in the 85752
current year has expired, a revised calculation for that and all 85753
subsequent years shall be made. 85754

(C) Payments to local taxing units required to be made under 85755
division (A) of this section shall be paid from the local 85756
government tangible property tax replacement fund to the county 85757
undivided income tax fund in the proper county treasury. Beginning 85758
in May 2006, one-third of the amount certified under that division 85759
shall be paid by the last day of May, August, and October. Within 85760
forty-five days after receipt of such payments, the county 85761
treasurer shall distribute amounts determined under division (A) 85762
of this section to the proper local taxing unit as if they had 85763
been levied and collected as taxes, and the local taxing unit 85764
shall apportion the amounts so received among its funds in the 85765
same proportions as if those amounts had been levied and collected 85766
as taxes. 85767

(D) For each of the fiscal years 2006 through 2019, if the 85768
total amount in the local government tangible property tax 85769
replacement fund is insufficient to make all payments under 85770
division (C) of this section at the times the payments are to be 85771
made, the director of budget and management shall transfer from 85772
the general revenue fund to the local government tangible property 85773
tax replacement fund the difference between the total amount to be 85774
paid and the amount in the local government tangible property tax 85775
replacement fund. For each fiscal year after 2019, at the time 85776
payments under division (A)(2) of this section are to be made, the 85777
director of budget and management shall transfer from the general 85778
revenue fund to the local government property tax replacement fund 85779
the amount necessary to make such payments. 85780

(E) On the fifteenth day of June of each year from 2006 85781
through 2018, the director of budget and management may transfer 85782
any balance in the local government tangible property tax 85783
replacement fund to the general revenue fund. 85784

(F) If all or a part of the territories of two or more local 85785
taxing units are merged, or unincorporated territory of a township 85786
is annexed by a municipal corporation, the tax commissioner shall 85787
adjust the payments made under this section to each of the local 85788
taxing units in proportion to the tax value loss apportioned to 85789
the merged or annexed territory, or as otherwise provided by a 85790
written agreement between the legislative authorities of the local 85791
taxing units certified to the commissioner not later than the 85792
first day of June of the calendar year in which the payment is to 85793
be made. 85794

Sec. 5751.23. (A) As used in this section: 85795

(1) "Administrative fees" means the dollar percentages 85796
allowed by the county auditor for services or by the county 85797
treasurer as fees, or paid to the credit of the real estate 85798
assessment fund, under divisions (A) and (B) of section 319.54 and 85799
division (A) of section 321.26 of the Revised Code. 85800

(2) "Administrative fee loss" means a county's loss of 85801
administrative fees due to its tax value loss, determined as 85802
follows: 85803

(a) For purposes of the determination made under division (B) 85804
of this section in the years 2006 through 2010, the administrative 85805
fee loss shall be computed by multiplying the amounts determined 85806
for all taxing districts in the county under divisions (D) and (E) 85807
of section 5751.20 of the Revised Code by nine thousand six 85808
hundred fifty-nine ten-thousandths of one per cent if total taxes 85809
collected in the county in 2004 exceeded one hundred fifty million 85810
dollars, or one and one thousand one hundred fifty-nine 85811

ten-thousandths of one per cent if total taxes collected in the 85812
county in 2004 were one hundred fifty million dollars or less; 85813

(b) For purposes of the determination under division (B) of 85814
this section in the years after 2010, the administrative fee 85815
losses shall be determined by multiplying the administrative fee 85816
losses calculated for 2010 by the fractions in divisions (A)(1)(b) 85817
to (i) of section 5751.22 of the Revised Code. 85818

(3) "Total taxes collected" means all money collected on any 85819
tax duplicate of the county, other than the estate tax duplicates. 85820
"Total taxes collected" does not include amounts received pursuant 85821
to divisions (F) and (G) of section 321.24 or section 323.156 of 85822
the Revised Code. 85823

(B) Not later than December 31, 2005, the tax commissioner 85824
shall certify to each county auditor the tax levy losses 85825
calculated under divisions (D) and (E) of section 5751.20 of the 85826
Revised Code for each school district, joint vocational school 85827
district, and local taxing unit in the county. Not later than the 85828
thirty-first day of January of 2006 through 2017, the county 85829
auditor shall determine the administrative fee loss for the county 85830
and apportion that loss ratably among the school districts, joint 85831
vocational school districts, and local taxing units on the basis 85832
of the tax levy losses certified under this division. 85833

(C) On or before each of the days prescribed for the 85834
settlements under divisions (A) and (C) of section 321.24 of the 85835
Revised Code in the years 2006 through 2017, the county treasurer 85836
shall deduct one-half of the amount apportioned to each school 85837
district, joint vocational school district, and local taxing unit 85838
from the portions of revenue payable to them. 85839

(D) On or before each of the days prescribed for settlements 85840
under divisions (A) and (C) of section 321.24 of the Revised Code 85841
in the years 2006 through 2017, the county auditor shall cause to 85842

be deposited an amount equal to one-half of the amount of the 85843
administrative fee loss in the same funds as if allowed as 85844
administrative fees. 85845

Sec. 5751.31. Notwithstanding any section of law to the 85846
contrary, the tax commissioner may issue one or more final 85847
determinations under section 5703.60 of the Revised Code for which 85848
any appeal must be made directly to the supreme court within 85849
thirty days after the date the commissioner issued the 85850
determination if the primary issue raised by the petitioner is the 85851
constitutionality of division (H)(3) of section 5751.01 of the 85852
Revised Code or an issue arising under Section 3, 5a, or 13 of 85853
Article XII, Ohio Constitution. Such final determination shall 85854
clearly indicate that any appeal thereof must be made directly to 85855
the supreme court within the thirty-day period prescribed in this 85856
division. 85857

Sec. 5751.50. (A) For tax periods beginning on or after 85858
January 1, 2008, a refundable credit granted by the tax credit 85859
authority under section 122.17 of the Revised Code may be claimed 85860
under this chapter in the order required under section 5751.98 of 85861
the Revised Code. For purposes of making tax payments under this 85862
chapter, taxes equal to the amount of the refundable credit shall 85863
be considered to be paid to this state on the first day of the tax 85864
period. A credit claimed in calendar year 2008 may not be applied 85865
against the tax otherwise due for a tax period beginning before 85866
July 1, 2008. The refundable credit shall not be claimed against 85867
the tax otherwise due for any tax period beginning after the date 85868
on which a relocation of employment positions occurs in violation 85869
of an agreement entered into under sections 122.17 or 122.171 of 85870
the Revised Code. 85871

(B) For tax periods beginning on or after January 1, 2008, a 85872
nonrefundable credit granted by the tax credit authority under 85873

section 122.171 of the Revised Code may be claimed under this 85874
chapter in the order required under section 5751.98 of the Revised 85875
Code. A credit claimed in calendar year 2008 may not be applied 85876
against the tax otherwise due under this chapter for a tax period 85877
beginning before July 1, 2008. The credit shall not be claimed 85878
against the tax otherwise due for any tax period beginning after 85879
the date on which a relocation of employment positions occurs in 85880
violation of an agreement entered into under sections 122.17 or 85881
122.171 of the Revised Code. No credit shall be allowed under this 85882
chapter if the credit was available against the tax imposed by 85883
section 5733.06 or 5747.02 of the Revised Code, except to the 85884
extent the credit was not applied against such tax. 85885

Sec. 5751.51. (A) As used in this section, "qualified 85886
research expenses" has the same meaning as in section 41 of the 85887
Internal Revenue Code. 85888

(B)(1) For tax periods beginning on or after January 1, 2008, 85889
a nonrefundable credit may be claimed under this chapter equal to 85890
seven per cent of the excess of (a) qualified research expenses 85891
incurred in this state by the taxpayer in the tax period for which 85892
the credit is claimed over (b) the taxpayer's average annual 85893
qualified research expenses incurred in this state for the three 85894
preceding tax periods. 85895

(2) The taxpayer shall claim the credit allowed under 85896
division (B)(1) of this section in the order required by section 85897
5751.98 of the Revised Code. A credit claimed in tax year 2008 may 85898
not be applied against the tax otherwise due under this chapter 85899
for a tax period beginning before July 1, 2008. Any credit amount 85900
in excess of the tax due under section 5751.03 of the Revised 85901
Code, after allowing for any other credits that precede the credit 85902
under this section in the order required under that section, may 85903
be carried forward for seven tax years, but the amount of the 85904

excess credit claimed against the tax for any tax period shall be 85905
deducted from the balance carried forward to the next tax period. 85906

(3) No credit shall be allowed under this chapter if the 85907
credit was available against the tax imposed by section 5733.06 of 85908
the Revised Code, except to the extent the credit was not applied 85909
against such tax. 85910

Sec. 5751.52. (A) As used in this section: 85911

(1) "Borrower" means any person that receives a loan from the 85912
director of development under section 166.21 of the Revised Code, 85913
regardless of whether the borrower is subject to the tax imposed 85914
by this chapter. 85915

(2) "Qualified research and development loan payments" has 85916
the same meaning as in section 166.21 of the Revised Code. 85917

(3) "Related member" has the same meaning as in section 85918
5733.042 of the Revised Code. 85919

(B) For tax periods beginning on or after January 1, 2008, a 85920
nonrefundable credit may be claimed under this chapter equal to a 85921
borrower's qualified research and development loan payments made 85922
during the calendar year immediately preceding the tax period for 85923
which the credit is claimed. The amount of the credit for a 85924
calendar year shall not exceed one hundred fifty thousand dollars. 85925
No taxpayer is entitled to claim a credit under this section 85926
unless the taxpayer has obtained a certificate issued by the 85927
director of development under division (D) of section 166.21 of 85928
the Revised Code. The credit shall be claimed in the order 85929
required under section 5151.98 of the Revised Code. A credit 85930
claimed in calendar year 2008 may not be applied against the tax 85931
otherwise due under this chapter for a tax period beginning before 85932
July 1, 2008. No credit shall be allowed under this chapter if the 85933
credit was available against the tax imposed by section 5733.06 or 85934

5747.02 of the Revised Code except to the extent the credit was 85935
not applied against such tax. The credit, to the extent it exceeds 85936
the taxpayer's tax liability for a tax period after allowance for 85937
any other credits that precede the credit under this section in 85938
that order, shall be carried forward to the next succeeding tax 85939
period or periods, but the amount of the excess credit claimed 85940
against the tax for any tax period shall be deducted from the 85941
balance carried forward to the next tax period. 85942

(C) A borrower entitled to a credit under this section may 85943
assign the credit, or a portion thereof, to any of the following: 85944

(1) A related member of that borrower; 85945

(2) The owner or lessee of the eligible research and 85946
development project; 85947

(3) A related member of the owner or lessee of the eligible 85948
research and development project. 85949

A borrower making an assignment under this division shall 85950
provide written notice of the assignment to the tax commissioner 85951
and the director of development, in such form as the commissioner 85952
prescribes, before the credit that was assigned is used. The 85953
assignor may not claim the credit to the extent it was assigned to 85954
an assignee. The assignee may claim the credit only to the extent 85955
the assignor has not claimed it. 85956

(D) If any taxpayer is a partner in a partnership or a member 85957
in a limited liability company treated as a partnership for 85958
federal income tax purposes, the taxpayer shall be allowed the 85959
taxpayer's distributive or proportionate share of the credit 85960
available through the partnership or limited liability company. 85961

Sec. 5751.53. (A) As used in this section: 85962

(1) "Net income" and "taxable year" have the same meanings as 85963
in section 5733.04 of the Revised Code. 85964

(2) "Franchise tax year" means "tax year" as defined in section 5733.04 of the Revised Code. 85965
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(3) "Deductible temporary differences" and "taxable temporary differences" have the same meanings as those terms have for purposes of paragraph 13 of the statement of financial accounting standards, number 109. 85967
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(4) "Qualifying taxpayer" means a taxpayer under this chapter that has a qualifying Ohio net operating loss carryforward equal to or greater than the qualifying amount. 85971
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(5) "Qualifying Ohio net operating loss carryforward" means an Ohio net operating loss carryforward that the taxpayer could deduct in whole or in part for franchise tax year 2006 under section 5733.04 of the Revised Code but for the application of division (H) of this section. A qualifying Ohio net operating loss carryforward shall not exceed the amount of loss carryforward from franchise tax year 2005 as reported by the taxpayer either on a franchise tax report for franchise tax year 2005 pursuant to section 5733.02 of the Revised Code or on an amended franchise tax report prepared in good faith for such year and filed before July 1, 2006. 85974
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(6) "Disallowed Ohio net operating loss carryforward" means the lesser of the amounts described in division (A)(6)(a) or (b) of this section, but the amounts described in divisions (A)(6)(a) and (b) of this section shall each be reduced by the qualifying amount. 85985
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(a) The qualifying taxpayer's qualifying Ohio net operating loss carryforward; 85990
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(b) The Ohio net operating loss carryforward amount that the qualifying taxpayer used to compute the related deferred tax asset reflected on its books and records on the last day of its taxable year ending in 2004, adjusted for return to accrual, but this 85992
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amount shall be reduced by the qualifying related valuation allowance amount. For the purposes of this section, the "qualifying related valuation allowance amount" is the amount of Ohio net operating loss reflected in the qualifying taxpayer's computation of the valuation allowance account, as shown on its books and records on the last day of its taxable year ending in 2004, with respect to the deferred tax asset relating to its Ohio net operating loss carryforward amount.

(7) "Other net deferred tax items apportioned to this state" is the product of (a) the amount of net deferred tax items and (b) the fraction described in division (B)(2) of section 5733.05 for the qualifying taxpayer's franchise tax year 2005.

(8)(a) Subject to divisions (A)(8)(b) to (d) of this section, the "amount of other net deferred tax items" is the difference between (i) the qualifying taxpayer's deductible temporary differences, net of related valuation allowance amounts, shown on the qualifying taxpayer's books and records on the last day of its taxable year ending in 2004, and (ii) the qualifying taxpayer's taxable temporary differences as shown on those books and records on that date. The amount of other net deferred tax items may be less than zero.

(b) For the purposes of computing the amount of the qualifying taxpayer's other net deferred tax items described in division (A)(8)(a) of this section, any credit carryforward allowed under Chapter 5733. of the Revised Code shall be excluded from the amount of deductible temporary differences to the extent such credit carryforward amount, net of any related valuation allowance amount, is otherwise included in the qualifying taxpayer's deductible temporary differences, net of related valuation allowance amounts, shown on the qualifying taxpayer's books and records on the last day of the qualifying taxpayer's taxable year ending in 2004.

(c) No portion of the disallowed Ohio net operating loss carryforward shall be included in the computation of the amount of the qualifying taxpayer's net deferred tax items described in division (A)(8)(a) of this section. 86028
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(d) In no event shall the amount of other net deferred tax items apportioned to this state exceed twenty-five per cent of the qualifying Ohio net operating loss carryforward. 86032
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(9) "Amortizable amount" means: 86035

(a) If the qualifying taxpayer's other net deferred tax items apportioned to this state is equal to or greater than zero, eight per cent of the sum of the qualifying taxpayer's disallowed Ohio net operating loss carryforward and the qualifying taxpayer's other net deferred tax items apportioned to this state; 86036
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(b) If the amount of the qualifying taxpayer's other net deferred tax items apportioned to this state is less than zero and if the absolute value of the amount of qualifying taxpayer's other net deferred tax items apportioned to this state is less than the qualifying taxpayer's disallowed net operating loss, eight per cent of the difference between the qualifying taxpayer's disallowed net operating loss carryforward and the absolute value of the qualifying taxpayer's other net deferred tax items apportioned to this state; 86041
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(c) If the amount of the qualifying taxpayer's other net deferred tax items apportioned to this state is less than zero and if the absolute value of the amount of qualifying taxpayer's other net deferred tax items apportioned to this state is equal to or greater than the qualifying taxpayer's disallowed net operating loss, zero. 86050
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(10) "Books and records" means the qualifying taxpayer's books, records, and all other information, all of which the qualifying taxpayer maintains and uses to prepare and issue its 86056
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financial statements in accordance with generally accepted 86059
accounting principles. 86060

(11)(a) Except as modified by division (A)(11)(b) of this 86061
section, "qualifying amount" means fifty million dollars per 86062
person. 86063

(b) If for franchise tax year 2005 the person was a member of 86064
a combined franchise tax report, as provided by section 5733.052 86065
of the Revised Code, the "qualifying amount" is, in the aggregate, 86066
fifty million dollars for all members of that combined franchise 86067
tax report, and for purposes of divisions (A)(6)(a) and (b) of 86068
this section, those members shall allocate to each member any 86069
portion of the fifty million dollar amount. The total amount 86070
allocated to the members who are qualifying taxpayers shall equal 86071
fifty million dollars. 86072

(B) For each calendar period beginning prior to January 1, 86073
2030, there is hereby allowed a nonrefundable tax credit against 86074
the tax levied each year by this chapter on each qualifying 86075
taxpayer, on each consolidated elected taxpayer having one or more 86076
qualifying taxpayers as a member, and on each combined taxpayer 86077
having one or more qualifying taxpayers as a member. The credit 86078
shall be claimed in the order specified in section 5751.98 of the 86079
Revised Code and is allowed only to reduce the first one-half of 86080
any tax remaining after allowance of the credits that precede it 86081
in section 5751.98 of the Revised Code. No credit under division 86082
(B) of this section shall be allowed against the second one-half 86083
of such remaining tax. 86084

Except as otherwise limited by divisions (C) and (D) of this 86085
section, the maximum amount of the nonrefundable credit that may 86086
be used against the first one-half of the remaining tax for each 86087
calendar year is as follows: 86088

(1) For calendar year 2010, ten per cent of the amortizable 86089

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| <u>amount;</u> | 86090 |
| <u>(2) For calendar year 2011, twenty per cent of the</u> | 86091 |
| <u>amortizable amount, less all amounts previously used;</u> | 86092 |
| <u>(3) For calendar year 2012, thirty per cent of the</u> | 86093 |
| <u>amortizable amount, less all amounts previously used;</u> | 86094 |
| <u>(4) For calendar year 2013, forty per cent of the amortizable</u> | 86095 |
| <u>amount, less all amounts previously used;</u> | 86096 |
| <u>(5) For calendar year 2014, fifty per cent of the amortizable</u> | 86097 |
| <u>amount, less all amounts previously used;</u> | 86098 |
| <u>(6) For calendar year 2015, sixty per cent of the amortizable</u> | 86099 |
| <u>amount, less all amounts previously used;</u> | 86100 |
| <u>(7) For calendar year 2016, seventy per cent of the</u> | 86101 |
| <u>amortizable amount, less all amounts previously used;</u> | 86102 |
| <u>(8) For calendar year 2017, eighty per cent of the</u> | 86103 |
| <u>amortizable amount, less all amounts previously used;</u> | 86104 |
| <u>(9) For calendar year 2018, ninety per cent of the</u> | 86105 |
| <u>amortizable amount, less all amounts previously used;</u> | 86106 |
| <u>(10) For each of calendar years 2019 through 2029, one</u> | 86107 |
| <u>hundred per cent of the amortizable amount, less all amounts used</u> | 86108 |
| <u>in all previous years.</u> | 86109 |
| <u>In no event shall the cumulative credit used for calendar</u> | 86110 |
| <u>years 2010 through 2029 exceed one hundred per cent of the</u> | 86111 |
| <u>amortizable amount.</u> | 86112 |
| <u>(C)(1) Except as otherwise set forth in division (C)(2) of</u> | 86113 |
| <u>this section, a refundable credit is allowed in calendar year 2030</u> | 86114 |
| <u>for any portion of the qualifying taxpayer's amortizable amount</u> | 86115 |
| <u>that is not used in accordance with division (B) of this section</u> | 86116 |
| <u>against the tax levied by this chapter on all taxpayers.</u> | 86117 |
| <u>(2) Division (C)(1) of this section shall not apply and no</u> | 86118 |

refundable credit shall be available to any person if during any 86119
portion of the calendar year 2030 the person is not subject to the 86120
tax imposed by this chapter. 86121

(D) Not later than June 30, 2006, each qualifying taxpayer, 86122
consolidated elected taxpayer, or combined taxpayer that will 86123
claim for any year the credit allowed in divisions (B) and (C) of 86124
this section shall file with the tax commissioner a report setting 86125
forth the amortizable amount available to such taxpayer and all 86126
other related information that the commissioner, by rule, 86127
requires. If the taxpayer does not timely file the report or fails 86128
to provide timely all information required by this division, the 86129
taxpayer is precluded from claiming any credit amounts described 86130
in divisions (B) and (C) of this section. Unless extended by 86131
mutual consent, the tax commissioner may, until June 30, 2010, 86132
audit the accuracy of the amortizable amount available to each 86133
taxpayer that will claim the credit, and adjust the amortizable 86134
amount or, if appropriate, issue any assessment necessary to 86135
correct any errors found upon audit. 86136

(E) For the purpose of calculating the amortizable amount, if 86137
the tax commissioner ascertains that any portion of that amount is 86138
the result of a sham transaction as described in section 5703.56 86139
of the Revised Code, the commissioner shall reduce the amortizable 86140
amount by two times the adjustment. 86141

(F) If one entity transfers all or a portion of its assets 86142
and equity to another entity as part of an entity organization or 86143
reorganization or subsequent entity organization or reorganization 86144
for which no gain or loss is recognized in whole or in part for 86145
federal income tax purposes under the Internal Revenue Code, the 86146
credits allowed by this section shall be computed in a manner 86147
consistent with that used to compute the portion, if any, of 86148
federal net operating losses allowed to the respective entities 86149
under the Internal Revenue Code. The tax commissioner may 86150

prescribe forms or rules for making the computations required by 86151
this division. 86152

(G)(1) Except as provided in division (F) of this section, no 86153
person shall pledge, collateralize, hypothecate, assign, convey, 86154
sell, exchange, or otherwise dispose of any or all tax credits, or 86155
any portion of any or all tax credits allowed under this section. 86156

(2) No credit allowed under this section is subject to 86157
execution, attachment, lien, levy, or other judicial proceeding. 86158

(H)(1)(a) Except as set forth in division (H)(1)(b) of this 86159
section and notwithstanding division (I)(1) of section 5733.04 of 86160
the Revised Code to the contrary, each person timely and fully 86161
complying with the reporting requirements set forth in division 86162
(D) of this section shall not claim, and shall not be entitled to 86163
claim, any deduction or adjustment for any Ohio net operating loss 86164
carried forward to any one or more franchise tax years after 86165
franchise tax year 2005. 86166

(b) Division (H)(1)(a) of this section applies only to the 86167
portion of the Ohio net operating loss represented by the 86168
disallowed Ohio net operating loss carryforward. 86169

(2) Notwithstanding division (I) of section 5733.04 of the 86170
Revised Code to the contrary, with respect to all franchise tax 86171
years after franchise tax year 2005, each person timely and fully 86172
complying with the reporting requirements set forth in division 86173
(D) of this section shall not claim, and shall not be entitled to 86174
claim, any deduction, exclusion, or adjustment with respect to 86175
deductible temporary differences reflected on the person's books 86176
and records on the last day of its taxable year ending in 2004. 86177

(3)(a) Except as set forth in division (H)(3)(b) of this 86178
section and notwithstanding division (I) of section 5733.04 of the 86179
Revised Code to the contrary, with respect to all franchise tax 86180
years after franchise tax year 2005, each person timely and fully 86181

complying with the reporting requirements set forth in division 86182
(D) of this section shall exclude from Ohio net income all taxable 86183
temporary differences reflected on the person's books and records 86184
on the last day of its taxable year ending in 2004. 86185

(b) In no event shall the exclusion provided by division 86186
(H)(3)(a) of this section for any franchise tax year exceed the 86187
amount of the taxable temporary differences otherwise included in 86188
Ohio net income for that year. 86189

(4) Divisions (H)(2) and (3) of this section shall apply only 86190
to the extent such items were used in the calculations of the 86191
credit provided by this section. 86192

Sec. 5751.98. (A) To provide a uniform procedure for 86193
calculating the amount of tax due under this chapter, a taxpayer 86194
shall claim any credits to which it is entitled in the following 86195
order: 86196

(1) The nonrefundable jobs retention credit under division 86197
(B) of section 5751.50 of the Revised Code; 86198

(2) The nonrefundable credit for qualified research expenses 86199
under division (B) of section 5751.51 of the Revised Code; 86200

(3) The nonrefundable credit for a borrower's qualified 86201
research and development loan payments under division (B) of 86202
section 5751.52 of the Revised Code; 86203

(4) The nonrefundable credit for calendar years 2010 to 2029 86204
for unused net operating losses under division (B) of section 86205
5751.53 of the Revised Code; 86206

(5) The refundable credit for calendar year 2030 for unused 86207
net operating losses under division (C) of section 5751.53 of the 86208
Revised Code; 86209

(6) The refundable jobs creation credit under division (A) of 86210
section 5751.50 of the Revised Code. 86211

(B) For any credit except the credit enumerated in division (A)(4) of this section, the amount of the credit for a tax period shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating the credit. 86212
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Sec. 5751.99. (A) Whoever files a fraudulent refund claim under section 5751.08 of the Revised Code shall be fined the greater of not more than one thousand dollars or the amount of the fraudulent refund requested or imprisoned not more than sixty days, or both. 86218
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(B) Except as provided in this section, whoever violates any section of this chapter, or any rule adopted by the tax commissioner under this chapter, shall be fined not more than five hundred dollars or imprisoned not more than thirty days, or both. 86223
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(C) The penalties provided in this section are in addition to any penalties imposed by the tax commissioner under section 5751.06 of the Revised Code. 86227
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Sec. 5907.15. There is hereby created in the state treasury the Ohio veterans' homes rental, service, and medicare reimbursement fund. Revenue generated from temporary use agreements of a veterans' home, from the sale of meals at a home's dining halls, from rental, lease, or sharing agreements for the use of facilities, supplies, equipment, utilities, or services provided by a home, and from medicare reimbursements shall be credited to the fund. The fund shall be used only for maintenance costs of the homes and for the purchase of medications, medication services, medical supplies, and medical equipment by the homes. 86230
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Sec. 5919.31. (A) If an active duty member of the Ohio national guard chooses to purchase life insurance pursuant to the 86240
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"Servicemembers' Group Life Insurance Act," 79 Stat. 880 et seq. (1965), 38 U.S.C. 1965 et seq., the adjutant general shall reimburse the member in an amount equal to the monthly premium paid for each month or part of a month by the member pursuant to the act while being an active duty member.

(B) The adjutant general may request additional money from the controlling board if the adjutant general does not have sufficient available unencumbered funds to reimburse active duty members for life insurance premiums pursuant to this section.

(C) The adjutant general may prescribe and enforce regulations to implement the requirements of this section. In prescribing and enforcing those regulations, the adjutant general need not comply with section 111.15 or Chapter 119. of the Revised Code.

(D) As used in this section, "active duty member" means a member of the Ohio national guard on active duty pursuant to an executive order of the president of the United States, the "Act of October 28, 2004," 118 Stat. 1878, 32 U.S.C. 901 to 908, as amended, another act of the congress of the United States, or a proclamation of the governor, but does not include a member performing full-time Ohio national guard duty or performing special work active duty under the "Act of October 3, 1964," 78 Stat. 999, 32 U.S.C. 502(f).

~~Sec. 5919.33. Upon certification of availability of funds by the director of budget and management, the~~ (A) The adjutant general shall pay a death benefit of ~~twenty~~ one hundred thousand dollars from the appropriations ~~for operating expenses made for the purpose~~ to the beneficiary or beneficiaries of any active duty member of the Ohio national guard who dies while performing ~~state~~ active duty ~~under orders issued by the adjutant general on behalf of the governor,~~ if the beneficiary or beneficiaries has or have

been so designated in a written statement as prescribed by the 86273
adjutant general. 86274

(B) As used in this section, "active duty member" means a 86275
member of the Ohio national guard on active duty pursuant to an 86276
executive order of the president of the United States, the "Act of 86277
October 28, 2004," 118 Stat. 1878, 32 U.S.C. 901 to 908, as 86278
amended, another act of the congress of the United States, or a 86279
proclamation of the governor, but does not include a member 86280
performing full-time Ohio national guard duty or performing special 86281
work active duty under the "Act of October 3, 1964," 78 Stat. 999, 86282
32 U.S.C. 502(f). 86283

Sec. 5919.341. There is hereby created in the state treasury 86284
the national guard scholarship reserve fund. Not later than the 86285
first day of July of each fiscal year, the Ohio board of regents 86286
shall certify to the director of budget and management the 86287
unencumbered balance of the general revenue fund appropriations 86288
made in the immediately preceding fiscal year for purposes of the 86289
Ohio national guard scholarship program created under division (B) 86290
of section 5919.34 of the Revised Code. Upon receipt of the 86291
certification, the director may transfer an amount not exceeding 86292
the certified amount from the general revenue fund to the national 86293
guard scholarship reserve fund. Moneys in the national guard 86294
scholarship reserve fund shall be used to pay scholarship 86295
obligations in excess of the general revenue fund appropriations 86296
made for that purpose. Upon request of the adjutant general, the 86297
Ohio board of regents shall seek controlling board approval to 86298
establish appropriations as necessary. 86299

The director may transfer any unencumbered balance from the 86300
national guard scholarship reserve fund to the general revenue 86301
fund. 86302

Sec. 5920.01. (A) The governor shall organize and maintain 86303
within this state on a cadre or reserve basis military forces 86304
capable of being expanded and trained to defend this state 86305
whenever the Ohio national guard, or a part thereof, is employed 86306
so as to leave this state without adequate defense. In case of an 86307
emergency proclaimed by the president, or the Congress of the 86308
United States, or the governor, or caused by enemy action or 86309
imminent danger thereof, the governor, as commander in chief, 86310
shall expand such forces as the exigency of the occasion requires. 86311
Such forces shall be organized and maintained under regulations 86312
which shall not be inconsistent with such regulations as the 86313
secretary of defense prescribes for discipline and training and 86314
shall be composed of officers commissioned and assigned, and such 86315
able-bodied citizens of the state as are accepted therein. Such 86316
forces shall be equipped with suitable uniforms not in violation 86317
of federal laws or contrary to the regulations of the secretary of 86318
defense. Such forces shall be known as the Ohio military reserve. 86319
During the period of organization on a cadre or reserve basis the 86320
commander in chief may fix lesser rates of pay for armory drill 86321
purposes or for service in encampments and maneuvers. In the event 86322
that the regulations of the department of defense are modified so 86323
as to recognize the Ohio military reserve as a part of the Ohio 86324
national guard not subject to induction into federal service, the 86325
laws pertaining to the Ohio national guard shall apply to the Ohio 86326
military reserve and it shall be known as a component of the Ohio 86327
national guard. 86328

(B) The commander of the Ohio military reserve shall report 86329
all expenditures and the use of all funds by the Ohio military 86330
reserve to the general assembly. The commander annually shall 86331
deliver the report, in writing, within three months of the end of 86332
the state fiscal year. 86333

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) 86334
of this section, on and after January 1, 1994, no person shall 86335
operate or maintain a public water system in this state without a 86336
license issued by the director of environmental protection. A 86337
person who operates or maintains a public water system on January 86338
1, 1994, shall obtain an initial license under this section in 86339
accordance with the following schedule: 86340

(1) If the public water system is a community water system, 86341
not later than January 31, 1994; 86342

(2) If the public water system is not a community water 86343
system and serves a nontransient population, not later than 86344
January 31, 1994; 86345

(3) If the public water system is not a community water 86346
system and serves a transient population, not later than January 86347
31, 1995. 86348

A person proposing to operate or maintain a new public water 86349
system after January 1, 1994, in addition to complying with 86350
section 6109.07 of the Revised Code and rules adopted under it, 86351
shall submit an application for an initial license under this 86352
section to the director prior to commencing operation of the 86353
system. 86354

A license or license renewal issued under this section shall 86355
be renewed annually. Such a license or license renewal shall 86356
expire on the thirtieth day of January in the year following its 86357
issuance. A license holder that proposes to continue operating the 86358
public water system for which the license or license renewal was 86359
issued shall apply for a license renewal at least thirty days 86360
prior to that expiration date. 86361

The director shall adopt, and may amend and rescind, rules in 86362
accordance with Chapter 119. of the Revised Code establishing 86363

procedures governing and information to be included on 86364
applications for licenses and license renewals under this section. 86365
Through June 30, ~~2006~~ 2008, each application shall be accompanied 86366
by the appropriate fee established under division (M) of section 86367
3745.11 of the Revised Code, provided that an applicant for an 86368
initial license who is proposing to operate or maintain a new 86369
public water system after January 1, 1994, shall submit a fee that 86370
equals a prorated amount of the appropriate fee established under 86371
that division for the remainder of the licensing year. 86372

(B) Not later than thirty days after receiving a completed 86373
application and the appropriate license fee for an initial license 86374
under division (A) of this section, the director shall issue the 86375
license for the public water system. Not later than thirty days 86376
after receiving a completed application and the appropriate 86377
license fee for a license renewal under division (A) of this 86378
section, the director shall do one of the following: 86379

(1) Issue the license renewal for the public water system; 86380

(2) Issue the license renewal subject to terms and conditions 86381
that the director determines are necessary to ensure compliance 86382
with this chapter and rules adopted under it; 86383

(3) Deny the license renewal if the director finds that the 86384
public water system was not operated in substantial compliance 86385
with this chapter and rules adopted under it. 86386

(C) The director may suspend or revoke a license or license 86387
renewal issued under this section if the director finds that the 86388
public water system was not operated in substantial compliance 86389
with this chapter and rules adopted under it. The director shall 86390
adopt, and may amend and rescind, rules in accordance with Chapter 86391
119. of the Revised Code governing such suspensions and 86392
revocations. 86393

(D)(1) As used in division (D) of this section, "church" 86394

means a fellowship of believers, congregation, society, 86395
corporation, convention, or association that is formed primarily 86396
or exclusively for religious purposes and that is not formed or 86397
operated for the private profit of any person. 86398

(2) This section does not apply to a church that operates or 86399
maintains a public water system solely to provide water for that 86400
church or for a campground that is owned by the church and 86401
operated primarily or exclusively for members of the church and 86402
their families. A church that, on or before March 5, 1996, has 86403
obtained a license under this section for such a public water 86404
system need not obtain a license renewal under this section. 86405

(E) This section does not apply to any public or nonpublic 86406
school that meets minimum standards of the state board of 86407
education that operates or maintains a public water system solely 86408
to provide water for that school. 86409

Sec. 6111.30. (A) Applications for a section 401 water 86410
quality certification required under division (P) of section 86411
6111.03 of the Revised Code shall be submitted on forms provided 86412
by the director of environmental protection and shall include all 86413
information required on those forms as well as all of the 86414
following: 86415

(1) A copy of a letter from the United States army corps of 86416
engineers documenting its jurisdiction over the wetlands, streams, 86417
or other waters of the state that are the subject of the section 86418
401 water quality certification application; 86419

(2) If the project involves impacts to a wetland, a wetland 86420
characterization analysis consistent with the Ohio rapid 86421
assessment method; 86422

(3) If the project involves a stream for which a specific 86423
aquatic life use designation has not been made, a use 86424

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| <u>attainability analysis;</u> | 86425 |
| <u>(4) A specific and detailed mitigation proposal, including the location and proposed legal mechanism for protecting the property in perpetuity;</u> | 86426 |
| | 86427 |
| | 86428 |
| <u>(5) Applicable fees;</u> | 86429 |
| <u>(6) Site photographs;</u> | 86430 |
| <u>(7) Adequate documentation confirming that the applicant has requested comments from the department of natural resources and the United States fish and wildlife service regarding threatened and endangered species, including the presence or absence of critical habitat;</u> | 86431 |
| | 86432 |
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| <u>(8) Descriptions, schematics, and appropriate economic information concerning the applicant's preferred alternative, nondegradation alternatives, and minimum degradation alternatives for the design and operation of the project;</u> | 86436 |
| | 86437 |
| | 86438 |
| | 86439 |
| <u>(9) The applicant's investigation report of the waters of the United States in support of a section 404 permit application concerning the project;</u> | 86440 |
| | 86441 |
| | 86442 |
| <u>(10) A copy of the United States army corps of engineers' public notice regarding the section 404 permit application concerning the project.</u> | 86443 |
| | 86444 |
| | 86445 |
| <u>(B) Not later than fifteen business days after the receipt of an application for a section 401 water quality certification, the director shall review the application to determine if it is complete and shall notify the applicant in writing as to whether the application is complete. If the director fails to notify the applicant within fifteen business days regarding the completeness of the application, the application is considered complete. If the director determines that the application is not complete, the director shall include with the written notification an itemized</u> | 86446 |
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list of the information or materials that are necessary to 86455
complete the application. If the applicant fails to provide the 86456
information or materials within sixty days after the director's 86457
receipt of the application, the director may return the incomplete 86458
application to the applicant and take no further action on the 86459
application. If the application is returned to the applicant 86460
because it is incomplete, the director shall return the review fee 86461
levied under division (A)(1), (2), or (3) of section 3745.114 of 86462
the Revised Code to the applicant, but shall retain the 86463
application fee levied under that section. 86464

(C) Not later than twenty-one days after a determination that 86465
an application is complete under division (B) of this section, the 86466
applicant shall publish public notice of the director's receipt of 86467
the complete application in a newspaper of general circulation in 86468
the county in which the project that is the subject of the 86469
application is located. The public notice shall be in a form 86470
acceptable to the director. The applicant shall promptly provide 86471
the director with proof of publication. The applicant may choose, 86472
subject to review by and approval of the director, to include in 86473
the public notice an advertisement for an antidegradation public 86474
hearing on the application pursuant to section 6111.12 of the 86475
Revised Code. There shall be a public comment period of thirty 86476
days following the publication of the public notice. 86477

(D) If the director determines that there is significant 86478
public interest in a public hearing as evidenced by the public 86479
comments received concerning the application and by other requests 86480
for a public hearing on the application, the director or the 86481
director's representative shall conduct a public hearing 86482
concerning the application. Notice of the public hearing shall be 86483
published by the applicant, subject to review and approval by the 86484
director, at least thirty days prior to the date of the hearing in 86485
a newspaper of general circulation in the county in which the 86486

project that is the subject of the application is to take place. 86487
If a public hearing is requested concerning an application, the 86488
director shall accept comments concerning the application until 86489
five business days after the public hearing. A public hearing 86490
conducted under this division shall take place not later than one 86491
hundred days after the application is determined to be complete. 86492

(E) The director shall forward all public comments concerning 86493
an application submitted under this section that are received 86494
through the public involvement process required by rules adopted 86495
under this chapter to the applicant not later than five business 86496
days after receipt of the comments by the director. 86497

(F) The applicant shall respond in writing to written 86498
comments or to deficiencies identified by the director during the 86499
course of reviewing the application not later than fifteen days 86500
after receiving or being notified of them. 86501

(G) The director shall issue or deny a section 401 water 86502
quality certification not later than one hundred eighty days after 86503
the complete application for the certification is received. The 86504
director shall provide an applicant for a section 401 water 86505
quality certification with an opportunity to review the 86506
certification prior to its issuance. 86507

(H) The director shall maintain an accessible database that 86508
includes environmentally beneficial water restoration and 86509
protection projects that may serve as potential mitigation 86510
projects for projects in the state for which a section 401 water 86511
quality certification is required. A project's inclusion in the 86512
database does not constitute an approval of the project. 86513

(I) As used in this section and sections 6111.31 and 6111.32 86514
of the Revised Code, "section 401 water quality certification" 86515
means certification pursuant to section 401 of the Federal Water 86516
Pollution Control Act and this chapter and rules adopted under it 86517

that any discharge, as set forth in section 401, will comply with sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act.

Sec. 6111.31. All substantive wetland, stream, or lake mitigation standards, criteria, scientific methods, processes, or other procedures or policies that are used in a uniform manner by the director of environmental protection in evaluating the adequacy of a mitigation proposal contained in an application for a section 401 water quality certification shall be adopted and reviewed in accordance with sections 119.03 and 119.032 of the Revised Code before those standards, criteria, or scientific methods have the force of law. Until that time, any such mitigation standards, criteria, scientific methods, processes, or other procedures or policies that are used by or approved for use by the director to evaluate, measure, or determine the success, approval, or denial of a mitigation proposal, but that have not been subject to review under sections 119.03 and 119.032 of the Revised Code shall not be used as the basis for any certification or permit denial or as a standard applied to mitigation unless the applicant has been notified in advance that additional mitigation standards, criteria, scientific methods, processes, or procedures will be considered as part of the review process.

Sec. 6111.32. (A) Mitigation for wetland or stream impacts for which a section 401 water quality certification has been issued under section 6111.30 of the Revised Code shall be conducted by the applicant for the certification in accordance with the following requirements:

(1) For impacts to one acre or less of category 1 or category 2 wetlands, the applicant shall conduct mitigation within the same United States army corps of engineers district as the impacts, provided that the mitigation is conducted within that portion of

the district that is located within this state. 86549

(2) For all other wetland or stream impacts, mitigation shall occur in the following preferred order: 86550

(a) Practicable on-site mitigation; 86551

(b) Mitigation within the eight-digit United States geological survey watershed or mitigation within the service area of a wetland mitigation bank approved by a mitigation bank team; 86552

(c) Mitigation in an adjacent eight-digit United States geological survey watershed; 86553

(d) Mitigation within the same United States army corps of engineers district as the impacts, provided that the mitigation is conductd within that portion of the district that is located within this state. 86554

(B) As used in this section, "category 1 wetland" and "category 2 wetland" have the same meanings as in section 6111.02 of the Revised Code. 86555

Sec. 6121.04. The Ohio water development authority may do any or all of the following: 86556

(A) Adopt bylaws for the regulation of its affairs and the conduct of its business; 86567

(B) Adopt an official seal; 86568

(C) Maintain a principal office and suboffices at places within the state that it designates; 86569

(D) Sue and plead in its own name and be sued and impleaded in its own name with respect to its contracts or torts of its members, employees, or agents acting within the scope of their employment, or to enforce its obligations and covenants made under sections 6121.06, 6121.08, and 6121.13 of the Revised Code. Any such actions against the authority shall be brought in the court 86570

of common pleas of the county in which the principal office of the 86578
authority is located or in the court of common pleas of the county 86579
in which the cause of action arose, provided that the county is 86580
located within this state, and all summonses, exceptions, and 86581
notices of every kind shall be served on the authority by leaving 86582
a copy thereof at the principal office with the person in charge 86583
thereof or with the secretary-treasurer of the authority. 86584

(E) Make loans and grants to governmental agencies for the 86585
acquisition or construction of water development projects by any 86586
such governmental agency and adopt rules and procedures for making 86587
such loans and grants; 86588

(F) Acquire, construct, reconstruct, enlarge, improve, 86589
furnish, equip, maintain, repair, operate, or lease or rent to, or 86590
contract for operation by, a governmental agency or person, water 86591
development projects, and establish rules for the use of those 86592
projects; 86593

(G) Make available the use or services of any water 86594
development project to one or more persons, one or more 86595
governmental agencies, or any combination thereof; 86596

(H) Issue water development revenue bonds and notes and water 86597
development revenue refunding bonds of the state, payable solely 86598
from revenues as provided in section 6121.06 of the Revised Code, 86599
unless the bonds are refunded by refunding bonds, for the purpose 86600
of paying any part of the cost of one or more water development 86601
projects or parts thereof; 86602

(I) Acquire by gift or purchase, hold, and dispose of real 86603
and personal property in the exercise of its powers and the 86604
performance of its duties under this chapter; 86605

(J) Acquire, in the name of the state, by purchase or 86606
otherwise, on terms and in the manner that it considers proper, or 86607
by the exercise of the right of condemnation in the manner 86608

provided by section 6121.18 of the Revised Code, public or private 86609
lands, including public parks, playgrounds, or reservations, or 86610
parts thereof or rights therein, rights-of-way, property, rights, 86611
easements, and interests that it considers necessary for carrying 86612
out this chapter, but excluding the acquisition by the exercise of 86613
the right of condemnation of any waste water facility or water 86614
management facility owned by any person or governmental agency, 86615
and compensation shall be paid for public or private lands so 86616
taken, except that a government-owned waste water facility may be 86617
appropriated in accordance with section 6121.041 of the Revised 86618
Code; 86619

(K) Adopt rules to protect augmented flow in waters of the 86620
state, to the extent augmented by a water development project, 86621
from depletion so it will be available for beneficial use, and to 86622
provide standards for the withdrawal from waters of the state of 86623
the augmented flow created by a water development project that is 86624
not returned to the waters of the state so augmented and to 86625
establish reasonable charges therefor if considered necessary by 86626
the authority; 86627

(L) Make and enter into all contracts and agreements and 86628
execute all instruments necessary or incidental to the performance 86629
of its duties and the execution of its powers under this chapter 86630
in accordance with the following requirements: 86631

(1) When the cost under any such contract or agreement, other 86632
than compensation for personal services, involves an expenditure 86633
of more than ~~ten~~ twenty-five thousand dollars, the authority shall 86634
make a written contract with the lowest responsive and responsible 86635
bidder, in accordance with section 9.312 of the Revised Code, 86636
after advertisement for not less than two consecutive weeks in a 86637
newspaper of general circulation in Franklin county, and in other 86638
publications that the authority determines, which shall state the 86639
general character of the work and the general character of the 86640

materials to be furnished, the place where plans and 86641
specifications therefor may be examined, and the time and place of 86642
receiving bids, provided that a contract or lease for the 86643
operation of a water development project constructed and owned by 86644
the authority or an agreement for cooperation in the acquisition 86645
or construction of a water development project pursuant to section 86646
6121.13 of the Revised Code or any contract for the construction 86647
of a water development project that is to be leased by the 86648
authority to, and operated by, persons who are not governmental 86649
agencies and the cost of the project is to be amortized 86650
exclusively from rentals or other charges paid to the authority by 86651
persons who are not governmental agencies is not subject to the 86652
foregoing requirements and the authority may enter into such a 86653
contract or lease or such an agreement pursuant to negotiation and 86654
upon terms and conditions and for the period that it finds to be 86655
reasonable and proper in the circumstances and in the best 86656
interests of proper operation or of efficient acquisition or 86657
construction of the project. 86658

(2) Each bid for a contract for the construction, demolition, 86659
alteration, repair, or reconstruction of an improvement shall 86660
contain the full name of every person interested in it and shall 86661
meet the requirements of section 153.54 of the Revised Code. 86662

(3) Each bid for a contract except as provided in division 86663
(L)(2) of this section shall contain the full name of every person 86664
or company interested in it and shall be accompanied by a 86665
sufficient bond or certified check on a solvent bank that if the 86666
bid is accepted, a contract will be entered into and the 86667
performance thereof secured. 86668

(4) The authority may reject any and all bids. 86669

(5) A bond with good and sufficient surety, approved by the 86670
authority, shall be required of every contractor awarded a 86671
contract except as provided in division (L)(2) of this section, in 86672

an amount equal to at least fifty per cent of the contract price, 86673
conditioned upon the faithful performance of the contract. 86674

(M) Employ managers, superintendents, and other employees and 86675
retain or contract with consulting engineers, financial 86676
consultants, accounting experts, architects, attorneys, and other 86677
consultants and independent contractors that are necessary in its 86678
judgment to carry out this chapter, and fix the compensation 86679
thereof. All expenses thereof shall be payable solely from the 86680
proceeds of water development revenue bonds or notes issued under 86681
this chapter, from revenues, or from funds appropriated for that 86682
purpose by the general assembly. 86683

(N) Receive and accept from any federal agency, subject to 86684
the approval of the governor, grants for or in aid of the 86685
construction of any water development project or for research and 86686
development with respect to waste water or water management 86687
facilities, and receive and accept aid or contributions from any 86688
source of money, property, labor, or other things of value, to be 86689
held, used, and applied only for the purposes for which the grants 86690
and contributions are made; 86691

(O) Engage in research and development with respect to waste 86692
water or water management facilities; 86693

(P) Purchase fire and extended coverage and liability 86694
insurance for any water development project and for the principal 86695
office and suboffices of the authority, insurance protecting the 86696
authority and its officers and employees against liability for 86697
damage to property or injury to or death of persons arising from 86698
its operations, and any other insurance the authority may agree to 86699
provide under any resolution authorizing its water development 86700
revenue bonds or in any trust agreement securing the same; 86701

(Q) Charge, alter, and collect rentals and other charges for 86702
the use or services of any water development project as provided 86703

in section 6121.13 of the Revised Code; 86704

(R) Provide coverage for its employees under Chapters 145., 86705
4123., and 4141. of the Revised Code; 86706

(S) Assist in the implementation and administration of the 86707
drinking water assistance fund and program created in section 86708
6109.22 of the Revised Code and the water pollution control loan 86709
fund and program created in section 6111.036 of the Revised Code, 86710
including, without limitation, performing or providing fiscal 86711
management for the funds and investing and disbursing moneys in 86712
the funds, and enter into all necessary and appropriate agreements 86713
with the director of environmental protection for those purposes; 86714

(T) Issue water development revenue bonds and notes of the 86715
state in principal amounts that are necessary for the purpose of 86716
raising moneys for the sole benefit of the water pollution control 86717
loan fund created in section 6111.036 of the Revised Code, 86718
including moneys to meet the requirement for providing matching 86719
moneys under division (D) of that section. The bonds and notes may 86720
be secured by appropriate trust agreements and repaid from moneys 86721
credited to the fund from payments of principal and interest on 86722
loans made from the fund, as provided in division (F) of section 86723
6111.036 of the Revised Code. 86724

(U) Issue water development revenue bonds and notes of the 86725
state in principal amounts that are necessary for the purpose of 86726
raising moneys for the sole benefit of the drinking water 86727
assistance fund created in section 6109.22 of the Revised Code, 86728
including moneys to meet the requirement for providing matching 86729
moneys under divisions (B) and (F) of that section. The bonds and 86730
notes may be secured by appropriate trust agreements and repaid 86731
from moneys credited to the fund from payments of principal and 86732
interest on loans made from the fund, as provided in division (F) 86733
of section 6109.22 of the Revised Code. 86734

(V) Make loans to and enter into agreements with boards of county commissioners for the purposes of section 1521.26 of the Revised Code and adopt rules establishing requirements and procedures for making the loans and entering into the agreements;

(W) Do all acts necessary or proper to carry out the powers expressly granted in this chapter.

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

Sec. 6123.04. For the purposes of this chapter, the Ohio water development authority may:

(A) Adopt bylaws for the regulation of its affairs and the conduct of its business under this chapter;

(B) Sue and plead in its own name; be sued and impleaded in its own name with respect to its contracts or torts of its members, employees, or agents acting within the scope of their employment, or to enforce its obligations and covenants made under sections 6123.06, 6123.08, and 6123.13 of the Revised Code. Any such actions against the authority shall be brought in the court of common pleas of the county in which the principal office of the authority is located, or in the court of common pleas of the county in which the cause of action arose, provided such county is located within this state, and all summonses, exceptions, and notices of every kind shall be served on the authority by leaving a copy thereof at the principal office with the person in charge thereof or with the secretary-treasurer of the authority.

(C) Make loans and grants to governmental agencies for the acquisition or construction of development projects by any such governmental agency and adopt rules and procedures for making such

loans and grants; 86765

(D) Acquire, construct, reconstruct, enlarge, improve, 86766
furnish, equip, maintain, repair, operate, lease or rent to, or 86767
contract for operation by, a person or governmental agency, 86768
development projects, and establish rules for the use of such 86769
projects; 86770

(E) Make available the use or services of any development 86771
project to one or more persons, one or more governmental agencies, 86772
or any combination thereof; 86773

(F) Issue development revenue bonds and notes and development 86774
revenue refunding bonds of the state, payable solely from revenues 86775
as provided in section 6123.06 of the Revised Code, unless the 86776
bonds be refunded by refunding bonds, for the purpose of paying 86777
any part of the cost of one or more development projects or parts 86778
thereof; 86779

(G) Acquire by gift or purchase, hold, and dispose of real 86780
and personal property in the exercise of the powers of the 86781
authority and the performance of its duties under this chapter; 86782

(H) Acquire, in the name of the state, by purchase or 86783
otherwise, on such terms and in such manner as the authority 86784
determines proper, public or private lands, or parts thereof or 86785
rights therein, rights-of-way, property, rights, easements, and 86786
interests as it finds necessary for carrying out this chapter; and 86787
compensation shall be paid for public or private lands so taken; 86788

(I) Make and enter into all contracts and agreements and 86789
execute all instruments necessary or incidental to the performance 86790
of its duties and the execution of its powers under this chapter: 86791

(1) When the cost under any such contract or agreement, other 86792
than compensation for personal services, involves an expenditure 86793
of more than ~~two~~ twenty-five thousand dollars, the authority shall 86794
make a written contract with the lowest responsive and responsible 86795

bidder, in accordance with section 9.312 of the Revised Code, 86796
after advertisement for not less than two consecutive weeks in a 86797
newspaper of general circulation in Franklin county, and in such 86798
other publications as the authority determines, such notice shall 86799
state the general character of the work and materials to be 86800
furnished, the place where plans and specifications therefor may 86801
be examined, and the time and place of receiving bids. Provided, 86802
that a contract or lease for the operation of a development 86803
project constructed and owned by the authority or an agreement for 86804
cooperation in the acquisition or construction of a development 86805
project pursuant to section 6123.13 of the Revised Code or any 86806
contract for the construction of a development project that is to 86807
be leased by the authority to, and operated by, persons who are 86808
not governmental agencies and the cost of such project is to be 86809
amortized exclusively from rentals or other charges paid to the 86810
authority by persons who are not governmental agencies or by 86811
governmental agencies that receive the use or services of such 86812
project, including governmental agencies that are parties to an 86813
agreement for cooperation in the acquisition or construction of 86814
such development project pursuant to section 6123.13 of the 86815
Revised Code, is not subject to the foregoing requirements and the 86816
authority may enter into such contract or lease or such agreement 86817
pursuant to negotiation and upon such terms and conditions and for 86818
such period as it finds to be reasonable and proper in the 86819
circumstances and in the best interests of proper operation or of 86820
efficient acquisition or construction of such project. 86821

(2) Each bid for a contract for the construction, demolition, 86822
alteration, repair, or reconstruction of an improvement shall 86823
contain the full name of every person interested in it and who 86824
meets the requirements of section 153.54 of the Revised Code. 86825

(3) Each bid for a contract, except as provided in division 86826
(I)(2) of this section, shall contain the full name of every 86827

person or company interested in it and shall be accompanied by a 86828
sufficient bond or certified check on a solvent bank that if the 86829
bid is accepted a contract will be entered into and the 86830
performance thereof secured. 86831

(4) The authority may reject any and all bids. 86832

(5) A bond with good and sufficient surety, approved by the 86833
authority, shall be required of every contractor awarded a 86834
contract except as provided in division (I)(2) of this section, in 86835
an amount equal to at least fifty per cent of the contract price, 86836
conditioned upon the faithful performance of the contract. 86837

(J) Employ managers, superintendents, and other employees and 86838
retain or contract with consulting engineers, financial 86839
consultants, accounting experts, architects, attorneys, and such 86840
other consultants and independent contractors as are necessary in 86841
its judgment to carry out this chapter, and fix the compensation 86842
thereof. All expenses thereof shall be payable solely from the 86843
proceeds of development revenue bonds or notes issued under this 86844
chapter, from revenues, or from funds appropriated for such 86845
purpose by the general assembly. 86846

(K) Receive and accept from any federal agency, subject to 86847
the approval of the governor, grants for or in aid of the 86848
construction of any development project or for research and 86849
development with respect to solid waste facilities or energy 86850
resource development facilities, and receive and accept aid or 86851
contributions from any source of money, property, labor, or other 86852
things of value, to be held, used, and applied only for the 86853
purposes for which such grants and contributions are made; 86854

(L) Engage in research and development with respect to solid 86855
waste facilities or energy resource development facilities; 86856

(M) Purchase fire and extended coverage and liability 86857
insurance for any development project and for the principal office 86858

and sub-offices of the authority, insurance protecting the 86859
authority and its officers and employees against liability for 86860
damage to property or injury to or death of persons arising from 86861
its operations, and any other insurance the authority may agree to 86862
provide under any resolution authorizing its development revenue 86863
bonds or in any trust agreement securing the same; 86864

(N) Charge, alter, and collect rentals and other charges for 86865
the use or services of any development project as provided in 86866
section 6123.13 of the Revised Code; 86867

(O) Provide coverage for its employees under Chapters 145., 86868
4123., and 4141. of the Revised Code; 86869

(P) Do all acts necessary or proper to carry out the powers 86870
expressly granted in this chapter. 86871

Any instrument by which real property is acquired pursuant to 86872
this section shall identify the agency of the state that has the 86873
use and benefit of the real property as specified in section 86874
5301.012 of the Revised Code. 86875

Section 101.02. That existing sections 9.24, 9.833, 9.90, 86876
9.981, 101.68, 102.02, 102.06, 108.05, 109.54, 109.57, 109.79, 86877
109.91, 109.98, 117.10, 120.06, 120.13, 120.23, 120.52, 120.53, 86878
121.37, 121.38, 122.011, 122.17, 122.171, 122.18, 122.40, 122.603, 86879
122.71, 122.72, 122.73, 122.74, 122.75, 122.751, 122.76, 122.77, 86880
122.78, 122.79, 122.82, 122.83, 122.95, 122.951, 123.01, 123.152, 86881
123.17, 124.07, 124.321, 124.328, 125.041, 125.05, 125.11, 86882
125.831, 125.832, 126.25, 127.16, 131.02, 131.23, 133.08, 133.081, 86883
133.09, 140.01, 141.011, 141.04, 145.01, 145.33, 147.05, 147.10, 86884
147.11, 147.12, 147.371, 149.30, 150.07, 150.10, 154.11, 173.26, 86885
173.40, 173.99, 181.251, 181.51, 181.52, 181.54, 181.55, 181.56, 86886
183.28, 184.02, 305.171, 307.37, 307.695, 307.86, 307.88, 317.08, 86887
317.36, 319.20, 319.302, 321.24, 323.01, 323.152, 325.31, 329.04, 86888
329.051, 339.72, 339.88, 340.03, 340.16, 351.01, 351.021, 351.06, 86889

351.141, 351.16, 718.09, 718.10, 731.14, 731.141, 742.59, 901.43, 86890
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5743.08, 5743.10, 5743.111, 5743.112, 5743.14, 5743.15, 5743.16, 86981
5743.18, 5743.19, 5743.20, 5743.32, 5743.33, 5747.01, 5747.012, 86982
5747.02, 5747.05, 5747.08, 5747.113, 5747.212, 5747.331, 5747.70, 86983
5747.80, 5747.98, 5748.01, 5748.02, 5748.03, 5748.04, 5748.08, 86984
5749.02, 5907.15, 5919.33, 5920.01, 6109.21, 6121.04, and 6123.04 86985

of the Revised Code are hereby repealed. Existing Section 41.36 of 86986
Am. Sub. H.B. 95 of the 125th General Assembly is hereby repealed. 86987

Section 105.01. That sections 181.53, 339.77, 742.36, 86988
1541.221, 3301.31, 3301.33, 3301.34, 3301.35, 3301.36, 3301.37, 86989
3301.38, 3301.80, 3301.85, 3301.87, 3311.40, 3314.15, 3317.012, 86990
3317.0212, 3317.0213, 3353.02, 3353.03, 3506.17, 3704.14, 86991
3704.142, 3704.17, 3721.511, 3901.41, 3901.781, 3901.782, 86992
3901.783, 3901.784, 4519.06, 4519.07, 5101.751, 5101.753, 86993
5101.754, 5111.041, 5111.205, 5111.24, 5111.262, 5111.34, 5115.10, 86994
5115.11, 5115.12, 5115.13, 5115.14, 5123.041, 5123.048, 5571.13, 86995
5731.20, and 5733.122 of the Revised Code are hereby repealed. 86996

Section 200.01. Except as otherwise provided, all 86997
appropriation items (AI) in this act are appropriated out of any 86998
moneys in the state treasury to the credit of the designated fund 86999
that are not otherwise appropriated. For all appropriations made 87000
in this act, the amounts in the first column are for fiscal year 87001
2006 and the amounts in the second column are for fiscal year 87002
2007. 87003

| | | | |
|--------|----------|----------------|-------|
| FND AI | AI TITLE | APPROPRIATIONS | 87004 |
|--------|----------|----------------|-------|

Section 203.03. ACC ACCOUNTANCY BOARD OF OHIO 87005

General Services Fund Group 87006

| | | | | | |
|---------------------------------|----|-----------|----|-----------|-------|
| 4J8 889-601 CPA Education | \$ | 209,510 | \$ | 209,510 | 87007 |
| Assistance | | | | | |
| 4K9 889-609 Operating Expenses | \$ | 1,069,776 | \$ | 1,069,776 | 87008 |
| TOTAL GSF General Services Fund | | | | | 87009 |
| Group | \$ | 1,279,286 | \$ | 1,279,286 | 87010 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 1,279,286 | \$ | 1,279,286 | 87011 |

Section 203.06. PAY ACCRUED LEAVE LIABILITY 87013

| | | | | | |
|------------------------------------|----|-------------|----|-------------|-------|
| Accrued Leave Liability Fund Group | | | | 87014 | |
| 806 995-666 Accrued Leave Fund | \$ | 68,846,630 | \$ | 77,950,372 | 87015 |
| 807 995-667 Disability Fund | \$ | 48,057,723 | \$ | 50,955,496 | 87016 |
| TOTAL ALF Accrued Leave Liability | | | | 87017 | |
| Fund Group | \$ | 116,904,353 | \$ | 128,905,868 | 87018 |
| Agency Fund Group | | | | 87019 | |
| 808 995-668 State Employee Health | \$ | 480,879,258 | \$ | 550,922,742 | 87020 |
| Benefit Fund | | | | | |
| 809 995-669 Dependent Care | \$ | 2,801,543 | \$ | 2,969,635 | 87021 |
| Spending Account | | | | | |
| 810 995-670 Life Insurance | \$ | 1,943,789 | \$ | 2,031,381 | 87022 |
| Investment Fund | | | | | |
| 811 995-671 Parental Leave Benefit | \$ | 4,040,434 | \$ | 4,282,860 | 87023 |
| Fund | | | | | |
| 813 995-672 Health Care Spending | \$ | 8,000,000 | \$ | 12,000,000 | 87024 |
| Account | | | | | |
| TOTAL AGY Agency Fund Group | \$ | 497,665,024 | \$ | 572,206,618 | 87025 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 614,569,377 | \$ | 701,112,486 | 87026 |

ACCRUED LEAVE LIABILITY FUND 87027

The foregoing appropriation item 995-666, Accrued Leave Fund, 87028
shall be used to make payments from the Accrued Leave Liability 87029
Fund (Fund 806), pursuant to section 125.211 of the Revised Code. 87030
If it is determined by the Director of Budget and Management that 87031
additional amounts are necessary, the amounts are appropriated. 87032

STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND 87033

The foregoing appropriation item 995-667, Disability Fund, 87034
shall be used to make payments from the State Employee Disability 87035
Leave Benefit Fund (Fund 807), pursuant to section 124.83 of the 87036
Revised Code. If it is determined by the Director of Budget and 87037
Management that additional amounts are necessary, the amounts are 87038
appropriated. 87039

STATE EMPLOYEE HEALTH BENEFIT FUND 87040

The foregoing appropriation item 995-668, State Employee 87041
Health Benefit Fund, shall be used to make payments from the State 87042
Employee Health Benefit Fund (Fund 808), pursuant to section 87043
124.87 of the Revised Code. If it is determined by the Director of 87044
Budget and Management that additional amounts are necessary, the 87045
amounts are appropriated. 87046

Effective July 1, 2005, or as soon thereafter as possible, 87047
the Director of Budget and Management may transfer up to \$70,000 87048
in cash from the General Revenue Fund to the State Employee Health 87049
Benefit Fund (Fund 808). The amount of the transfer shall not 87050
exceed the amount of cash transferred from the State Employee 87051
Health Benefit Fund to the Health Care Spending Account Fund (Fund 87052
813) during fiscal year 2005. 87053

DEPENDENT CARE SPENDING ACCOUNT 87054

The foregoing appropriation item 995-669, Dependent Care 87055
Spending Account, shall be used to make payments from the 87056
Dependent Care Spending Account (Fund 809) to employees eligible 87057
for dependent care expenses. If it is determined by the Director 87058
of Budget and Management that additional amounts are necessary, 87059
the amounts are appropriated. 87060

LIFE INSURANCE INVESTMENT FUND 87061

The foregoing appropriation item 995-670, Life Insurance 87062
Investment Fund, shall be used to make payments from the Life 87063
Insurance Investment Fund (Fund 810) for the costs and expenses of 87064
the state's life insurance benefit program pursuant to section 87065
125.212 of the Revised Code. If it is determined by the Director 87066
of Budget and Management that additional amounts are necessary, 87067
the amounts are appropriated. 87068

PARENTAL LEAVE BENEFIT FUND 87069

The foregoing appropriation item 995-671, Parental Leave Benefit Fund, shall be used to make payments from the Parental Leave Benefit Fund (Fund 811) to employees eligible for parental leave benefits pursuant to section 124.137 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

HEALTH CARE SPENDING ACCOUNT

There is hereby established in the State Treasury the Health Care Spending Account Fund (Fund 813). The foregoing appropriation item 995-672, Health Care Spending Account, shall be used to make payments from the fund. The fund shall be under the supervision of the Department of Administrative Services and shall be used to make payments pursuant to state employees' participation in a flexible spending account for non-reimbursed health care expenses and pursuant to Section 125 of the Internal Revenue Code. All income derived from the investment of the fund shall accrue to the fund. If it is determined by the Director of Administrative Services that additional appropriation amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management increase such amounts. Such amounts are hereby appropriated.

At the request of the Director of Administrative Services, the Director of Budget and Management shall transfer up to \$400,000 from the State Employee Health Benefit Fund (Fund 808) to the Health Care Spending Account Fund during fiscal years 2006 and 2007. This cash shall be transferred as needed to provide adequate cash flow for the Health Care Spending Account Fund during fiscal year 2006 and fiscal year 2007. At the end of fiscal years 2006 and 2007, the Director of Budget and Management shall transfer cash up to the amount previously transferred in the respective year back from the Health Care Spending Account (Fund 813) to the State Employee Health Benefit Fund (Fund 808). If funds are not

available in the Health Care Spending Account Fund, the Director 87102
of Administrative Services may request, and the Director of Budget 87103
and Management may transfer, the balance of the funds needed from 87104
the General Revenue Fund. 87105

Section 203.09. ADJ ADJUTANT GENERAL 87106

General Revenue Fund 87107

GRF 745-401 Ohio Military Reserve \$ 15,188 \$ 15,188 87108

GRF 745-404 Air National Guard \$ 1,939,762 \$ 1,939,762 87109

GRF 745-407 National Guard \$ 1,400,000 \$ 1,400,000 87110

Benefits

GRF 745-409 Central Administration \$ 3,949,590 \$ 3,949,590 87111

GRF 745-499 Army National Guard \$ 4,086,222 \$ 4,086,222 87112

GRF 745-502 Ohio National Guard \$ 102,973 \$ 102,973 87113

Unit Fund

TOTAL GRF General Revenue Fund \$ 11,493,735 \$ 11,493,735 87114

General Services Fund Group 87115

534 745-612 Armory Improvements \$ 534,304 \$ 534,304 87116

536 745-620 Camp Perry/Buckeye Inn \$ 1,094,970 \$ 1,094,970 87117

Operations

537 745-604 Ohio National Guard \$ 219,826 \$ 219,826 87118

Facility Maintenance

TOTAL GSF General Services Fund \$ 1,849,100 \$ 1,849,100 87119

Group

Federal Special Revenue Fund Group 87120

3E8 745-628 Air National Guard \$ 12,174,760 \$ 12,174,760 87121

Agreement

3R8 745-603 Counter Drug \$ 25,000 \$ 25,000 87122

Operations

341 745-615 Air National Guard \$ 2,424,740 \$ 2,424,740 87123

Base Security

342 745-616 Army National Guard \$ 8,686,893 \$ 8,686,893 87124

| | | | |
|--|----|------------|---------------------|
| Agreement | | | |
| TOTAL FED Federal Special Revenue | \$ | 23,311,393 | \$ 23,311,393 87125 |
| Fund Group | | | |
| State Special Revenue Fund Group | | | 87126 |
| 5U8 745-613 Community Match | \$ | 90,000 | \$ 91,800 87127 |
| Armories | | | |
| 528 745-605 Marksmanship | \$ | 126,078 | \$ 128,600 87128 |
| Activities | | | |
| TOTAL SSR State Special Revenue | \$ | 216,078 | \$ 220,400 87129 |
| Fund Group | | | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 36,870,306 | \$ 36,874,628 87130 |
| NATIONAL GUARD BENEFITS | | | 87131 |
| The foregoing appropriation item 745-407, National Guard | | | 87132 |
| Benefits, shall be used for purposes of sections 5919.31 and | | | 87133 |
| 5919.33 of the Revised Code, and for administrative costs of the | | | 87134 |
| associated programs. | | | 87135 |
| For active duty members of the Ohio National Guard who died | | | 87136 |
| after October 7, 2001, while performing active duty, the death | | | 87137 |
| benefit, pursuant to section 5919.33 of the Revised Code, shall be | | | 87138 |
| paid to the beneficiary or beneficiaries designated on the | | | 87139 |
| member's Servicemembers' Group Life Insurance Policy. | | | 87140 |
| STATE ACTIVE DUTY COSTS | | | 87141 |
| Of the foregoing appropriation item 745-409, Central | | | 87142 |
| Administration, \$50,000 in each fiscal year shall be used for the | | | 87143 |
| purpose of paying expenses related to state active duty of members | | | 87144 |
| of the Ohio organized militia, in accordance with a proclamation | | | 87145 |
| of the Governor. Expenses include, but are not limited to, the | | | 87146 |
| cost of equipment, supplies, and services, as determined by the | | | 87147 |
| Adjutant General's Department. | | | 87148 |
| Section 203.12. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES | | | 87149 |

| | | | | | |
|--|----|-------------|----|-------------|-------|
| General Revenue Fund | | | | 87150 | |
| GRF 100-403 Public School Employee Benefits | \$ | 1,200,000 | \$ | 1,500,000 | 87151 |
| GRF 100-404 CRP Procurement Program | \$ | 248,040 | \$ | 268,040 | 87152 |
| GRF 100-405 Agency Audit Expenses | \$ | 329,000 | \$ | 329,000 | 87153 |
| GRF 100-406 County & University Human Resources Services | \$ | 60,000 | \$ | 60,000 | 87154 |
| GRF 100-410 Veterans' Records Conversion | \$ | 69,000 | \$ | 48,600 | 87155 |
| GRF 100-418 Web Sites and Business Gateway | \$ | 3,275,280 | \$ | 3,275,280 | 87156 |
| GRF 100-419 IT Security Infrastructure | \$ | 1,636,247 | \$ | 1,636,247 | 87157 |
| GRF 100-421 OAKS Project Implementation | \$ | 484,000 | \$ | 410,839 | 87158 |
| GRF 100-433 State of Ohio Computer Center | \$ | 4,991,719 | \$ | 4,991,719 | 87159 |
| GRF 100-439 Equal Opportunity Certification Programs | \$ | 726,481 | \$ | 728,384 | 87160 |
| GRF 100-447 OBA - Building Rent Payments | \$ | 115,740,400 | \$ | 116,091,300 | 87161 |
| GRF 100-448 OBA - Building Operating Payments | \$ | 25,393,250 | \$ | 25,647,183 | 87162 |
| GRF 100-449 DAS - Building Operating Payments | \$ | 4,160,383 | \$ | 4,170,623 | 87163 |
| GRF 100-451 Minority Affairs | \$ | 47,000 | \$ | 47,000 | 87164 |
| GRF 100-734 Major Maintenance - State Bldgs | \$ | 50,000 | \$ | 50,000 | 87165 |
| GRF 102-321 Construction Compliance | \$ | 1,190,959 | \$ | 1,206,779 | 87166 |
| GRF 130-321 State Agency Support | \$ | 2,693,788 | \$ | 2,668,986 | 87167 |

| Services | | | | | |
|------------------------------------|----|-------------|----|-------------|-------|
| TOTAL GRF General Revenue Fund | \$ | 162,295,547 | \$ | 163,129,980 | 87168 |
| General Services Fund Group | | | | | 87169 |
| 112 100-616 DAS Administration | \$ | 5,221,393 | \$ | 5,299,427 | 87170 |
| 115 100-632 Central Service Agency | \$ | 466,517 | \$ | 485,178 | 87171 |
| 117 100-644 General Services | \$ | 6,834,247 | \$ | 7,245,772 | 87172 |
| Division - Operating | | | | | |
| 122 100-637 Fleet Management | \$ | 4,025,043 | \$ | 4,032,968 | 87173 |
| 125 100-622 Human Resources | \$ | 18,864,179 | \$ | 19,220,614 | 87174 |
| Division - Operating | | | | | |
| 127 100-627 Vehicle Liability | \$ | 3,344,644 | \$ | 3,344,644 | 87175 |
| Insurance | | | | | |
| 128 100-620 Collective Bargaining | \$ | 3,410,952 | \$ | 3,410,952 | 87176 |
| 130 100-606 Risk Management | \$ | 223,904 | \$ | 223,904 | 87177 |
| Reserve | | | | | |
| 131 100-639 State Architect's | \$ | 6,977,274 | \$ | 7,047,427 | 87178 |
| Office | | | | | |
| 132 100-631 DAS Building | \$ | 10,721,430 | \$ | 11,066,228 | 87179 |
| Management | | | | | |
| 133 100-607 IT Services Delivery | \$ | 81,418,432 | \$ | 80,345,564 | 87180 |
| 188 100-649 Equal Opportunity | \$ | 993,378 | \$ | 1,010,256 | 87181 |
| Division - Operating | | | | | |
| 201 100-653 General Services | \$ | 1,553,000 | \$ | 1,553,000 | 87182 |
| Resale Merchandise | | | | | |
| 210 100-612 State Printing | \$ | 5,931,421 | \$ | 5,931,421 | 87183 |
| 229 100-630 IT Governance | \$ | 18,531,812 | \$ | 17,601,712 | 87184 |
| 4N6 100-617 Major IT Purchases | \$ | 10,617,166 | \$ | 10,617,166 | 87185 |
| 4P3 100-603 DAS Information | \$ | 5,902,099 | \$ | 6,117,004 | 87186 |
| Services | | | | | |
| 427 100-602 Investment Recovery | \$ | 5,580,208 | \$ | 5,683,564 | 87187 |
| 5C2 100-605 MARCS Administration | \$ | 9,268,178 | \$ | 9,268,178 | 87188 |
| 5C3 100-608 Skilled Trades | \$ | 1,406,278 | \$ | 1,434,982 | 87189 |
| 5D7 100-621 Workforce Development | \$ | 12,000,000 | \$ | 12,000,000 | 87190 |

| | | | | | |
|---|----|---------------|----|---------------|-------|
| 5L7 100-610 Professional | \$ | 2,700,000 | \$ | 2,700,000 | 87191 |
| Development | | | | | |
| 5V6 100-619 Employee Educational | \$ | 936,129 | \$ | 936,129 | 87192 |
| Development | | | | | |
| TOTAL GSF General Services Fund | | | | | 87193 |
| Group | \$ | 216,927,684 | \$ | 216,576,090 | 87194 |
| Federal Special Revenue Fund Group | | | | | 87195 |
| 3AJ 100-623 Information Technology | \$ | 82,048 | \$ | 82,048 | 87196 |
| Grants | | | | | |
| TOTAL FSR Federal Special Revenue | \$ | 82,048 | \$ | 82,048 | 87197 |
| Fund Group | | | | | |
| Agency Fund Group | | | | | 87198 |
| 124 100-629 Payroll Deductions | \$ | 2,050,000,000 | \$ | 2,050,000,000 | 87199 |
| TOTAL AGY Agency Fund Group | \$ | 2,050,000,000 | \$ | 2,050,000,000 | 87200 |
| Holding Account Redistribution Fund Group | | | | | 87201 |
| R08 100-646 General Services | \$ | 20,000 | \$ | 20,000 | 87202 |
| Refunds | | | | | |
| TOTAL 090 Holding Account | | | | | 87203 |
| Redistribution Fund Group | \$ | 20,000 | \$ | 20,000 | 87204 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 2,429,325,279 | \$ | 2,429,808,118 | 87205 |

Section 203.12.01. TRANSFERS OF STATE USE PROGRAM FROM THE 87207
DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES 87208

Effective July 1, 2005, or the earliest date thereafter 87209
permitted by law, the State Committee for the Purchase of Products 87210
and Services Provided by Persons with Severe Disabilities created 87211
by sections 4115.31 to 4115.35 of the Revised Code is part of the 87212
Department of Administrative Services. The committee's functions, 87213
assets, and liabilities, including, but not limited to, records 87214
regardless of form or medium, are transferred to the Department of 87215
Administrative Services. The Department of Administrative Services 87216
is thereupon and thereafter successor to, assumes the obligations 87217

of, and otherwise constitutes the continuation of the State 87218
Committee for the Purchase of Products and Services Provided by 87219
Persons with Severe Disabilities. The functions of the Executive 87220
Director of the committee are thereupon and thereafter transferred 87221
to the Department of Administrative Services. 87222

Any business commenced but not completed by the committee on 87223
June 30, 2005, shall be completed by the Department of 87224
Administrative Services, in the same manner, and with the same 87225
effect, as if completed by the committee. No validation, cure, 87226
right, privilege, remedy, obligation, or liability is lost or 87227
impaired by reason of the transfer required under this section and 87228
shall be administered by the Department of Administrative 87229
Services. All of the committee's rules, orders, and determinations 87230
continue in effect as rules, orders, and determinations of the 87231
Department of Administrative Services, until modified or rescinded 87232
by the Department of Administrative Services. If necessary to 87233
ensure the integrity of the Administrative Code numbering system, 87234
the Director of the Legislative Service Commission shall renumber 87235
the committee's rules to reflect their transfer to the Department 87236
of Administrative Services. 87237

Employees of the Department of Mental Retardation and 87238
Developmental Disabilities designated as staff for the committee 87239
shall be transferred to the Department of Administrative Services 87240
as necessary. Subject to lay-off provisions of sections 124.321 to 87241
124.328 of the Revised Code, as well as provisions of the contract 87242
between the state and all bargaining units affected, those 87243
employees so transferred to the Department of Administrative 87244
Services retain their positions and all benefits accruing thereto. 87245

No judicial or administrative action or proceeding to which 87246
the committee is a party that is pending on July 1, 2005, is 87247
affected by the transfer of functions. Such action or proceeding 87248
shall be prosecuted or defended in the name of the Director of the 87249

Department of Administrative Services. On application to the court 87250
or other tribunal, the Director of Administrative Services shall 87251
be substituted for the Director of Mental Retardation and 87252
Developmental Disabilities as a party to such action or 87253
proceeding. 87254

On and after July 1, 2005, notwithstanding any provision of 87255
law to the contrary, the Director of Budget and Management shall 87256
take the actions with respect to budget changes made necessary by 87257
the transfer, including administrative reorganization, program 87258
transfers, the creation of new funds, and the consolidation of 87259
funds as authorized by this section. The Director may cancel 87260
encumbrances and re-establish encumbrances or parts of 87261
encumbrances as needed in fiscal year 2006 in the appropriate fund 87262
and appropriation item for the same purpose and to the same 87263
vendor. The Director, as determined necessary, may re-establish 87264
such encumbrances in fiscal year 2006 in a different fund or 87265
appropriation item within an agency or between agencies. The 87266
re-established encumbrances are here by appropriated. The Director 87267
shall reduce each year's appropriation balances by the amount of 87268
the encumbrance canceled in their respective funds and 87269
appropriation item. 87270

Not later than sixty days after the transfer of the committee 87271
to the Department of Administrative Services, the Director of 87272
Mental Retardation and Developmental Disabilities shall certify to 87273
the Director of Budget and Management the amount of any unexpended 87274
balance of General Revenue Fund appropriations made to GRF 87275
appropriation item 322-405, State Use Program. Upon receipt of the 87276
certification, the Director of Budget and Management shall 87277
transfer the appropriations from GRF appropriation item 322-405, 87278
State Use Program, to GRF appropriation item 100-404, CRP 87279
Procurement Program. 87280

Section 203.12.02. PUBLIC SCHOOL EMPLOYEE BENEFITS 87281

The foregoing appropriation item 100-403, Public School 87282
Employee Benefits, shall be used by the Director of Administrative 87283
Services to hire an executive director and an assistant 87284
responsible for providing administrative support to the School 87285
Employee Health Care Board and the public school employee health 87286
insurance program established under section 9.901 of the Revised 87287
Code. 87288

At any time during the biennium, when the Director of 87289
Administrative Services certifies that there is a sufficient 87290
reserve available from premium payments made to the School 87291
Employees Health Care Fund (Fund 815), the Director of Budget and 87292
Management shall transfer \$2,700,000 from the School Employees 87293
Health Care Fund to the General Revenue Fund. 87294

Section 203.12.03. AGENCY AUDIT EXPENSES 87295

The foregoing appropriation item 100-405, Agency Audit 87296
Expenses, shall be used for auditing expenses designated in 87297
division (A)(1) of section 117.13 of the Revised Code for those 87298
state agencies audited on a biennial basis. 87299

Section 203.12.06. OHIO BUILDING AUTHORITY 87300

The foregoing appropriation item 100-447, OBA - Building Rent 87301
Payments, shall be used to meet all payments at the times they are 87302
required to be made during the period from July 1, 2005, to June 87303
30, 2007, by the Department of Administrative Services to the Ohio 87304
Building Authority pursuant to leases and agreements under Chapter 87305
152. of the Revised Code, but limited to the aggregate amount of 87306
\$231,831,700. These appropriations are the source of funds pledged 87307
for bond service charges on obligations issued pursuant to Chapter 87308
152. of the Revised Code. 87309

The foregoing appropriation item 100-448, OBA - Building
Operating Payments, shall be used to meet all payments at the
times that they are required to be made during the period from
July 1, 2005, to June 30, 2007, by the Department of
Administrative Services to the Ohio Building Authority pursuant to
leases and agreements under Chapter 152. of the Revised Code, but
limited to the aggregate amount of \$51,040,433.

The payments to the Ohio Building Authority are for the
purpose of paying the expenses of agencies that occupy space in
the various state facilities. The Department of Administrative
Services may enter into leases and agreements with the Ohio
Building Authority providing for the payment of these expenses.
The Ohio Building Authority shall report to the Department of
Administrative Services and the Office of Budget and Management
not later than five months after the start of a fiscal year the
actual expenses incurred by the Ohio Building Authority in
operating the facilities and any balances remaining from payments
and rentals received in the prior fiscal year. The Department of
Administrative Services shall reduce subsequent payments by the
amount of the balance reported to it by the Ohio Building
Authority.

Section 203.12.09. DAS - BUILDING OPERATING PAYMENTS

The foregoing appropriation item 100-449, DAS - Building
Operating Payments, shall be used to pay the rent expenses of
veterans organizations pursuant to section 123.024 of the Revised
Code in fiscal years 2006 and 2007.

The foregoing appropriation item, 100-449, DAS - Building
Operating Payments, may be used to provide funding for the cost of
property appraisals or building studies that the Department of
Administrative Services may be required to obtain for property
that is being sold by the state or property under consideration to

be renovated or purchased by the state. 87341

Notwithstanding section 125.28 of the Revised Code, the 87342
remaining portion of the appropriation may be used to pay the 87343
operating expenses of state facilities maintained by the 87344
Department of Administrative Services that are not billed to 87345
building tenants. These expenses may include, but are not limited 87346
to, the costs for vacant space and space undergoing renovation, 87347
and the rent expenses of tenants that are relocated due to 87348
building renovations. These payments shall be processed by the 87349
Department of Administrative Services through intrastate transfer 87350
vouchers and placed in the Building Management Fund (Fund 132). 87351

Section 203.12.12. CENTRAL SERVICE AGENCY FUND 87352

The Director of Budget and Management may transfer up to 87353
\$363,851 in fiscal year 2006 from the Occupational Licensing and 87354
Regulatory Fund (Fund 4K9) to the Central Service Agency Fund 87355
(Fund 115). The Director of Budget and Management may transfer up 87356
to \$45,184 in fiscal year 2006 from the State Medical Board 87357
Operating Fund (Fund 5C6) to the Central Service Agency Fund (Fund 87358
115). The Director of Budget and Management may transfer up to 87359
\$625 in fiscal year 2006 from the Motor Vehicle Collision Repair 87360
Registration Fund (Fund 5H9) to the Central Service Agency Fund 87361
(Fund 115). The appropriation item 100-632, Central Service 87362
Agency, shall be used to purchase the necessary equipment, 87363
products, and services to maintain an automated application for 87364
the professional licensing boards, and to support their licensing 87365
functions in fiscal year 2006. The amount of the cash transfers is 87366
appropriated to appropriation item 100-632, Central Service 87367
Agency. 87368

Section 203.12.15. COLLECTIVE BARGAINING ARBITRATION EXPENSES 87369

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With approval of the Director of Budget and Management, the Department of Administrative Services may seek reimbursement from state agencies for the actual costs and expenses the department incurs in the collective bargaining arbitration process. The reimbursements shall be processed through intrastate transfer vouchers and placed in the Collective Bargaining Fund (Fund 128).

Section 203.12.18. OFFICE OF INFORMATION TECHNOLOGY

The foregoing appropriation item 100-607, IT Service Delivery, shall be used by the Office of Information Technology to carry out its responsibilities under section 125.18 of the Revised Code. The foregoing appropriation item 100-630, IT Governance, shall be used by the Office of Information Technology to carry out its responsibilities under section 125.18 of the Revised Code.

As soon as possible on or after July 1, 2005, the Director of Administrative Services shall certify to the Director of Budget and Management the amount of cash up to \$5,000,000 to be transferred from the IT Service Delivery Fund (Fund 133) to the IT Governance Fund (Fund 229). This amount represents a portion of the cash balance in the IT Service Delivery Fund attributable to IT Governance programs. The Director of Budget and Management shall transfer the certified amount.

After final payments are made from fiscal year 2005 encumbrances in the IT Service Delivery Fund (Fund 133), the Department of Administrative Services shall reconcile fiscal year 2005 financial activity in the IT Service Delivery Fund and determine the amount of the fund cash balance due to the IT Governance Fund (Fund 229). The reconciliation shall be done in accordance with federal cost accounting regulations. Not later than June 30, 2006, the Director of Administrative Services shall make a determination of any additional transfers of cash necessary for reconciliation purposes. Upon concurrence with this

determination, the Director of Budget and Management may transfer 87402
such cash between the IT Service Delivery Fund and the IT 87403
Governance Fund. 87404

Section 203.12.21. EQUAL OPPORTUNITY PROGRAM 87405

The Department of Administrative Services, with the approval 87406
of the Director of Budget and Management, shall establish charges 87407
for recovering the costs of administering the activities supported 87408
by the State EEO Fund (Fund 188). These charges shall be deposited 87409
to the credit of the State EEO Fund (Fund 188) upon payment made 87410
by state agencies, state-supported or state-assisted institutions 87411
of higher education, and tax-supported agencies, municipal 87412
corporations, and other political subdivisions of the state, for 87413
services rendered. 87414

Section 203.12.24. MERCHANDISE FOR RESALE 87415

The foregoing appropriation item 100-653, General Services 87416
Resale Merchandise, shall be used to account for merchandise for 87417
resale, which is administered by the General Services Division. 87418
Deposits to the fund may comprise the cost of merchandise for 87419
resale and shipping fees. 87420

Section 203.12.27. DAS INFORMATION SERVICES 87421

There is hereby established in the State Treasury the DAS 87422
Information Services Fund. The foregoing appropriation item 87423
100-603, DAS Information Services, shall be used to pay the costs 87424
of providing information systems and services in the Department of 87425
Administrative Services. 87426

The Department of Administrative Services shall establish 87427
user charges for all information systems and services that are 87428
allowable in the statewide indirect cost allocation plan submitted 87429
annually to the United States Department of Health and Human 87430

Services. These charges shall comply with federal regulations and 87431
shall be deposited to the credit of the DAS Information Services 87432
Fund (Fund 4P3). 87433

Section 203.12.30. INVESTMENT RECOVERY FUND 87434

Notwithstanding division (B) of section 125.14 of the Revised 87435
Code, cash balances in the Investment Recovery Fund (Fund 427) may 87436
be used to support the operating expenses of the Federal Surplus 87437
Operating Program created in sections 125.84 to 125.90 of the 87438
Revised Code. 87439

Notwithstanding division (B) of section 125.14 of the Revised 87440
Code, cash balances in the Investment Recovery Fund may be used to 87441
support the operating expenses of the State Property Inventory and 87442
Fixed Assets Management System Program. 87443

Of the foregoing appropriation item 100-602, Investment 87444
Recovery, up to \$2,147,024 in fiscal year 2006 and up to 87445
\$2,205,594 in fiscal year 2007 shall be used to pay the operating 87446
expenses of the State Surplus Property Program, the Surplus 87447
Federal Property Program, and the State Property Inventory and 87448
Fixed Assets Management System Program under Chapter 125. of the 87449
Revised Code and this section. If additional appropriations are 87450
necessary for the operations of these programs, the Director of 87451
Administrative Services shall seek increased appropriations from 87452
the Controlling Board under section 131.35 of the Revised Code. 87453

Of the foregoing appropriation item 100-602, Investment 87454
Recovery, \$3,433,184 in fiscal year 2006 and \$3,477,970 in fiscal 87455
year 2007 shall be used to transfer proceeds from the sale of 87456
surplus property from the Investment Recovery Fund to non-General 87457
Revenue Funds under division (A)(2) of section 125.14 of the 87458
Revised Code. If it is determined by the Director of 87459
Administrative Services that additional appropriations are 87460
necessary for the transfer of such sale proceeds, the Director of 87461

Administrative Services may request the Director of Budget and Management to increase the amounts. Such amounts are hereby appropriated. 87462
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Notwithstanding division (B) of section 125.14 of the Revised Code, the Director of Budget and Management, at the request of the Director of Administrative Services, shall transfer up to \$500,000 of the amounts held for transfer to the General Revenue Fund from the Investment Recovery Fund to the State Architect's Fund (Fund 131) to provide operating cash. 87465
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Section 203.12.33. MULTI-AGENCY RADIO COMMUNICATIONS SYSTEM 87471

Effective with the implementation of the Multi-Agency Radio Communications System, the Director of Administrative Services shall collect user fees from participants in the system. The Director of Administrative Services, with the advice of the Multi-Agency Radio Communications System Steering Committee and the Director of Budget and Management, shall determine the amount of the fees and the manner by which the fees shall be collected. Such user charges shall comply with the applicable cost principles issued by the federal Office of Management and Budget. All moneys from user charges and fees shall be deposited in the state treasury to the credit of the Multi-Agency Radio Communications System Administration Fund (Fund 5C2), which is hereby established in the state treasury. All interest income derived from the investment of the fund shall accrue to the fund. 87472
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Section 203.12.36. WORKFORCE DEVELOPMENT FUND 87486

There is hereby established in the state treasury the Workforce Development Fund (Fund 5D7). The foregoing appropriation item 100-621, Workforce Development, shall be used to make payments from the fund. The fund shall be under the supervision of the Department of Administrative Services, which may adopt rules 87487
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with regard to administration of the fund. The fund shall be used 87492
to pay the costs of the Workforce Development Program, established 87493
by Article 37 of the contract between the State of Ohio and 87494
OCSEA/AFSCME, Local 11, effective March 1, 2003, and as modified 87495
by any successor labor contract between the State of Ohio and 87496
OCSEA/AFSCME. The program shall be administered in accordance with 87497
the contract. Revenues shall accrue to the fund as specified in 87498
the contract. The fund may be used to pay direct and indirect 87499
costs of the program that are attributable to staff, consultants, 87500
and service providers. All income derived from the investment of 87501
the fund shall accrue to the fund. 87502

If it is determined by the Director of Administrative 87503
Services that additional appropriation amounts are necessary, the 87504
Director of Administrative Services may request that the Director 87505
of Budget and Management increase such amounts. Such amounts are 87506
hereby appropriated. 87507

Section 203.12.39. PROFESSIONAL DEVELOPMENT FUND 87508

The foregoing appropriation item 100-610, Professional 87509
Development, shall be used to make payments from the Professional 87510
Development Fund (Fund 5L7) under section 124.182 of the Revised 87511
Code. 87512

Section 203.12.42. EMPLOYEE EDUCATIONAL DEVELOPMENT 87513

There is hereby established in the state treasury the 87514
Employee Educational Development Fund (Fund 5V6). The foregoing 87515
appropriation item 100-619, Employee Educational Development, 87516
shall be used to make payments from the fund. The fund shall be 87517
used to pay the costs of the administration of educational 87518
programs per existing collective bargaining agreements with 87519
District 1199, the Health Care and Social Service Union; State 87520
Council of Professional Educators; Ohio Education Association and 87521

National Education Association; the Fraternal Order of Police Ohio 87522
Labor Council, Unit 2; and the Ohio State Troopers Association, 87523
Units 1 and 15. The fund shall be under the supervision of the 87524
Department of Administrative Services, which may adopt rules with 87525
regard to administration of the fund. The fund shall be 87526
administered in accordance with the applicable sections of the 87527
collective bargaining agreements between the State and the 87528
aforementioned unions. The Department of Administrative Services, 87529
with the approval of the Director of Budget and Management, shall 87530
establish charges for recovering the costs of administering the 87531
educational programs. Receipts for these charges shall be 87532
deposited into the Employee Educational Development Fund. All 87533
income derived from the investment of the funds shall accrue to 87534
the fund. 87535

If it is determined by the Director of Administrative 87536
Services that additional appropriation amounts are necessary, the 87537
Director of Administrative Services may request that the Director 87538
of Budget and Management increase such amounts. Such amounts are 87539
hereby appropriated with the approval of the Director of Budget 87540
and Management. 87541

Section 203.12.45. MAJOR IT PURCHASES 87542

The Director of Administrative Services shall compute the 87543
amount of revenue attributable to the amortization of all 87544
equipment purchases and capitalized systems from appropriation 87545
item 100-607, IT Service Delivery; appropriation item 100-617, 87546
Major IT Purchases; and appropriation item CAP-837, Major IT 87547
Purchases, which is recovered by the Department of Administrative 87548
Services as part of the rates charged by the IT Service Delivery 87549
Fund (Fund 133) created in section 125.15 of the Revised Code. The 87550
Director of Budget and Management may transfer cash in an amount 87551
not to exceed the amount of amortization computed from the IT 87552

Service Delivery Fund (Fund 133) to the Major IT Purchases Fund 87553
(Fund 4N6). 87554

Section 203.12.48. INFORMATION TECHNOLOGY ASSESSMENT 87555

The Director of Administrative Services, with the approval of 87556
the Director of Budget and Management, may establish an 87557
information technology assessment for the purpose of recovering 87558
the cost of selected infrastructure and statewide programs. Such 87559
assessment shall comply with applicable cost principles issued by 87560
the federal Office of Management and Budget. The information 87561
technology assessment shall be charged to all organized bodies, 87562
offices, or agencies established by the laws of the state for the 87563
exercise of any function of state government except for the 87564
General Assembly, any legislative agency, the Supreme Court, the 87565
other courts of record in Ohio, or any judicial agency, the 87566
Adjutant General, the Bureau of Workers' Compensation, and 87567
institutions administered by a board of trustees. Any state-entity 87568
exempted by this section may utilize the infrastructure or 87569
statewide program by participating in the information technology 87570
assessment. All charges for the information technology assessment 87571
shall be deposited to the credit of the IT Service Delivery Fund 87572
(Fund 133) created in section 125.15 of the Revised Code. 87573

Section 203.12.51. UNEMPLOYMENT COMPENSATION FUND 87574

Within thirty days after the effective date of this section, 87575
or as soon as possible thereafter, the Director of Administrative 87576
Services shall certify the remaining cash in the Unemployment 87577
Compensation Fund (Fund 113) to the Director of Budget and 87578
Management who shall transfer that amount to the General Revenue 87579
Fund and abolish the Unemployment Compensation Fund (Fund 113). 87580

Section 203.12.54. PAYROLL WITHHOLDING FUND 87581

The foregoing appropriation item 100-629, Payroll Deductions, 87582
shall be used to make payments from the Payroll Withholding Fund 87583
(Fund 124). If it is determined by the Director of Budget and 87584
Management that additional appropriation amounts are necessary, 87585
such amounts are hereby appropriated. 87586

Section 203.12.57. GENERAL SERVICES REFUNDS 87587

The foregoing appropriation item 100-646, General Services 87588
Refunds, shall be used to hold bid guarantee and building plans 87589
and specifications deposits until they are refunded. The Director 87590
of Administrative Services may request that the Director of Budget 87591
and Management transfer cash received for the costs of providing 87592
the building plans and specifications to contractors from the 87593
General Services Refunds Fund to the State Architect's Office Fund 87594
(Fund 131). Prior to the transfer of cash, the Director of 87595
Administrative Services shall certify that such amounts are in 87596
excess of amounts required for refunding deposits and are directly 87597
related to costs of producing building plans and specifications. 87598
If it is determined that additional appropriations are necessary, 87599
such amounts are hereby appropriated. 87600

Section 203.12.60. MULTI-AGENCY RADIO COMMUNICATION SYSTEM 87601
DEBT SERVICE PAYMENTS 87602

The Director of Administrative Services, in consultation with 87603
the Multi-Agency Radio Communication System (MARCS) Steering 87604
Committee and the Director of Budget and Management, shall 87605
determine the share of debt service payments attributable to 87606
spending for MARCS components that are not specific to any one 87607
agency and that shall be charged to agencies supported by the 87608
motor fuel tax. Such share of debt service payments shall be 87609
calculated for MARCS capital disbursements made beginning July 1, 87610
1997. Within thirty days of any payment made from appropriation 87611

item 100-447, OBA - Building Rent Payments, the Director of 87612
Administrative Services shall certify to the Director of Budget 87613
and Management the amount of this share. The Director of Budget 87614
and Management shall transfer such amounts to the General Revenue 87615
Fund from the State Highway Safety Fund (Fund 036) established in 87616
section 4501.06 of the Revised Code. 87617

The Director of Administrative Services shall consider 87618
renting or leasing existing tower sites at reasonable or current 87619
market rates, so long as these existing sites are equipped with 87620
the technical capabilities to support the MARCS project. 87621

Section 203.12.63. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY 87622

Whenever the Director of Administrative Services declares a 87623
"public exigency," as provided in division (C) of section 123.15 87624
of the Revised Code, the Director shall also notify the members of 87625
the Controlling Board. 87626

Section 203.12.66. GENERAL SERVICE CHARGES 87627

The Department of Administrative Services, with the approval 87628
of the Director of Budget and Management, shall establish charges 87629
for recovering the costs of administering the programs in the 87630
General Services Fund (Fund 117) and the State Printing Fund (Fund 87631
210). 87632

Section 203.15. AAM COMMISSION ON AFRICAN AMERICAN MALES 87633

General Revenue Fund 87634

| | | | | | | |
|-------------|-------------------|----|---------|----|---------|-------|
| GRF 036-100 | Personal Services | \$ | 220,091 | \$ | 220,091 | 87635 |
|-------------|-------------------|----|---------|----|---------|-------|

| | | | | | | |
|-------------|-------------|----|--------|----|--------|-------|
| GRF 036-200 | Maintenance | \$ | 39,909 | \$ | 39,909 | 87636 |
|-------------|-------------|----|--------|----|--------|-------|

| | | | | | | |
|-------------|-----------|----|-------|----|-------|-------|
| GRF 036-300 | Equipment | \$ | 1,000 | \$ | 1,000 | 87637 |
|-------------|-----------|----|-------|----|-------|-------|

| | | | | | | |
|-------------|-----------------|----|-------|----|-------|-------|
| GRF 036-501 | CAAM Awards and | \$ | 1,000 | \$ | 1,000 | 87638 |
|-------------|-----------------|----|-------|----|-------|-------|

Scholarships

| | | | | | | |
|-------------|--------------------|----|--------|----|--------|-------|
| GRF 036-502 | Community Projects | \$ | 20,000 | \$ | 20,000 | 87639 |
|-------------|--------------------|----|--------|----|--------|-------|

| | | | | | |
|---|----|---------|----|---------|---|
| TOTAL GRF General Revenue Fund | \$ | 282,000 | \$ | 282,000 | 87640 |
| State Special Revenue Fund Group | | | | | 87641 |
| 4H3 036-601 Commission on African American Males - Gifts/Grants | \$ | 10,000 | \$ | 10,000 | 87642 |
| TOTAL SSR State Special Revenue Fund Group | \$ | 10,000 | \$ | 10,000 | 87643 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 292,000 | \$ | 292,000 | 87644 |
| COMMISSION ON AFRICAN AMERICAN MALES PROGRESS REVIEW | | | | | 87645 |
| Annually, not later than the thirty-first day of December, the Commission on African American Males shall internally prepare and submit to the chairperson and ranking minority member of the Human Services Subcommittee of the Finance and Appropriations Committee of the House of Representatives a report that demonstrates the progress that has been made toward meeting the Commission's mission statement. | | | | | 87646 87647 87648 87649 87650 87651 87652 |
| Section 203.18. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW | | | | | 87653 |
| General Revenue Fund | | | | | 87654 |
| GRF 029-321 Operating Expenses | \$ | 379,769 | \$ | 387,364 | 87655 |
| TOTAL GRF General Revenue Fund | \$ | 379,769 | \$ | 387,364 | 87656 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 379,769 | \$ | 387,364 | 87657 |
| OPERATING | | | | | 87658 |
| The Chief Administrative Officer of the House of Representatives and the Clerk of the Senate shall determine, by mutual agreement, which of them shall act as fiscal agent for the Joint Committee on Agency Rule Review. | | | | | 87659 87660 87661 87662 |
| OPERATING EXPENSES | | | | | 87663 |
| The unencumbered balance of appropriation item 029-321, Operating Expenses, at the end of fiscal year 2006 shall be transferred to fiscal year 2007 for use under the same | | | | | 87664 87665 87666 |

| | | | | |
|--|------------------------|----------------|----------------|-------|
| appropriation item. | | | | 87667 |
| Section 203.21. AGE DEPARTMENT OF AGING | | | | 87668 |
| General Revenue Fund | | | | 87669 |
| GRF 490-321 | Operating Expenses | \$ 2,579,867 | \$ 2,308,867 | 87670 |
| GRF 490-403 | PASSPORT | \$ 112,045,715 | \$ 121,009,372 | 87671 |
| GRF 490-405 | Golden Buckeye Card | \$ 467,614 | \$ 467,614 | 87672 |
| GRF 490-406 | Senior Olympics | \$ 15,638 | \$ 15,638 | 87673 |
| GRF 490-409 | Ohio Community Service | \$ 203,647 | \$ 193,465 | 87674 |
| Council Operations | | | | |
| GRF 490-410 | Long-Term Care | \$ 689,437 | \$ 689,437 | 87675 |
| Ombudsman | | | | |
| GRF 490-411 | Senior Community | \$ 10,630,988 | \$ 10,630,988 | 87676 |
| Services | | | | |
| GRF 490-412 | Residential State | \$ 9,156,771 | \$ 9,156,771 | 87677 |
| Supplement | | | | |
| GRF 490-414 | Alzheimers Respite | \$ 4,085,888 | \$ 4,085,888 | 87678 |
| GRF 490-416 | JCFS Elderly | \$ 100,000 | \$ 100,000 | 87679 |
| Transportation | | | | |
| GRF 490-421 | PACE | \$ 11,354,145 | \$ 10,214,809 | 87680 |
| GRF 490-422 | Assisted Living Waiver | \$ 0 | \$ 359,919 | 87681 |
| GRF 490-506 | National Senior | \$ 352,943 | \$ 352,943 | 87682 |
| Service Corps | | | | |
| TOTAL GRF | General Revenue Fund | \$ 151,682,653 | \$ 159,585,711 | 87683 |
| General Services Fund Group | | | | 87684 |
| 480 490-606 | Senior Community | \$ 372,677 | \$ 372,677 | 87685 |
| Outreach and Education | | | | |
| TOTAL GSF | General Services Fund | | | 87686 |
| Group | | \$ 372,677 | \$ 372,677 | 87687 |
| Federal Special Revenue Fund Group | | | | 87688 |
| 3C4 490-607 | PASSPORT | \$ 198,683,143 | \$ 218,196,387 | 87689 |
| 3C4 490-621 | PACE-Federal | \$ 10,854,083 | \$ 14,586,135 | 87690 |

| | | | | | | | |
|--|---------|---|----|-------------|----|-------------|-------|
| 3C4 | 490-622 | Assisted Living-Federal | \$ | 0 | \$ | 5,687,374 | 87691 |
| 3M3 | 490-611 | Federal Aging Nutrition | \$ | 27,622,693 | \$ | 28,037,034 | 87692 |
| 3M4 | 490-612 | Federal Independence Services | \$ | 27,907,287 | \$ | 28,325,896 | 87693 |
| 3R7 | 490-617 | Ohio Community Service Council Programs | \$ | 9,170,000 | \$ | 9,170,000 | 87694 |
| 322 | 490-618 | Federal Aging Grants | \$ | 14,834,354 | \$ | 15,014,494 | 87695 |
| TOTAL FED Federal Special Revenue Fund Group | | | | | | | 87696 |
| | | | \$ | 289,071,560 | \$ | 319,017,320 | 87697 |
| State Special Revenue Fund Group | | | | | | | 87698 |
| 4C4 | 490-609 | Regional Long-Term Care Ombudsman Program | \$ | 910,000 | \$ | 935,000 | 87699 |
| 4J4 | 490-610 | PASSPORT/Residential State Supplement | \$ | 33,263,984 | \$ | 33,263,984 | 87700 |
| 4U9 | 490-602 | PASSPORT Fund | \$ | 4,424,969 | \$ | 4,424,969 | 87701 |
| 5BA | 490-620 | Ombudsman Support | \$ | 615,000 | \$ | 0 | 87702 |
| 5CE | 490-624 | Special Projects | \$ | 350,000 | \$ | 0 | 87703 |
| 5K9 | 490-613 | Long Term Care Consumers Guide | \$ | 298,400 | \$ | 820,400 | 87704 |
| 5W1 | 490-616 | Resident Services Coordinator Program | \$ | 262,500 | \$ | 262,500 | 87705 |
| 624 | 490-604 | OCSC Community Support | \$ | 2,500 | \$ | 2,500 | 87706 |
| TOTAL SSR State Special Revenue Fund Group | | | | | | | 87707 |
| | | | \$ | 40,127,353 | \$ | 39,709,353 | 87708 |
| TOTAL ALL BUDGET FUND GROUPS | | | | | | | 87709 |
| | | | \$ | 481,254,243 | \$ | 518,685,061 | |

Section 203.21.03. PRE-ADMISSION REVIEW FOR NURSING FACILITY 87711
ADMISSION 87712

Pursuant to an interagency agreement, the Department of Job and Family Services shall designate the Department of Aging to perform assessments under sections 173.42 and 5111.204 of the 87713
87714
87715

Revised Code. Of the foregoing appropriation item 490-403, 87716
PASSPORT, the Department of Aging may use not more than \$2,586,648 87717
in fiscal year 2006 and \$2,651,315 in fiscal year 2007 to perform 87718
the assessments for persons not eligible for Medicaid under the 87719
department's interagency agreement with the Department of Job and 87720
Family Services and to assist individuals in planning for their 87721
long-term health care needs. 87722

Section 203.21.06. PASSPORT 87723

Of the foregoing appropriation item 490-607, PASSPORT, Fund 87724
3C4, up to \$200,000 in fiscal year 2006 shall be used for an 87725
evaluation of the PASSPORT Program. 87726

(A) There is hereby created the PASSPORT Evaluation Panel to 87727
oversee the performance of an evaluation of the PASSPORT Home and 87728
Community Based Waiver Program conducted by an independent 87729
contractor. The Panel shall be composed of the following members: 87730

(1) The Director of Aging or the Director's designee; 87731

(2) The Director of Job and Family Services or the Director's 87732
designee; 87733

(3) A representative of the Ohio Association of Area Agencies 87734
on Aging, appointed by the Association; 87735

(4) A representative of PASSPORT providers, appointed by the 87736
Director of Aging; 87737

(5) A representative of the Ohio Academy of Nursing Homes, 87738
appointed by the Academy; 87739

(6) A representative of the Ohio Health Care Association, 87740
appointed by the Association; 87741

(7) A representative of the Association for Ohio 87742
Philanthropic Homes and Housing for the Aging, appointed by the 87743
Association; 87744

(8) A representative of the American Association of Retired Persons, appointed by the Association; 87745
87746

(9) A representative of Scripps Gerontology Center at Miami University, appointed by the Center. 87747
87748

Panel members shall serve without compensation. The 87749
Department of Aging shall provide assistance to the PASSPORT 87750
Evaluation Panel, including support services and meeting space. 87751
The Panel shall convene not later than sixty days after the 87752
effective date of this section. 87753

(B) The Panel shall do all of the following: 87754

(1) Establish criteria to be used in selecting an independent 87755
contractor to evaluate the PASSPORT Program. The criteria shall 87756
specify that the independent contractor must not be affiliated 87757
with any state agency. 87758

(2) In accordance with the request for proposal process 87759
administered by the Department of Administrative Services, accept 87760
and evaluate bids from potential contractors; 87761

(3) Select to evaluate the PASSPORT Program an independent 87762
contractor that meets the criteria established by the Panel and 87763
the Department. 87764

(C) The independent contractor selected by the PASSPORT 87765
Evaluation Panel shall, in conducting the evaluation of the 87766
PASSPORT Program, do all of the following: 87767

(1) Examine the implementation by the existing PASSPORT 87768
system of the long-term care recommendations of the Ohio 87769
Commission to Reform Medicaid and coordinate the work of the 87770
PASSPORT evaluation with the Medicaid Transition Council and the 87771
Medicaid Care Management Work Group; 87772

(2) Evaluate the cost-effectiveness of services provided 87773
under the program; 87774

| | |
|---|---|
| (3) Evaluate the population served and the appropriateness of the program for that population; | 87775 87776 |
| (4) Evaluate program outcomes to determine the program's effectiveness in preventing nursing home admissions; | 87777 87778 |
| (5) Evaluate the effectiveness of area agencies on aging in efficiently linking older Ohioans to the appropriate level of assistance based on the screening and assessment activities of the PASSPORT system; | 87779 87780 87781 87782 |
| (6) Examine the cost effectiveness of increasing the care management responsibilities of area agencies on aging to include the management of the Medicaid state plan services; | 87783 87784 87785 |
| (7) Evaluate the effectiveness of client-to-case management ratios of area agencies on aging to assess whether clients receive quality outcomes in a cost-effective manner; | 87786 87787 87788 |
| (8) Evaluate and assess the effectiveness of the PASSPORT program's authority to provide interventions that increase enrollment and decrease disenrollment and increase flexibility to provide quality, timely service to clients with special service needs; | 87789 87790 87791 87792 87793 |
| (9) Evaluate the PASSPORT program's rate structure and contracting process to determine fair market rates and quality incentive indicators; | 87794 87795 87796 |
| (10) Evaluate the effectiveness of the PASSPORT program's current provider procurement process; | 87797 87798 |
| (11) Determine elements of the program that may be vulnerable to fraud; | 87799 87800 |
| (12) Any additional action requested by the PASSPORT Evaluation Panel. | 87801 87802 |
| The independent contractor shall issue to the Panel quarterly reports and, by not later than May 15, 2007, a final report, of | 87803 87804 |

its findings. By not later than June 30, 2007, the PASSPORT 87805
Evaluation Panel shall approve a final report. 87806

Appropriation item 490-403, PASSPORT, and the amounts set 87807
aside for the PASSPORT Waiver Program in appropriation item 87808
490-610, PASSPORT/Residential State Supplement, may be used to 87809
assess clients regardless of Medicaid eligibility. 87810

The Director of Aging shall adopt rules under section 111.15 87811
of the Revised Code governing the nonwaiver funded PASSPORT 87812
program, including client eligibility. 87813

The Department of Aging shall administer the Medicaid 87814
waiver-funded PASSPORT Home Care Program as delegated by the 87815
Department of Job and Family Services in an interagency agreement. 87816
The foregoing appropriation item 490-403, PASSPORT, and the 87817
amounts set aside for the PASSPORT Waiver Program in appropriation 87818
item 490-610, PASSPORT/Residential State Supplement, shall be used 87819
to provide the required state match for federal Medicaid funds 87820
supporting the Medicaid Waiver-funded PASSPORT Home Care Program. 87821
Appropriation item 490-403, PASSPORT, and the amounts set aside 87822
for the PASSPORT Waiver Program in appropriation item 490-610, 87823
PASSPORT/Residential State Supplement, may also be used to support 87824
the Department of Aging's administrative costs associated with 87825
operating the PASSPORT program. 87826

The foregoing appropriation item 490-607, PASSPORT, shall be 87827
used to provide the federal matching share for all PASSPORT 87828
program costs determined by the Department of Job and Family 87829
Services to be eligible for Medicaid reimbursement. 87830

OHIO COMMUNITY SERVICE COUNCIL 87831

The foregoing appropriation items 490-409, Ohio Community 87832
Service Council Operations, and 490-617, Ohio Community Service 87833
Council Programs, shall be used in accordance with section 121.40 87834
of the Revised Code. 87835

TRANSFER OF RESIDENT PROTECTION FUNDS 87836

The Director of Budget and Management shall transfer, by 87837
intrastate transfer voucher, in fiscal year 2006, \$615,000 from 87838
Fund 4E3, Resident Protection Fund, in the Department of Job and 87839
Family Services, to Fund 5BA in the Department of Aging, to be 87840
used for program management for the Office of the State Long-Term 87841
Care Ombudsman created by the Department of Aging under division 87842
(M) of section 173.01 of the Revised Code. 87843

The Director of Budget and Management shall transfer, by 87844
intrastate transfer voucher, in fiscal year 2006, \$350,000 from 87845
Fund 4E3, Resident Protection Fund, in the Department of Job and 87846
Family Services to Fund 5CE in the Department of Aging to be used 87847
by the Alzheimer's Association to develop a pilot training program 87848
on person-centered dementia care for long term care staff who 87849
interact with people with dementia. 87850

SENIOR COMMUNITY SERVICES 87851

Appropriation item 490-411, Senior Community Services, shall 87852
be used for services designated by the Department of Aging, 87853
including, but not limited to, home-delivered and congregate 87854
meals, transportation services, personal care services, respite 87855
services, adult day services, home repair, care coordination, and 87856
decision support systems. Service priority shall be given to low 87857
income, frail, and cognitively impaired persons 60 years of age 87858
and over. The department shall promote cost sharing by service 87859
recipients for those services funded with block grant funds, 87860
including, when possible, sliding-fee scale payment systems based 87861
on the income of service recipients. 87862

ALZHEIMERS RESPITE 87863

The foregoing appropriation item 490-414, Alzheimers Respite, 87864
shall be used to fund only Alzheimer's disease services under 87865
section 173.04 of the Revised Code. 87866

| | |
|--|--|
| JCFS ELDERLY TRANSPORTATION | 87867 |
| The foregoing appropriation item 490-416, JCFS Elderly Transportation, shall be used for noncapital expenses related to transportation services for the elderly that provide access to such things as healthcare services, congregate meals, socialization programs, and grocery shopping. The funds shall pass through and shall be administered by the Area Agencies on Aging. | 87868 87869 87870 87871 87872 87873 |
| Agencies receiving funding from appropriation item 490-416, JCFS Elderly Transportation, shall coordinate services with other local service agencies. The appropriation shall be allocated to the following agencies: | 87874 87875 87876 87877 |
| (A) \$30,000 in both fiscal years to Cincinnati Jewish Vocational Services; | 87878 87879 |
| (B) \$20,000 in both fiscal years to Wexner Heritage Village; | 87880 |
| (C) \$20,000 in both fiscal years to Yassenoff Jewish Community Center; | 87881 87882 |
| (D) \$30,000 in both fiscal years to Cleveland Jewish Community Center. | 87883 87884 |
| RESIDENTIAL STATE SUPPLEMENT | 87885 |
| Under the Residential State Supplement Program, the amount used to determine whether a resident is eligible for payment and for determining the amount per month the eligible resident will receive shall be as follows: | 87886 87887 87888 87889 |
| (A) \$900 for a residential care facility, as defined in section 3721.01 of the Revised Code; | 87890 87891 |
| (B) \$900 for an adult group home, as defined in Chapter 3722. of the Revised Code; | 87892 87893 |
| (C) \$800 for an adult foster home, as defined in Chapter 173. of the Revised Code; | 87894 87895 |

| | |
|---|---|
| (D) \$800 for an adult family home, as defined in Chapter 3722. of the Revised Code; | 87896 87897 |
| (E) \$800 for an adult community alternative home, as defined in Chapter 3724. of the Revised Code; | 87898 87899 |
| (F) \$800 for an adult residential facility, as defined in Chapter 5119. of the Revised Code; | 87900 87901 |
| (G) \$600 for adult community mental health housing services, as defined in division (B)(5) of section 173.35 of the Revised Code. | 87902 87903 87904 |
| The Departments of Aging and Job and Family Services shall reflect these amounts in any applicable rules the departments adopt under section 173.35 of the Revised Code. | 87905 87906 87907 |
| LONG-TERM CARE OMBUDSMAN | 87908 |
| The foregoing appropriation item 490-410, Long-Term Care Ombudsman, shall be used for a program to fund ombudsman program activities in nursing homes, adult care facilities, boarding homes, and home and community care services. | 87909 87910 87911 87912 |
| TRANSFER OF RESIDENTIAL STATE SUPPLEMENT APPROPRIATIONS | 87913 |
| The Department of Aging may transfer cash by intrastate transfer vouchers from the foregoing appropriation items 490-412, Residential State Supplement, and 490-610, PASSPORT/Residential State Supplement, to the Department of Job and Family Services' Fund 4J5, Home and Community-Based Services for the Aged Fund. The funds shall be used to make benefit payments to Residential State Supplement recipients. | 87914 87915 87916 87917 87918 87919 87920 |
| ALLOCATION OF PACE SLOTS | 87921 |
| For fiscal years 2006 and 2007, of the 880 slots approved by the Centers for Medicare and Medicaid Services for the PACE Program, the Department of Aging shall allocate, to the extent funding is available, 500 slots to Tri-Health Senior Link located | 87922 87923 87924 87925 |

in Cincinnati and 380 slots to Concordia Care located in 87926
Cleveland. In fiscal year 2007, the Department of Aging shall 87927
allocate, to the extent funding is available, up to 60 additional 87928
slots from Concordia Care to Tri-Health Senior Link if the 87929
Department projects Concordia Care will not fill all of its 87930
allotted slots. 87931

TRANSFER OF APPROPRIATIONS - FEDERAL AGING NUTRITION, FEDERAL 87932
INDEPENDENCE SERVICES, AND FEDERAL AGING GRANTS 87933

Upon written request of the Director of Aging, the Director 87934
of Budget and Management may transfer appropriation authority 87935
among appropriation items 490-611, Federal Aging Nutrition, 87936
490-612, Federal Independence Services, and 490-618, Federal Aging 87937
Grants, in amounts not to exceed 30 per cent of the appropriation 87938
from which the transfer is made. The Department of Aging shall 87939
report a transfer to the Controlling Board at the next regularly 87940
scheduled meeting of the board. 87941

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM 87942

The foregoing appropriation item 490-609, Regional Long-Term 87943
Care Ombudsman Program, shall be used solely to pay the costs of 87944
operating the regional long-term care ombudsman programs. 87945

PASSPORT/RESIDENTIAL STATE SUPPLEMENT 87946

Of the foregoing appropriation item 490-610, 87947
PASSPORT/Residential State Supplement, up to \$2,835,000 each 87948
fiscal year may be used to fund the Residential State Supplement 87949
Program. The remaining available funds shall be used to fund the 87950
PASSPORT program. 87951

TRANSITION PLAN FOR RESIDENTIAL STATE SUPPLEMENT 87952

Subject to approval by the Social Security Administration, of 87953
the foregoing appropriation items 490-412, Residential State 87954
Supplement, and 490-610, PASSPORT/Residential State Supplement, 87955

Fund 4J4, in fiscal year 2007 the Department of Aging shall 87956
transfer to the Ohio Department of Mental Health sufficient funds 87957
to make benefit payments for all Residential State Supplement 87958
recipients who are less than 60 years of age diagnosed with mental 87959
illness, mental retardation, or a developmental disability and are 87960
enrolled in the program on June 30, 2006. Upon the request of the 87961
Directors of Aging and of Mental Health, the Director of Budget 87962
and Management may transfer appropriations from GRF appropriation 87963
item 490-412, Residential State Supplement, in the Department of 87964
Aging to GRF appropriation item 335-505, Local Mental Health 87965
Systems of Care, in the Department of Mental Health. In addition, 87966
upon the request of the Directors of Aging and Mental Health, the 87967
Director of Budget and Management may transfer cash from Fund 4J4, 87968
PASSPORT Fund, into the General Revenue Fund and increase the 87969
appropriation in Department of Mental Health GRF appropriation 87970
item 335-505, Local Mental Health Systems of Care, by an equal 87971
amount. 87972

The departments of Aging and Mental Health shall jointly 87973
petition the Social Security Administration to approve changes to 87974
the Residential State Supplement program. Changes proposed by the 87975
two departments shall ensure that Residential State Supplement 87976
program recipients on June 30, 2006, continue to receive benefit 87977
payments as long as they remain in the program. Changes proposed 87978
by the departments of Aging and Mental Health may include 87979
provisions that improve local accountability to county boards of 87980
mental health, maximize available funding, and improve the quality 87981
of residential settings approved for recipients. If the Social 87982
Security Administration does not approve these changes, the 87983
Department of Aging shall continue to be responsible for the 87984
Residential State Supplement Program. 87985

Section 203.21.09. AGING AND DISABILITY RESOURCE CENTERS 87986

The Department of Aging shall apply for the 2005 Aging and Disability Resource Center Grant Initiative of the Administration on Aging and the Centers for Medicare and Medicaid Services. If the application is accepted, the Department shall create an Aging and Disability Resource Center beginning in fiscal year 2006. The Department of Job and Family Services shall endorse the Department's application to the extent required by the invitation to apply.

Section 203.24. AGR DEPARTMENT OF AGRICULTURE

General Revenue Fund

| | | | | | | |
|-------------|---|----|-----------|----|-----------|-------|
| GRF 700-321 | Operating Expenses | \$ | 2,605,330 | \$ | 2,605,330 | 87997 |
| GRF 700-401 | Animal Disease Control | \$ | 3,574,506 | \$ | 3,574,506 | 87998 |
| GRF 700-403 | Dairy Division | \$ | 1,304,504 | \$ | 1,304,504 | 87999 |
| GRF 700-404 | Ohio Proud | \$ | 185,395 | \$ | 185,395 | 88000 |
| GRF 700-405 | Animal Damage Control | \$ | 60,000 | \$ | 60,000 | 88001 |
| GRF 700-406 | Consumer Analytical Lab | \$ | 819,907 | \$ | 819,907 | 88002 |
| GRF 700-407 | Food Safety | \$ | 939,099 | \$ | 939,099 | 88003 |
| GRF 700-409 | Farmland Preservation | \$ | 241,573 | \$ | 241,573 | 88004 |
| GRF 700-410 | Plant Industry | \$ | 391,216 | \$ | 50,000 | 88005 |
| GRF 700-411 | International Trade and Market Development | \$ | 617,524 | \$ | 517,524 | 88006 |
| GRF 700-412 | Weights and Measures | \$ | 1,100,000 | \$ | 1,300,000 | 88007 |
| GRF 700-413 | Gypsy Moth Prevention | \$ | 200,000 | \$ | 200,000 | 88008 |
| GRF 700-415 | Poultry Inspection | \$ | 325,000 | \$ | 325,000 | 88009 |
| GRF 700-418 | Livestock Regulation Program | \$ | 1,428,496 | \$ | 1,428,496 | 88010 |
| GRF 700-424 | Livestock Testing and Inspections | \$ | 115,946 | \$ | 115,946 | 88011 |
| GRF 700-499 | Meat Inspection Program - State Share | \$ | 4,696,889 | \$ | 4,696,889 | 88012 |

| | | | | | | |
|-------------|---|----|------------|----|------------|----------------|
| GRF 700-501 | County Agricultural Societies | \$ | 358,226 | \$ | 358,226 | 88013 |
| TOTAL GRF | General Revenue Fund | \$ | 18,963,611 | \$ | 18,722,395 | 88014 |
| | Federal Special Revenue Fund Group | | | | | 88015 |
| 3J4 700-607 | Indirect Cost | \$ | 1,500,027 | \$ | 1,500,027 | 88016 |
| 3R2 700-614 | Federal Plant Industry | \$ | 4,800,000 | \$ | 4,800,000 | 88017 |
| 326 700-618 | Meat Inspection Program - Federal Share | \$ | 5,201,291 | \$ | 5,201,291 | 88018 |
| 336 700-617 | Ohio Farm Loan Revolving Fund | \$ | 43,793 | \$ | 44,679 | 88019 |
| 382 700-601 | Cooperative Contracts | \$ | 4,300,000 | \$ | 4,300,000 | 88020 |
| TOTAL FED | Federal Special Revenue Fund Group | \$ | 15,845,111 | \$ | 15,845,997 | 88021 88022 |
| | State Special Revenue Fund Group | | | | | 88023 |
| 4C9 700-605 | Feed, Fertilizer, Seed, and Lime Inspection | \$ | 1,922,857 | \$ | 1,891,395 | 88024 |
| 4D2 700-609 | Auction Education | \$ | 23,885 | \$ | 24,601 | 88025 |
| 4E4 700-606 | Utility Radiological Safety | \$ | 73,059 | \$ | 73,059 | 88026 |
| 4P7 700-610 | Food Safety Inspection | \$ | 816,096 | \$ | 858,096 | 88027 |
| 4R0 700-636 | Ohio Proud Marketing | \$ | 38,300 | \$ | 38,300 | 88028 |
| 4R2 700-637 | Dairy Industry Inspection | \$ | 1,541,466 | \$ | 1,621,460 | 88029 |
| 4T6 700-611 | Poultry and Meat Inspection | \$ | 47,294 | \$ | 47,294 | 88030 |
| 4T7 700-613 | International Trade and Market Development | \$ | 52,000 | \$ | 54,000 | 88031 |
| 494 700-612 | Agricultural Commodity Marketing Program | \$ | 170,220 | \$ | 170,220 | 88032 |
| 496 700-626 | Ohio Grape Industries | \$ | 1,071,099 | \$ | 1,071,054 | 88033 |

| | | | | | | | |
|---|---------|------------------------|----|------------|----|------------|-------|
| 497 | 700-627 | Commodity Handlers | \$ | 515,820 | \$ | 529,978 | 88034 |
| | | Regulatory Program | | | | | |
| 5B8 | 700-629 | Auctioneers | \$ | 365,390 | \$ | 365,390 | 88035 |
| 5H2 | 700-608 | Metrology Lab and | \$ | 351,526 | \$ | 362,526 | 88036 |
| | | Scale Certification | | | | | |
| 5L8 | 700-604 | Livestock Management | \$ | 30,000 | \$ | 30,000 | 88037 |
| | | Program | | | | | |
| 578 | 700-620 | Ride Inspection Fees | \$ | 1,105,436 | \$ | 1,115,436 | 88038 |
| 652 | 700-634 | Animal Health and Food | \$ | 1,876,624 | \$ | 1,831,232 | 88039 |
| | | Safety | | | | | |
| 669 | 700-635 | Pesticide Program | \$ | 2,993,232 | \$ | 3,354,448 | 88040 |
| TOTAL SSR State Special Revenue | | | | | | | 88041 |
| Fund Group | | | \$ | 12,994,304 | \$ | 13,438,489 | 88042 |
| Clean Ohio Fund Group | | | | | | | 88043 |
| 057 | 700-632 | Clean Ohio | \$ | 149,000 | \$ | 149,000 | 88044 |
| | | Agricultural Easement | | | | | |
| TOTAL CLR Clean Ohio Fund Group | | | \$ | 149,000 | \$ | 149,000 | 88045 |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 47,952,026 | \$ | 48,155,881 | 88046 |
| OHIO - ISRAEL AGRICULTURAL INITIATIVE | | | | | | | 88047 |
| Of the foregoing General Revenue Fund appropriation item | | | | | | | 88048 |
| 700-411, International Trade and Market Development, \$100,000 | | | | | | | 88049 |
| shall be used in fiscal year 2006 for the Ohio - Israel | | | | | | | 88050 |
| Agricultural Initiative. | | | | | | | 88051 |
| FAMILY FARM LOAN PROGRAM | | | | | | | 88052 |
| Notwithstanding Chapter 166. of the Revised Code, up to | | | | | | | 88053 |
| \$1,000,000 in each fiscal year shall be transferred from moneys in | | | | | | | 88054 |
| the Facilities Establishment Fund (Fund 037) to the Family Farm | | | | | | | 88055 |
| Loan Fund (Fund 5H1) in the Department of Development. These | | | | | | | 88056 |
| moneys shall be used for loan guarantees. The transfer is subject | | | | | | | 88057 |
| to Controlling Board approval. | | | | | | | 88058 |
| Financial assistance from the Family Farm Loan Fund (Fund | | | | | | | 88059 |

5H1) shall be repaid to Fund 5H1. This fund is established in 88060
accordance with sections 166.031, 901.80, 901.81, 901.82, and 88061
901.83 of the Revised Code. 88062

When the Family Farm Loan Fund (Fund 5H1) ceases to exist, 88063
all outstanding balances, all loan repayments, and any other 88064
outstanding obligations shall revert to the Facilities 88065
Establishment Fund (Fund 037). 88066

Section 203.24.03. FERTILIZER-RELATED LICENSURE AND 88067
REGISTRATION 88068

To facilitate implementation of the new schedule for 88069
fertilizer-related licensure, registration, and reporting 88070
established under sections 905.32, 905.33, 905.331, and 905.36 of 88071
the Revised Code, as amended by this act, all of the following 88072
apply: 88073

(A) With regard to licenses for which applications for the 88074
license period beginning July 1, 2005, have been submitted under 88075
sections 905.32 and 905.331 of the Revised Code as those sections 88076
existed prior to their amendment by this act, a license shall be 88077
issued for a period beginning on July 1, 2005, and ending on 88078
November 30, 2005, and shall expire on November 30, 2005. 88079

(B) With regard to registrations of a specialty fertilizer 88080
for which applications for the registration period beginning July 88081
1, 2005, have been submitted under section 905.33 of the Revised 88082
Code as that section existed prior to its amendment by this act, a 88083
registration shall be issued for the period beginning on July 1, 88084
2005, and ending on November 30, 2005, and shall expire on 88085
November 30, 2005. 88086

(C) A person who is required to submit a tonnage report 88087
within thirty days of June 30, 2005, under section 905.36 of the 88088
Revised Code as that section existed prior to its amendments by 88089

this act shall submit the report by that date. However, the person 88090
also shall submit a tonnage report by November 30, 2005, for the 88091
period beginning on July 1, 2005, and ending on October 31, 2005 88092
as required by section 905.36 of the Revised Code as amended by 88093
this act. 88094

COMMERCIAL FEED, FERTILIZER, SEED, AND LIME INSPECTION AND 88095
LABORATORY FUND 88096

The Commercial Feed, Fertilizer, Seed, and Lime Inspection 88097
and Laboratory Fund created in section 905.38 of the Revised Code, 88098
as amended by this act, is a continuation of the Commercial Feed, 88099
Fertilizer, and Lime Inspection and Laboratory Fund that was 88100
created in that section prior to its amendment by this act. 88101
Notwithstanding any other provision of law to the contrary, the 88102
Seed Fund (5Z4) created in section 907.16 of the Revised Code 88103
shall cease to exist, effective July 1, 2005. All assets, 88104
liabilities, revenues, and obligations associated with the Seed 88105
Fund (5Z4) are hereby transferred to the Commercial Feed, 88106
Fertilizer, Seed, and Lime Inspection and Laboratory Fund (Fund 88107
4C9) on July 1, 2005. 88108

Effective July 1, 2005, or as soon thereafter as possible, 88109
the Director of Agriculture shall certify to the Director of 88110
Budget and Management the cash balance in the Seed Fund (5Z4), 88111
which was merged in section 907.16 of the Revised Code, as amended 88112
by this act. The Director of Budget and Management shall transfer 88113
the certified amount to the Commercial Feed, Fertilizer, Seed, and 88114
Lime Inspection and Laboratory Fund (Fund 4C9), which is created 88115
in section 907.16 of the Revised Code, formerly named the Seed 88116
Fund. The Director shall cancel any existing encumbrances against 88117
appropriation item 700-642, Seed Program, and re-establish them 88118
against appropriation item 700-605, Feed, Fertilizer, Seed, and 88119
Lime Inspection. The amounts of the re-established encumbrances 88120
are hereby appropriated. 88121

METROLOGY LAB AND SCALE CERTIFICATION FUND 88122

The Metrology and Scale Certification Fund created in section 88123
1327.511 of the Revised Code, as amended by this act, is a 88124
continuation of the Scale Certification Fund that was created in 88125
that section prior to its amendment by this act. Notwithstanding 88126
any other provision of law to the contrary, the Scale 88127
Certification Fund (Fund 579) created in section 1327.511 of the 88128
Revised Code shall cease to exist, effective July 1, 2005. All 88129
assets, liabilities, revenues, and obligations associated with the 88130
Scale Certification Fund (Fund 579) are hereby transferred to the 88131
Metrology Lab and Scale Certification Fund (Fund 5H2) on July 1, 88132
2005. 88133

Effective July 1, 2005, or as soon thereafter as possible, 88134
the Director of Agriculture shall certify to the Director of 88135
Budget and Management the cash balance in the Scale Certification 88136
Fund (Fund 579), which was merged in section 1327.511 of the 88137
Revised Code, as amended by this act. The Director of Budget and 88138
Management shall transfer the certified amount to the Metrology 88139
Laboratory and Scale Certification Fund (Fund 5H2) which is 88140
created in section 1327.511 of the Revised Code, formerly named 88141
the Scale Certification Laboratory Fund. The Director shall cancel 88142
any existing encumbrances against appropriation item 700-630, 88143
Scale Certification, and re-establish them against appropriation 88144
item 700-608, Metrology Lab. The amounts of the re-established 88145
encumbrances are hereby appropriated. 88146

ANIMAL HEALTH AND FOOD SAFETY 88147

Notwithstanding any other provision of law to the contrary, 88148
the Animal Industry Laboratory Fees Fund (Fund 4V5) created in 88149
division (E)(1) of section 901.43 of the Revised Code shall cease 88150
to exist, effective July 1, 2005. All assets, liabilities, 88151
revenues, and obligations associated with the Animal Industry 88152
Laboratory Fund (Fund 4V5) are hereby transferred to the Animal 88153

Health and Food Safety Fund (Fund 652) on July 1, 2005. 88154

Effective July 1, 2005, or as soon thereafter as possible, 88155
the Director of Agriculture shall certify to the Director of 88156
Budget and Management the cash balance in the Animal Industry 88157
Laboratory Fund (Fund 4V5), which was merged in division (E)(1) of 88158
section 901.43 of the Revised Code, as amended by this act. The 88159
Director of Budget and Management shall transfer the certified 88160
amount to the Animal Health and Food Safety Fund (Fund 652) which 88161
is created in division (E)(2) of section 901.43 of the Revised 88162
Code, formerly named the Animal Industry Laboratory Fund. The 88163
Director of Budget and Management shall cancel any existing 88164
encumbrances against appropriation item 700-615, Animal Industry 88165
Lab Fees, and re-establish them against appropriation item 88166
700-634, Laboratory Services. The amounts of the re-established 88167
encumbrances are hereby appropriated. 88168

PESTICIDE REGISTRATION AND INSPECTION FEE 88169

The registration and inspection fee established in rules 88170
adopted under section 921.16 of Revised Code for the purposes of 88171
section 921.02 of the Revised Code, as that section existed prior 88172
to its amendment by this act, that are in effect on January 1, 88173
2005, shall remain in effect until the new fees established in 88174
section 921.02 of the Revised Code as amended by this act take 88175
effect on January 1, 2007. 88176

CLEAN OHIO AGRICULTURAL EASEMENT 88177

The foregoing appropriation item 700-632, Clean Ohio 88178
Agricultural Easement, shall be used by the Department of 88179
Agriculture in administering sections 901.21, 901.22, and 5301.67 88180
to 5301.70 of the Revised Code. 88181

TRANSFER BETWEEN FUNDS 88182

For fiscal years 2006 and 2007, if the cash credited to the 88183
Commercial Feed, Fertilizer, Seed, and Lime Inspection and 88184

Laboratory Fund (Fund 4C9) or the Pesticide Program Fund (Fund 88185
669) exceeds the amount necessary to administer the programs for 88186
which they were intended, the Director of Agriculture may certify 88187
the amount to the Director of Budget and Management. The Director 88188
of Budget and Management may transfer the cash to any other fund 88189
administered by the Director of Agriculture. 88190

UNCLAIMED FUNDS TRANSFER 88191

Notwithstanding division (A) of section 169.05 of the Revised 88192
Code, upon the request of the Director of Budget and Management, 88193
the Director of Commerce, prior to June 30, 2006, shall transfer 88194
to the Food Safety Fund (Fund 4P7) up to \$21,790 of the unclaimed 88195
funds that have been reported by the holders of unclaimed funds 88196
under section 169.05 of the Revised Code, regardless of the 88197
allocation of the unclaimed funds described in that section. 88198

Notwithstanding division (A) of section 169.05 of the Revised 88199
Code, upon the request of the Director of Budget and Management, 88200
the Director of Commerce, prior to June 30, 2007, shall transfer 88201
to the Food Safety Fund (Fund 4P7) up to \$21,790 of the unclaimed 88202
funds that have been reported by the holders of unclaimed funds 88203
under section 169.05 of the Revised Code, regardless of the 88204
allocation of the unclaimed funds described in that section. 88205

Section 203.27. AIR AIR QUALITY DEVELOPMENT AUTHORITY 88206

General Revenue Fund 88207

| | | | | | |
|------------------------------|----|---------|----|---------|-------|
| GRF 898-402 Coal Development | \$ | 568,814 | \$ | 573,814 | 88208 |
| Office | | | | | |

| | | | | | |
|------------------------------|----|-----------|----|-----------|-------|
| GRF 898-901 Coal R&D General | \$ | 7,071,100 | \$ | 8,980,800 | 88209 |
| Obligation Debt | | | | | |
| Service | | | | | |

| | | | | | |
|--------------------------------|----|-----------|----|-----------|-------|
| TOTAL GRF General Revenue Fund | \$ | 7,639,914 | \$ | 9,554,614 | 88210 |
|--------------------------------|----|-----------|----|-----------|-------|

Agency Fund Group 88211

| | | | | | | |
|-------------|--|----|------------|----|------------|-------|
| 4Z9 898-602 | Small Business | \$ | 263,165 | \$ | 264,196 | 88212 |
| | Ombudsman | | | | | |
| 5A0 898-603 | Small Business | \$ | 71,087 | \$ | 71,087 | 88213 |
| | Assistance | | | | | |
| 570 898-601 | Operating Expenses | \$ | 256,875 | \$ | 263,693 | 88214 |
| TOTAL AGY | Agency Fund Group | \$ | 591,127 | \$ | 598,976 | 88215 |
| | Coal Research/Development Fund | | | | | 88216 |
| 046 898-604 | Coal Research and | \$ | 10,000,000 | \$ | 10,000,000 | 88217 |
| | Development Fund | | | | | |
| TOTAL 046 | Coal | \$ | 10,000,000 | \$ | 10,000,000 | 88218 |
| | Research/Development Fund | | | | | |
| TOTAL ALL | BUDGET FUND GROUPS | \$ | 18,231,041 | \$ | 20,153,590 | 88219 |
| | COAL DEVELOPMENT OFFICE | | | | | 88220 |
| | The foregoing appropriation item GRF 898-402, Coal | | | | | 88221 |
| | Development Office, shall be used for the administrative costs of | | | | | 88222 |
| | the Coal Development Office. | | | | | 88223 |
| | COAL RESEARCH AND DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE | | | | | 88224 |
| | The foregoing appropriation item GRF 898-901, Coal R & D | | | | | 88225 |
| | General Obligation Debt Service, shall be used to pay all debt | | | | | 88226 |
| | service and related financing costs at the times they are required | | | | | 88227 |
| | to be made under sections 151.01 and 151.07 of the Revised Code | | | | | 88228 |
| | during the period from July 1, 2005, to June 30, 2007. The Office | | | | | 88229 |
| | of the Sinking Fund or the Director of Budget and Management shall | | | | | 88230 |
| | effectuate the required payments by intrastate transfer voucher. | | | | | 88231 |
| | SCIENCE AND TECHNOLOGY COLLABORATION | | | | | 88232 |
| | The Air Quality Development Authority shall work in close | | | | | 88233 |
| | collaboration with the Department of Development, the Board of | | | | | 88234 |
| | Regents, and the Third Frontier Commission in relation to | | | | | 88235 |
| | appropriation items and programs referred to as Alignment Programs | | | | | 88236 |
| | in the following paragraph, and other technology-related | | | | | 88237 |
| | appropriations and programs in the Department of Development, Air | | | | | 88238 |

Quality Development Authority, and the Board of Regents as those 88239
agencies may designate, to ensure implementation of a coherent 88240
state strategy with respect to science and technology. 88241

To the extent permitted by law, the Air Quality Development 88242
Authority shall assure that coal research and development 88243
programs, proposals, and projects consider or incorporate 88244
appropriate collaborations with Third Frontier Project programs 88245
and grantees and with Alignment Programs and grantees. 88246

"Alignment Programs" means: appropriation items 195-401, 88247
Thomas Edison Program; 898-402, Coal Development Office; 195-422, 88248
Third Frontier Action Fund; 898-604, Coal Research and Development 88249
Fund; 235-433, Economic Growth Challenge; 235-508, Air Force 88250
Institute of Technology; 235-510, Ohio Supercomputer Center; 88251
235-451, Eminent Scholars; 235-527, Ohio Aerospace Institute; 88252
235-535, Ohio Agricultural Research and Development Center; 88253
235-553, Dayton Area Graduate Studies Institute; 235-554, 88254
Priorities in Collaborative Graduate Education; 235-556, Ohio 88255
Academic Resources Network; and 195-435, Biomedical Research and 88256
Technology Transfer Trust. 88257

Consistent with the recommendations of the Governor's 88258
Commission on Higher Education and the Economy, Alignment Programs 88259
shall be managed and administered (1) to build on existing 88260
competitive research strengths, (2) to encourage new and emerging 88261
discoveries and commercialization of ideas and products that will 88262
benefit the Ohio economy, and (3) to assure improved collaboration 88263
among Alignment Programs, with programs administered by the Third 88264
Frontier Commission, and with other state programs that are 88265
intended to improve economic growth and job creation. 88266

As directed by the Third Frontier Commission, Alignment 88267
Program managers shall report to the Commission or to the Third 88268
Frontier Advisory Board on the contributions of their programs to 88269
achieving the objectives stated in the preceding paragraph. 88270

Each alignment program shall be reviewed annually by the 88271
Third Frontier Commission with respect to its development of 88272
complementary relationships within a combined state science and 88273
technology investment portfolio and its overall contribution to 88274
the state's science and technology strategy, including the 88275
adoption of appropriately consistent criteria for: (1) the 88276
scientific merit of activities supported by the program; (2) the 88277
relevance of the program's activities to commercial opportunities 88278
in the private sector; (3) the private sector's involvement in a 88279
process that continually evaluates commercial opportunities to use 88280
the work supported by the program; and (4) the ability of the 88281
program and recipients of grant funding from the program to engage 88282
in activities that are collaborative, complementary, and efficient 88283
with respect to the expenditure of state funds. Each alignment 88284
program shall provide annual reports to the Third Frontier 88285
Commission discussing existing, planned, or possible 88286
collaborations between programs and recipients of grant funding 88287
related to technology, development, commercialization, and 88288
supporting Ohio's economic development. The annual review by the 88289
Third Frontier Commission shall be a comprehensive review of the 88290
entire state science and technology program portfolio rather than 88291
a review of individual programs. 88292

Applicants for Third Frontier and Alignment Program funding 88293
shall identify their requirements for high-performance computing 88294
facilities and services, including both hardware and software, in 88295
all proposals. If an applicant's requirements exceed approximately 88296
\$100,000 for a proposal, the Ohio Supercomputer Center shall 88297
convene a panel of experts. The panel shall review the proposal to 88298
determine whether the proposal's requirements can be met through 88299
Ohio Supercomputer Center facilities or through other means and 88300
report its conclusion to the Third Frontier Commission. 88301

To ensure that the state receives the maximum benefit from 88302

its investment in the Third Frontier Project and the Third 88303
Frontier Network, organizations receiving Third Frontier awards 88304
and Alignment Program awards shall, as appropriate, be expected to 88305
have a connection to the Third Frontier Network that enables them 88306
and their collaborators to achieve award objectives through the 88307
Third Frontier Network. 88308

Section 203.30. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION 88309
SERVICES 88310

General Revenue Fund 88311

| | | | | | |
|---------------------------------|----|------------|----|------------|-------|
| GRF 038-321 Operating Expenses | \$ | 1,128,275 | \$ | 1,128,275 | 88312 |
| GRF 038-401 Treatment Services | \$ | 37,760,215 | \$ | 39,494,113 | 88313 |
| GRF 038-404 Prevention Services | \$ | 1,021,483 | \$ | 1,052,127 | 88314 |
| TOTAL GRF General Revenue Fund | \$ | 39,909,973 | \$ | 41,674,515 | 88315 |

General Services Fund 88316

| | | | | | |
|---------------------------------|----|---------|----|---------|-------|
| 5T9 038-616 Problem Gambling | \$ | 285,000 | \$ | 285,000 | 88317 |
| Services | | | | | |
| TOTAL GSF General Services Fund | \$ | 285,000 | \$ | 285,000 | 88318 |

Group

Federal Special Revenue Fund Group 88319

| | | | | | |
|-----------------------------------|----|------------|----|------------|-------|
| 3G3 038-603 Drug Free Schools | \$ | 3,500,000 | \$ | 3,500,000 | 88320 |
| 3G4 038-614 Substance Abuse Block | \$ | 73,000,000 | \$ | 73,000,000 | 88321 |

Grant

| | | | | | |
|----------------------------------|----|------------|----|------------|-------|
| 3H8 038-609 Demonstration Grants | \$ | 7,093,075 | \$ | 7,093,075 | 88322 |
| 3J8 038-610 Medicaid | \$ | 42,000,000 | \$ | 46,000,000 | 88323 |
| 3N8 038-611 Administrative | \$ | 500,000 | \$ | 500,000 | 88324 |

Reimbursement

| | | | | | |
|-----------------------------------|----|-------------|----|-------------|-------|
| TOTAL FED Federal Special Revenue | | | | | 88325 |
| Fund Group | \$ | 126,093,075 | \$ | 130,093,075 | 88326 |

State Special Revenue Fund Group 88327

| | | | | | |
|---------------------------------|----|------------|----|------------|-------|
| 475 038-621 Statewide Treatment | \$ | 17,500,000 | \$ | 18,000,000 | 88328 |
|---------------------------------|----|------------|----|------------|-------|

| | | | | | |
|---------------------------------|---|----------------|----------------|--|-------|
| | and Prevention | | | | |
| 5BR 038-406 | Tobacco Use Prevention | \$ 265,000 | \$ 205,000 | | 88329 |
| | and Control Program | | | | |
| 689 038-604 | Education and | \$ 350,000 | \$ 350,000 | | 88330 |
| | Conferences | | | | |
| TOTAL SSR State Special Revenue | | | | | 88331 |
| Fund Group | | \$ 18,115,000 | \$ 18,555,000 | | 88332 |
| TOTAL ALL BUDGET FUND GROUPS | | \$ 184,403,048 | \$ 190,607,590 | | 88333 |
| | TREATMENT SERVICES | | | | 88334 |
| | Of the foregoing appropriation item 038-401, Treatment | | | | 88335 |
| | Services, not more than \$8,190,000 shall be used by the Department | | | | 88336 |
| | of Alcohol and Drug Addiction Services for program grants for | | | | 88337 |
| | priority populations in each year of the biennium. | | | | 88338 |
| | SERVICES TO POOR MEDICATION DEPENDENT ADULTS | | | | 88339 |
| | Of the foregoing appropriation item 038-401, Treatment | | | | 88340 |
| | Services, \$2,166,950 in fiscal year 2006 and \$2,833,050 in fiscal | | | | 88341 |
| | year 2007 shall be used to provide services to persons who meet | | | | 88342 |
| | criteria that are consistent with the criteria for the Disability | | | | 88343 |
| | Medical Assistance Program. | | | | 88344 |
| | SUBSTANCE ABUSE SERVICES FOR FAMILIES OF AT RISK CHILDREN | | | | 88345 |
| | Of the foregoing appropriation item 038-401, Treatment | | | | 88346 |
| | Services, \$4 million in each fiscal year shall be used to provide | | | | 88347 |
| | substance abuse services to families involved in the child welfare | | | | 88348 |
| | system under the requirements of Am. Sub. H.B. 484 of the 122nd | | | | 88349 |
| | General Assembly. | | | | 88350 |
| | SERVICES FOR TANF-ELIGIBLE INDIVIDUALS | | | | 88351 |
| | Of the foregoing appropriation item 038-401, Treatment | | | | 88352 |
| | Services, \$5 million each year shall be used to fund TANF-eligible | | | | 88353 |
| | expenditures for substance abuse prevention and treatment services | | | | 88354 |
| | to children, or their families, whose income is at or below 200 | | | | 88355 |
| | per cent of the official income poverty guideline. The Director of | | | | 88356 |

Alcohol and Drug Addiction Services and the Director of Job and 88357
 Family Services shall develop operating and reporting guidelines 88358
 for these programs. 88359

THERAPEUTIC COMMUNITIES 88360

Of the foregoing appropriation item 038-401, Treatment 88361
 Services, \$750,000 shall be used in each fiscal year for expansion 88362
 of the Therapeutic Communities Program in the Department of 88363
 Rehabilitation and Correction. 88364

PARENT AWARENESS TASK FORCE 88365

The Parent Awareness Task Force shall study ways to engage 88366
 more parents in activities, coalitions, and educational programs 88367
 in Ohio relating to alcohol and other drug abuse prevention. Of 88368
 the foregoing appropriation item 038-404, Prevention Services, 88369
 \$30,000 in each fiscal year may be used to support the functions 88370
 of the Parent Awareness Task Force. 88371

Section 203.36. ARC STATE BOARD OF EXAMINERS OF ARCHITECTS 88372

General Services Fund Group 88373
 4K9 891-609 Operating Expenses \$ 489,197 \$ 489,197 88374
 TOTAL GSF General Services Fund 88375
 Group \$ 489,197 \$ 489,197 88376
 TOTAL ALL BUDGET FUND GROUPS \$ 489,197 \$ 489,197 88377

Section 203.39. ART OHIO ARTS COUNCIL 88379

General Revenue Fund 88380
 GRF 370-100 Personal Services \$ 1,798,235 \$ 1,798,235 88381
 GRF 370-200 Maintenance \$ 459,746 \$ 459,746 88382
 GRF 370-300 Equipment \$ 4,700 \$ 4,700 88383
 GRF 370-502 Program Subsidies \$ 8,975,480 \$ 8,975,480 88384
 TOTAL GRF General Revenue Fund \$ 11,238,161 \$ 11,238,161 88385
 General Services Fund Group 88386

| | | | | | |
|--|----|------------|----|------------|-------|
| 4B7 370-603 Per Cent for Art | \$ | 86,366 | \$ | 86,366 | 88387 |
| Acquisitions | | | | | |
| 460 370-602 Gifts and Donations | \$ | 400,000 | \$ | 400,000 | 88388 |
| TOTAL GSF General Services Fund | \$ | 486,366 | \$ | 486,366 | 88389 |
| Group | | | | | |
| Federal Special Revenue Fund Group | | | | | 88390 |
| 314 370-601 Federal Programs | \$ | 1,537,200 | \$ | 1,537,200 | 88391 |
| TOTAL FED Federal Special Revenue | \$ | 1,537,200 | \$ | 1,537,200 | 88392 |
| Fund Group | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 13,261,727 | \$ | 13,261,727 | 88393 |
| PROGRAM SUBSIDIES | | | | | 88394 |
| A museum is not eligible to receive funds from appropriation | | | | | 88395 |
| item 370-502, Program Subsidies, if \$8,000,000 or more in capital | | | | | 88396 |
| appropriations were appropriated by the state for the museum | | | | | 88397 |
| between January 1, 1986, and December 31, 2002. | | | | | 88398 |
| Section 203.45. ATH ATHLETIC COMMISSION | | | | | 88399 |
| General Services Fund Group | | | | | 88400 |
| 4K9 175-609 Operating Expenses | \$ | 248,150 | \$ | 0 | 88401 |
| TOTAL GSF General Services Fund | \$ | 248,150 | \$ | 0 | 88402 |
| Group | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 248,150 | \$ | 0 | 88403 |
| Section 203.48. AGO ATTORNEY GENERAL | | | | | 88405 |
| General Revenue Fund | | | | | 88406 |
| GRF 055-321 Operating Expenses | \$ | 42,118,150 | \$ | 52,610,156 | 88407 |
| GRF 055-411 County Sheriffs' Pay | \$ | 760,495 | \$ | 779,509 | 88408 |
| Supplement | | | | | |
| GRF 055-415 County Prosecutors' | \$ | 740,704 | \$ | 759,222 | 88409 |
| Pay Supplement | | | | | |
| TOTAL GRF General Revenue Fund | \$ | 43,619,349 | \$ | 54,148,887 | 88410 |
| General Services Fund Group | | | | | 88411 |

| | | | | | | | |
|------------------------------------|---------|------------------------|----|------------|----|------------|-------|
| 106 | 055-612 | General Reimbursement | \$ | 21,370,196 | \$ | 21,370,196 | 88412 |
| 107 | 055-624 | Employment Services | \$ | 850,000 | \$ | 850,000 | 88413 |
| 195 | 055-660 | Workers' Compensation | \$ | 7,769,628 | \$ | 7,769,628 | 88414 |
| | | Section | | | | | |
| 4Y7 | 055-608 | Title Defect | \$ | 250,000 | \$ | 250,000 | 88415 |
| | | Rescission | | | | | |
| 4Z2 | 055-609 | BCI Asset Forfeiture | \$ | 1,332,109 | \$ | 1,332,109 | 88416 |
| | | and Cost Reimbursement | | | | | |
| 418 | 055-615 | Charitable Foundations | \$ | 4,899,066 | \$ | 4,899,066 | 88417 |
| 420 | 055-603 | Attorney General | \$ | 446,449 | \$ | 446,449 | 88418 |
| | | Antitrust | | | | | |
| 421 | 055-617 | Police Officers' | \$ | 1,693,213 | \$ | 1,693,213 | 88419 |
| | | Training Academy Fee | | | | | |
| 5A9 | 055-618 | Telemarketing Fraud | \$ | 7,500 | \$ | 7,500 | 88420 |
| | | Enforcement | | | | | |
| 590 | 055-633 | Peace Officer Private | \$ | 98,370 | \$ | 98,370 | 88421 |
| | | Security Fund | | | | | |
| 629 | 055-636 | Corrupt Activity | \$ | 15,000 | \$ | 15,000 | 88422 |
| | | Investigation and | | | | | |
| | | Prosecution | | | | | |
| 631 | 055-637 | Consumer Protection | \$ | 1,373,832 | \$ | 1,373,832 | 88423 |
| | | Enforcement | | | | | |
| TOTAL GSF General Services Fund | | | | | | | 88424 |
| Group | | | \$ | 40,105,363 | \$ | 40,105,363 | 88425 |
| Federal Special Revenue Fund Group | | | | | | | 88426 |
| 3E5 | 055-638 | Attorney General | \$ | 1,981,102 | \$ | 1,981,102 | 88427 |
| | | Pass-Through Funds | | | | | |
| 3R6 | 055-613 | Attorney General | \$ | 3,842,097 | \$ | 3,842,097 | 88428 |
| | | Federal Funds | | | | | |
| 306 | 055-620 | Medicaid Fraud Control | \$ | 2,799,000 | \$ | 2,799,000 | 88429 |
| 381 | 055-611 | Civil Rights Legal | \$ | 390,815 | \$ | 390,815 | 88430 |
| | | Service | | | | | |
| 383 | 055-634 | Crime Victims | \$ | 18,439,313 | \$ | 18,439,313 | 88431 |

Assistance

| | | | | |
|-----------------------------------|----|------------|---------------|-------|
| TOTAL FED Federal Special Revenue | | | | 88432 |
| Fund Group | \$ | 27,452,327 | \$ 27,452,327 | 88433 |
| State Special Revenue Fund Group | | | | 88434 |
| 4L6 055-606 DARE | \$ | 3,927,962 | \$ 3,927,962 | 88435 |
| 402 055-616 Victims of Crime | \$ | 30,000,000 | \$ 30,000,000 | 88436 |
| 419 055-623 Claims Section | \$ | 23,671,954 | \$ 15,149,954 | 88437 |
| 659 055-641 Solid and Hazardous | \$ | 621,159 | \$ 621,159 | 88438 |

Waste Background

Investigations

| | | | | |
|---|----|------------|---------------|-------|
| TOTAL SSR State Special Revenue | | | | 88439 |
| Fund Group | \$ | 58,221,075 | \$ 49,699,075 | 88440 |
| Holding Account Redistribution Fund Group | | | | 88441 |
| R04 055-631 General Holding | \$ | 275,000 | \$ 275,000 | 88442 |

Account

| | | | | |
|-----------------------------------|----|---------|------------|-------|
| R05 055-632 Antitrust Settlements | \$ | 1,000 | \$ 1,000 | 88443 |
| R18 055-630 Consumer Frauds | \$ | 300,000 | \$ 300,000 | 88444 |
| R42 055-601 Organized Crime | \$ | 25,025 | \$ 25,025 | 88445 |

Commission Account

| | | | | |
|------------------------------|----|-------------|----------------|-------|
| TOTAL 090 Holding Account | | | | 88446 |
| Redistribution Fund Group | \$ | 601,025 | \$ 601,025 | 88447 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 169,999,139 | \$ 172,006,677 | 88448 |

COUNTY SHERIFFS' PAY SUPPLEMENT 88449

The foregoing appropriation item 055-411, County Sheriffs' 88450
Pay Supplement, shall be used for the purpose of supplementing the 88451
annual compensation of county sheriffs as required by section 88452
325.06 of the Revised Code. 88453

COUNTY PROSECUTORS' PAY SUPPLEMENT 88454

The foregoing appropriation item 055-415, County Prosecutors' 88455
Pay Supplement, shall be used for the purpose of supplementing the 88456
annual compensation of certain county prosecutors as required by 88457

section 325.111 of the Revised Code. 88458

WORKERS' COMPENSATION SECTION 88459

The Workers' Compensation Section Fund (Fund 195) is entitled 88460
to receive payments from the Bureau of Workers' Compensation and 88461
the Ohio Industrial Commission at the beginning of each quarter of 88462
each fiscal year to fund legal services to be provided to the 88463
Bureau of Workers' Compensation and the Ohio Industrial Commission 88464
during the ensuing quarter. The advance payment shall be subject 88465
to adjustment. 88466

In addition, the Bureau of Workers' Compensation shall 88467
transfer payments at the beginning of each quarter for the support 88468
of the Workers' Compensation Fraud Unit. 88469

All amounts shall be mutually agreed upon by the Attorney 88470
General, the Bureau of Workers' Compensation, and the Ohio 88471
Industrial Commission. 88472

CORRUPT ACTIVITY INVESTIGATION AND PROSECUTION 88473

The foregoing appropriation item 055-636, Corrupt Activity 88474
Investigation and Prosecution, shall be used as provided by 88475
division (D)(2) of section 2923.35 of the Revised Code to dispose 88476
of the proceeds, fines, and penalties credited to the Corrupt 88477
Activity Investigation and Prosecution Fund, which is created in 88478
division (D)(1)(b) of section 2923.35 of the Revised Code. If it 88479
is determined that additional amounts are necessary for this 88480
purpose, the amounts are hereby appropriated. 88481

ATTORNEY GENERAL PASS-THROUGH FUNDS 88482

The foregoing appropriation item 055-638, Attorney General 88483
Pass-Through Funds, shall be used to receive federal grant funds 88484
provided to the Attorney General by other state agencies, 88485
including, but not limited to, the Department of Youth Services 88486
and the Department of Public Safety. 88487

| | | | | | |
|--|----|------------|----|------------|-------|
| ANTITRUST SETTLEMENTS | | | | 88488 | |
| The foregoing appropriation item 055-632, Antitrust | | | | 88489 | |
| Settlements, shall be used to distribute court-ordered antitrust | | | | 88490 | |
| settlements in which the Office of Attorney General represents the | | | | 88491 | |
| state or a political subdivision under section 109.81 of the | | | | 88492 | |
| Revised Code. If it is determined that additional amounts are | | | | 88493 | |
| necessary for this purpose, the amounts are hereby appropriated. | | | | 88494 | |
| CONSUMER FRAUDS | | | | 88495 | |
| The foregoing appropriation item 055-630, Consumer Frauds, | | | | 88496 | |
| shall be used for distribution of moneys from court-ordered | | | | 88497 | |
| judgments against sellers in actions brought by the Office of | | | | 88498 | |
| Attorney General under sections 1334.08 and 4549.48 and division | | | | 88499 | |
| (B) of section 1345.07 of the Revised Code. These moneys shall be | | | | 88500 | |
| used to provide restitution to consumers victimized by the fraud | | | | 88501 | |
| that generated the court-ordered judgments. If it is determined | | | | 88502 | |
| that additional amounts are necessary for this purpose, the | | | | 88503 | |
| amounts are hereby appropriated. | | | | 88504 | |
| ORGANIZED CRIME COMMISSION ACCOUNT | | | | 88505 | |
| The foregoing appropriation item 055-601, Organized Crime | | | | 88506 | |
| Commission Account, shall be used by the Organized Crime | | | | 88507 | |
| Investigations Commission, as provided by section 177.011 of the | | | | 88508 | |
| Revised Code, to reimburse political subdivisions for the expenses | | | | 88509 | |
| the political subdivisions incur when their law enforcement | | | | 88510 | |
| officers participate in an organized crime task force. If it is | | | | 88511 | |
| determined that additional amounts are necessary for this purpose, | | | | 88512 | |
| the amounts are hereby appropriated. | | | | 88513 | |
| Section 203.51. AUD AUDITOR OF STATE | | | | 88514 | |
| General Revenue Fund | | | | 88515 | |
| GRF 070-321 Operating Expenses | \$ | 29,014,425 | \$ | 28,964,425 | 88516 |
| GRF 070-403 Fiscal Watch/Emergency | \$ | 500,000 | \$ | 500,000 | 88517 |

| | | | | | | | |
|------------------------------|---------|---|----|------------|----|------------|-------|
| | | Technical Assistance | | | | | |
| GRF | 070-405 | Electronic Data | \$ | 823,193 | \$ | 823,193 | 88518 |
| | | Processing - Auditing and Administration | | | | | |
| GRF | 070-406 | Uniform Accounting | \$ | 1,588,538 | \$ | 1,588,538 | 88519 |
| | | Network/Technology Improvements Fund | | | | | |
| TOTAL GRF | | General Revenue Fund | \$ | 31,926,156 | \$ | 31,876,156 | 88520 |
| | | Auditor of State Fund Group | | | | | 88521 |
| R06 | 070-604 | Continuous Receipts | \$ | 35,000 | \$ | 35,000 | 88522 |
| 109 | 070-601 | Public Audit Expense - | \$ | 9,300,000 | \$ | 9,300,000 | 88523 |
| | | Intra-State | | | | | |
| 422 | 070-601 | Public Audit Expense - | \$ | 31,104,840 | \$ | 31,104,840 | 88524 |
| | | Local Government | | | | | |
| 584 | 070-603 | Training Program | \$ | 131,250 | \$ | 131,250 | 88525 |
| 675 | 070-605 | Uniform Accounting | \$ | 3,317,336 | \$ | 3,317,336 | 88526 |
| | | Network | | | | | |
| TOTAL AUS | | Auditor of State Fund | | | | | 88527 |
| Group | | | \$ | 43,888,426 | \$ | 43,888,426 | 88528 |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 75,814,582 | \$ | 75,764,582 | 88529 |
| | | BILLING PRACTICES PILOT REVIEW | | | | | 88530 |
| | | Of the foregoing appropriation item 070-321, Operating | | | | | 88531 |
| | | Expenses, \$50,000 shall be used by the Auditor of State to conduct | | | | | 88532 |
| | | a pilot review of the billing practices of facilities licensed by | | | | | 88533 |
| | | the Department of Mental Health and the Department of Job and | | | | | 88534 |
| | | Family Services that serve children in a residential setting for | | | | | 88535 |
| | | whom mental health treatment services are provided. In conducting | | | | | 88536 |
| | | this review, the Auditor of State shall have access to any | | | | | 88537 |
| | | information, records, or other data that would otherwise be | | | | | 88538 |
| | | available to any federal, state, or local public agency that | | | | | 88539 |
| | | provides funding to the facility. | | | | | 88540 |
| | | The Auditor of State shall prepare a report on the | | | | | 88541 |

conclusions of the pilot review, and shall furnish copies of the 88542
report to the Governor, the Speaker of the House of 88543
Representatives, and the President of the Senate, as well as to 88544
the majority and minority leaders of the House of Representatives 88545
and the Senate, by June 30, 2006. 88546

FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE 88547

The foregoing appropriation item 070-403, Fiscal 88548
Watch/Emergency Technical Assistance, shall be used for all 88549
expenses incurred by the Office of the Auditor of State in its 88550
role relating to fiscal watch or fiscal emergency activities under 88551
Chapters 118. and 3316. of the Revised Code. Expenses include, but 88552
are not limited to, the following: duties related to the 88553
determination or termination of fiscal watch or fiscal emergency 88554
of municipal corporations, counties, or townships as outlined in 88555
Chapter 118. of the Revised Code and of school districts as 88556
outlined in Chapter 3316. of the Revised Code; development of 88557
preliminary accounting reports; performance of annual forecasts; 88558
provision of performance audits; and supervisory, accounting, or 88559
auditing services for the mentioned public entities and school 88560
districts. The unencumbered balance of appropriation item 070-403, 88561
Fiscal Watch/Emergency Technical Assistance, at the end of fiscal 88562
year 2006 is transferred to fiscal year 2007 for use under the 88563
same appropriation item. 88564

ELECTRONIC DATA PROCESSING 88565

The unencumbered balance of appropriation item 070-405, 88566
Electronic Data Processing - Auditing and Administration, at the 88567
end of fiscal year 2006 is transferred to fiscal year 2007 for use 88568
under the same appropriation item. 88569

UNIFORM ACCOUNTING NETWORK/TECHNOLOGY IMPROVEMENTS FUND 88570

The foregoing appropriation item 070-406, Uniform Accounting 88571
Network/Technology Improvements Fund, shall be used to pay the 88572

| | |
|--|-------|
| costs of developing and implementing the Uniform Accounting | 88573 |
| Network and technology improvements for the Office of the Auditor | 88574 |
| of State. The unencumbered balance of the appropriation at the end | 88575 |
| of fiscal year 2006 is transferred to fiscal year 2007 to pay the | 88576 |
| costs of developing and implementing the Uniform Accounting | 88577 |
| Network and technology improvements for the Office of the Auditor | 88578 |
| of State. | 88579 |

Section 203.54. BRB BOARD OF BARBER EXAMINERS 88580

| | |
|---|-------|
| General Services Fund Group | 88581 |
| 4K9 877-609 Operating Expenses \$ 568,126 \$ 0 | 88582 |
| TOTAL GSF General Services Fund | 88583 |
| Group \$ 568,126 \$ 0 | 88584 |
| TOTAL ALL BUDGET FUND GROUPS \$ 568,126 \$ 0 | 88585 |

Section 203.57. OBM OFFICE OF BUDGET AND MANAGEMENT 88587

| | |
|------------------------------------|-------|
| General Revenue Fund | 88588 |
| GRF 042-321 Budget Development and | 88589 |
| Implementation | |
| GRF 042-410 National Association | 88590 |
| Dues | |
| GRF 042-412 Audit of Auditor of | 88591 |
| State | |
| GRF 042-435 Gubernatorial | 88592 |
| Transition | |
| TOTAL GRF General Revenue Fund | 88593 |
| General Services Fund Group | 88594 |
| 105 042-603 Accounting and | 88595 |
| Budgeting | |
| TOTAL GSF General Services Fund | 88596 |
| Group | |
| State Special Revenue Fund Group | 88597 |

| | | | | | |
|--|----|------------|----|------------|-------|
| 5N4 042-602 OAKS Project | \$ | 2,262,441 | \$ | 2,272,595 | 88598 |
| Implementation | | | | | |
| TOTAL SSR State Special Revenue | \$ | 2,262,441 | \$ | 2,272,595 | 88599 |
| Fund Group | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 14,270,401 | \$ | 14,730,043 | 88600 |
| AUDIT COSTS | | | | | 88601 |
| Of the foregoing appropriation item 042-603, Accounting and | | | | | 88602 |
| Budgeting, not more than \$420,000 in fiscal year 2006 and \$425,000 | | | | | 88603 |
| in fiscal year 2007 shall be used to pay for centralized audit | | | | | 88604 |
| costs associated with either Single Audit Schedules or financial | | | | | 88605 |
| statements prepared in conformance with generally accepted | | | | | 88606 |
| accounting principles for the state. | | | | | 88607 |
| OAKS PROJECT IMPLEMENTATION | | | | | 88608 |
| Notwithstanding section 126.25 of the Revised Code, in fiscal | | | | | 88609 |
| years 2006 and 2007, rebates or revenue shares received from any | | | | | 88610 |
| state payment card program established under division (B) of | | | | | 88611 |
| section 126.21 of the Revised Code may be deposited into the OAKS | | | | | 88612 |
| Project Implementation Fund (Fund 5N4). | | | | | 88613 |
| Section 203.60. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD | | | | | 88614 |
| General Revenue Fund | | | | | 88615 |
| GRF 874-100 Personal Services | \$ | 1,900,000 | \$ | 1,900,000 | 88616 |
| GRF 874-320 Maintenance and | \$ | 992,269 | \$ | 952,269 | 88617 |
| Equipment | | | | | |
| TOTAL GRF General Revenue Fund | \$ | 2,892,269 | \$ | 2,852,269 | 88618 |
| General Services Fund Group | | | | | 88619 |
| 4G5 874-603 Capitol Square | \$ | 15,000 | \$ | 15,000 | 88620 |
| Maintenance Expenses | | | | | |
| 4S7 874-602 Statehouse Gift | \$ | 770,484 | \$ | 770,484 | 88621 |
| Shop/Events | | | | | |
| TOTAL GSF General Services | | | | | 88622 |

| | | | | | |
|---|----|-----------|----|-----------|-------|
| Fund Group | \$ | 785,484 | \$ | 785,484 | 88623 |
| Underground Parking Garage | | | | | 88624 |
| 208 874-601 Underground Parking | \$ | 2,959,721 | \$ | 2,959,721 | 88625 |
| Garage Operating | | | | | |
| TOTAL UPG Underground Parking | | | | | 88626 |
| Garage | \$ | 2,959,721 | \$ | 2,959,721 | 88627 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 6,637,474 | \$ | 6,597,474 | 88628 |
| | | | | | |
| EXPANSION OF COMMITTEE HEARING ROOMS | | | | | 88629 |
| | | | | | |
| Of the foregoing appropriation item 874-320, Maintenance and | | | | | 88630 |
| Equipment, \$40,000 in fiscal year 2006 shall be used to expand the | | | | | 88631 |
| House of Representatives committee hearing rooms, numbers 119 and | | | | | 88632 |
| 121. | | | | | 88633 |
| | | | | | |
| Section 203.63. SCR STATE BOARD OF CAREER COLLEGES AND | | | | | 88634 |
| SCHOOLS | | | | | 88635 |
| | | | | | |
| General Services Fund Group | | | | | 88636 |
| 4K9 233-601 Operating Expenses | \$ | 486,700 | \$ | 508,600 | 88637 |
| TOTAL GSF General Services Fund | \$ | 486,700 | \$ | 508,600 | 88638 |
| Group | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 486,700 | \$ | 508,600 | 88639 |
| | | | | | |
| Section 203.66. CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD | | | | | 88641 |
| | | | | | |
| General Services Fund Group | | | | | 88642 |
| 4K9 930-609 Operating Expenses | \$ | 452,976 | \$ | 0 | 88643 |
| TOTAL GSF General Services Fund | \$ | 452,976 | \$ | 0 | 88644 |
| Group | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 452,976 | \$ | 0 | 88645 |
| | | | | | |
| Section 203.69. CHR STATE CHIROPRACTIC BOARD | | | | | 88647 |
| | | | | | |
| General Services Fund Group | | | | | 88648 |
| 4K9 878-609 Operating Expenses | \$ | 605,278 | \$ | 0 | 88649 |

| | | | | |
|---------------------------------|----|---------|----|---------|
| TOTAL GSF General Services Fund | | | | 88650 |
| Group | \$ | 605,278 | \$ | 0 88651 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 605,278 | \$ | 0 88652 |

Section 203.72. CIV OHIO CIVIL RIGHTS COMMISSION 88654

| | | | | |
|------------------------------------|----|------------|----|------------------|
| General Revenue Fund | | | | 88655 |
| GRF 876-321 Operating Expenses | \$ | 7,253,075 | \$ | 7,470,667 88656 |
| TOTAL GRF General Revenue Fund | \$ | 7,253,075 | \$ | 7,470,667 88657 |
| Federal Special Revenue Fund Group | | | | 88658 |
| 334 876-601 Investigations | \$ | 3,760,000 | \$ | 3,560,000 88659 |
| TOTAL FED Federal Special Revenue | | | | 88660 |
| Fund Group | \$ | 3,760,000 | \$ | 3,560,000 88661 |
| State Special Revenue Fund Group | | | | 88662 |
| 217 876-604 Operations Support | \$ | 50,951 | \$ | 50,951 88663 |
| TOTAL SSR State Special | | | | 88664 |
| Revenue Fund Group | \$ | 50,951 | \$ | 50,951 88665 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 11,064,026 | \$ | 11,081,618 88666 |

Section 203.75. COM DEPARTMENT OF COMMERCE 88668

| | | | | |
|------------------------------------|----|------------|----|------------------|
| General Revenue Fund | | | | 88669 |
| GRF 800-410 Labor and Worker | \$ | 2,086,477 | \$ | 2,032,397 88670 |
| Safety | | | | |
| Total GRF General Revenue Fund | \$ | 2,086,477 | \$ | 2,032,397 88671 |
| General Services Fund Group | | | | 88672 |
| 163 800-620 Division of | \$ | 4,262,314 | \$ | 4,368,037 88673 |
| Administration | | | | |
| 163 800-637 Information Technology | \$ | 2,733,853 | \$ | 2,785,045 88674 |
| 5F1 800-635 Small Government Fire | \$ | 250,000 | \$ | 250,000 88675 |
| Departments | | | | |
| 543 800-602 Unclaimed | \$ | 7,351,051 | \$ | 7,351,051 88676 |
| Funds-Operating | | | | |
| 543 800-625 Unclaimed Funds-Claims | \$ | 52,000,000 | \$ | 55,000,000 88677 |

| | | | | |
|---|----|------------|---------------|-------|
| TOTAL GSF General Services Fund | | | | 88678 |
| Group | \$ | 66,597,218 | \$ 69,754,133 | 88679 |
| Federal Special Revenue Fund Group | | | | 88680 |
| 348 800-622 Underground Storage Tanks | \$ | 195,008 | \$ 195,008 | 88681 |
| 348 800-624 Leaking Underground Storage Tanks | \$ | 1,850,000 | \$ 1,850,000 | 88682 |
| TOTAL FED Federal Special Revenue Fund Group | \$ | 2,045,008 | \$ 2,045,008 | 88683 |
| State Special Revenue Fund Group | | | | 88684 |
| 4B2 800-631 Real Estate Appraisal Recovery | \$ | 35,000 | \$ 35,000 | 88685 |
| 4H9 800-608 Cemeteries | \$ | 273,465 | \$ 273,465 | 88686 |
| 4X2 800-619 Financial Institutions | \$ | 2,400,843 | \$ 2,400,843 | 88687 |
| 5K7 800-621 Penalty Enforcement | \$ | 50,000 | \$ 50,000 | 88688 |
| 544 800-612 Banks | \$ | 6,757,197 | \$ 6,759,197 | 88689 |
| 545 800-613 Savings Institutions | \$ | 2,678,248 | \$ 2,669,774 | 88690 |
| 546 800-610 Fire Marshal | \$ | 12,187,994 | \$ 12,292,994 | 88691 |
| 546 800-639 Fire Department Grants | \$ | 1,647,140 | \$ 1,647,140 | 88692 |
| 547 800-603 Real Estate Education/Research | \$ | 250,000 | \$ 250,000 | 88693 |
| 548 800-611 Real Estate Recovery | \$ | 50,000 | \$ 50,000 | 88694 |
| 549 800-614 Real Estate | \$ | 3,605,892 | \$ 3,605,892 | 88695 |
| 550 800-617 Securities | \$ | 4,300,000 | \$ 4,400,000 | 88696 |
| 552 800-604 Credit Union | \$ | 2,936,852 | \$ 2,941,852 | 88697 |
| 553 800-607 Consumer Finance | \$ | 4,300,445 | \$ 4,300,445 | 88698 |
| 556 800-615 Industrial Compliance | \$ | 25,037,257 | \$ 25,037,257 | 88699 |
| 6A4 800-630 Real Estate Appraiser-Operating | \$ | 664,006 | \$ 664,006 | 88700 |
| 653 800-629 UST Registration/Permit Fee | \$ | 1,249,632 | \$ 1,249,632 | 88701 |
| TOTAL SSR State Special Revenue | | | | 88702 |

| | | | | | |
|--|----|-------------|----|-------------|-------|
| Fund Group | \$ | 68,423,971 | \$ | 68,627,497 | 88704 |
| Liquor Control Fund Group | | | | | 88705 |
| 043 800-601 Merchandising | \$ | 382,595,409 | \$ | 397,839,347 | 88706 |
| 043 800-627 Liquor Control | \$ | 16,873,183 | \$ | 15,981,346 | 88707 |
| Operating | | | | | |
| 043 800-633 Development Assistance | \$ | 32,158,300 | \$ | 39,230,000 | 88708 |
| Debt Service | | | | | |
| 043 800-636 Revitalization Debt | \$ | 9,740,500 | \$ | 13,485,800 | 88709 |
| Service | | | | | |
| TOTAL LCF Liquor Control | | | | | 88710 |
| Fund Group | \$ | 441,367,392 | \$ | 466,536,493 | 88711 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 580,520,066 | \$ | 608,995,528 | 88712 |
| SMALL GOVERNMENT FIRE DEPARTMENTS | | | | | 88713 |
| Notwithstanding section 3737.17 of the Revised Code, the | | | | | 88714 |
| foregoing appropriation item 800-635, Small Government Fire | | | | | 88715 |
| Departments, may be used to provide loans to private fire | | | | | 88716 |
| departments. | | | | | 88717 |
| PENALTY ENFORCEMENT | | | | | 88718 |
| The foregoing appropriation item 800-621, Penalty | | | | | 88719 |
| Enforcement, shall be used to enforce sections 4115.03 to 4115.16 | | | | | 88720 |
| of the Revised Code. | | | | | 88721 |
| UNCLAIMED FUNDS PAYMENTS | | | | | 88722 |
| The foregoing appropriation item 800-625, Unclaimed | | | | | 88723 |
| Funds-Claims, shall be used to pay claims under section 169.08 of | | | | | 88724 |
| the Revised Code. If it is determined that additional amounts are | | | | | 88725 |
| necessary, the amounts are hereby appropriated. | | | | | 88726 |
| UNCLAIMED FUNDS TRANSFERS | | | | | 88727 |
| Notwithstanding division (A) of section 169.05 of the Revised | | | | | 88728 |
| Code, prior to June 30, 2006, and upon the request of the Director | | | | | 88729 |
| of Budget and Management, the Director of Commerce shall transfer | | | | | 88730 |

to the General Revenue Fund up to \$50,000,000 of unclaimed funds 88731
that have been reported by holders of unclaimed funds under 88732
section 169.05 of the Revised Code, irrespective of the allocation 88733
of the unclaimed funds under that section. 88734

Notwithstanding division (A) of section 169.05 of the Revised 88735
Code, prior to June 30, 2007, and upon the request of the Director 88736
of Budget and Management, the Director of Commerce shall transfer 88737
to the General Revenue Fund up to \$50,000,000 of unclaimed funds 88738
that have been reported by holders of unclaimed funds under 88739
section 169.05 of the Revised Code, irrespective of the allocation 88740
of the unclaimed funds under that section. 88741

CASH TRANSFER TO STATE FIRE MARSHAL FUND (FUND 546) 88742

Effective July 1, 2005, or as soon thereafter as possible, 88743
the Director of Budget and Management shall transfer the cash 88744
balance in the Fire Marshal's Fireworks Training and Education 88745
Fund (Fund 4L5), which is abolished in division (B) of section 88746
3743.57 of the Revised Code as amended by this act, to the State 88747
Fire Marshal's Fund (Fund 546), which is created in section 88748
3737.71 of the Revised Code. The director shall cancel any 88749
existing encumbrances against appropriation item 800-609, 88750
Fireworks Training and Education, in Fund 4L5, and re-establish 88751
them against appropriation item 800-610, Fire Marshal, in Fund 88752
546. The amounts of the re-established encumbrances are hereby 88753
appropriated. 88754

CASH TRANSFER TO BUDGET STABILIZATION FUND 88755

Notwithstanding any other law to the contrary, the Director 88756
of Budget and Management shall transfer up to \$1,700,000 in cash 88757
in fiscal year 2006 and up to \$1,600,000 in cash in fiscal year 88758
2007 from the State Fire Marshal Fund (Fund 546) to the Budget 88759
Stabilization Fund. 88760

FIRE DEPARTMENT GRANTS 88761

Of the foregoing appropriation item 800-639, Fire Department 88762
Grants, up to \$760,000 in each fiscal year shall be used to make 88763
annual grants to volunteer fire departments of up to \$10,000, or 88764
up to \$25,000 if the volunteer fire department provides service 88765
for an area affected by a natural disaster. The grant program 88766
shall be administered by the Fire Marshal under the Department of 88767
Commerce. The Fire Marshal shall adopt rules as are necessary for 88768
the administration and operation of the grant program. 88769

Of the foregoing appropriation item 800-639, Fire Department 88770
Grants, up to \$687,140 in each fiscal year shall be used as full 88771
or partial reimbursement to local units of government and fire 88772
departments for the cost of firefighter training and equipment or 88773
gear. Under rules that the department shall adopt, a local unit of 88774
government or fire department may apply to the department for a 88775
grant to cover all documented costs that are incurred to provide 88776
firefighter training and equipment or gear. The department shall 88777
make grants within the limits of the funding provided, with 88778
priority given to fire departments that serve small villages and 88779
townships. 88780

Of the foregoing appropriation item 800-639, Fire Department 88781
Grants, up to \$200,000 in each fiscal year shall be used to make 88782
grants to fire departments to assist in the conversion of existing 88783
data systems to the NFIRS 5 electronic fire reporting system. 88784
Under rules that the department shall adopt, awards shall have a 88785
maximum of \$50,000 per fire department and shall be based on a 88786
point system that includes factors such as consideration of the 88787
fire department's information technology and operating budgets, 88788
population and area served, number of incidents, data conversion 88789
and implementation methods, and readiness. 88790

CASH TRANSFER TO REAL ESTATE OPERATING FUND 88791

At the request of the Director of Commerce, the Director of 88792
Budget and Management may transfer up to \$100,000 in cash from the 88793

Real Estate Recovery Fund (Fund 548) and up to \$350,000 in cash 88794
from the Real Estate Appraiser Recovery Fund (Fund 4B2) to the 88795
Real Estate Operating Fund (Fund 549) during the 2005-2007 88796
biennium. 88797

INCREASED APPROPRIATION AUTHORITY - MERCHANDISING 88798

The foregoing appropriation item 800-601, Merchandising, 88799
shall be used under section 4301.12 of the Revised Code. If it is 88800
determined that additional amounts are necessary, the amounts are 88801
hereby appropriated. 88802

DEVELOPMENT ASSISTANCE DEBT SERVICE 88803

The foregoing appropriation item 800-633, Development 88804
Assistance Debt Service, shall be used to meet all payments at the 88805
times they are required to be made during the period from July 1, 88806
2005, to June 30, 2007, for bond service charges on obligations 88807
issued under Chapter 166. of the Revised Code. If it is determined 88808
that additional appropriations are necessary for this purpose, 88809
such amounts are hereby appropriated, subject to the limitations 88810
set forth in section 166.11 of the Revised Code. The General 88811
Assembly acknowledges that an appropriation for this purpose is 88812
not required, but is made in this form and in this act for record 88813
purposes only. 88814

REVITALIZATION DEBT SERVICE 88815

The foregoing appropriation item 800-636, Revitalization Debt 88816
Service, shall be used to pay debt service and related financing 88817
costs under sections 151.01 and 151.40 of the Revised Code during 88818
the period from July 1, 2005, to June 30, 2007. If it is 88819
determined that additional appropriations are necessary for this 88820
purpose, such amounts are hereby appropriated. The General 88821
Assembly acknowledges the priority of the pledge of a portion of 88822
receipts from that source to obligations issued and to be issued 88823
under Chapter 166. of the Revised Code. 88824

| | | | | | |
|---|----|-----------|----|-----------|-------|
| ADMINISTRATIVE ASSESSMENTS | | | | 88825 | |
| Notwithstanding any other provision of law to the contrary, | | | | 88826 | |
| Fund 163, Division of Administration, is entitled to receive | | | | 88827 | |
| assessments from all operating funds of the department in | | | | 88828 | |
| accordance with procedures prescribed by the Director of Commerce | | | | 88829 | |
| and approved by the Director of Budget and Management. | | | | 88830 | |
| Section 203.78. OCC OFFICE OF CONSUMERS' COUNSEL | | | | 88831 | |
| General Services Fund Group | | | | 88832 | |
| 5F5 053-601 Operating Expenses | \$ | 7,770,000 | \$ | 7,770,000 | 88833 |
| TOTAL GSF General Services Fund | \$ | 7,770,000 | \$ | 7,770,000 | 88834 |
| Group | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 7,770,000 | \$ | 7,770,000 | 88835 |
| Section 203.81. CEB CONTROLLING BOARD | | | | 88837 | |
| General Revenue Fund | | | | 88838 | |
| GRF 911-401 Emergency | \$ | 5,000,000 | \$ | 5,000,000 | 88839 |
| Purposes/Contingencies | | | | | |
| GRF 911-404 Mandate Assistance | \$ | 650,000 | \$ | 650,000 | 88840 |
| GRF 911-441 Ballot Advertising | \$ | 300,000 | \$ | 300,000 | 88841 |
| Costs | | | | | |
| TOTAL GRF General Revenue Fund | \$ | 5,950,000 | \$ | 5,950,000 | 88842 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 5,950,000 | \$ | 5,950,000 | 88843 |
| FEDERAL SHARE | | | | 88844 | |
| In transferring appropriations to or from appropriation items | | | | 88845 | |
| that have federal shares identified in this act, the Controlling | | | | 88846 | |
| Board shall add or subtract corresponding amounts of federal | | | | 88847 | |
| matching funds at the percentages indicated by the state and | | | | 88848 | |
| federal division of the appropriations in this act. Such changes | | | | 88849 | |
| are hereby appropriated. | | | | 88850 | |
| DISASTER ASSISTANCE | | | | 88851 | |

Pursuant to requests submitted by the Department of Public Safety, the Controlling Board may approve transfers from appropriation item 911-401, Emergency Purposes/Contingencies, to Department of Public Safety appropriation items to provide funding for assistance to political subdivisions and individuals made necessary by natural disasters or emergencies. Such transfers may be requested and approved prior to or following the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance.

DISASTER SERVICES

Pursuant to requests submitted by the Department of Public Safety, the Controlling Board may approve transfers from the Disaster Services Fund (5E2) to a Department of Public Safety General Revenue Fund appropriation item to provide for assistance to political subdivisions made necessary by natural disasters or emergencies. These transfers may be requested and approved prior to the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance. The Emergency Management Agency of the Department of Public Safety shall use the funding for disaster aid requests that meet the Emergency Management Agency's criteria for assistance.

The Disaster Services Fund (5E2) shall be used by the Controlling Board, pursuant to requests submitted by state agencies, to transfer cash and appropriation authority to any fund and appropriation item for the payment of state agency program expenses as follows:

(A) The Southern Ohio flooding, referred to as FEMA-DR-1164-OH;

(B) The flood and storm disaster referred to as FEMA-DR-1227-OH;

(C) The Southern Ohio flooding, referred to as

| | |
|--|-------|
| FEMA-DR-1321-OH; | 88883 |
| (D) The flooding referred to as FEMA-DR-1339-OH; | 88884 |
| (E) The tornado and storms referred to as FEMA-DR-1343-OH; | 88885 |
| (F) Other disasters declared by the Governor, if the Director | 88886 |
| of Budget and Management determines that sufficient funds exist | 88887 |
| beyond the expected program costs of these other disasters. | 88888 |
| The unencumbered balance of the Disaster Services Fund (5E2) | 88889 |
| at the end of fiscal year 2006 is transferred to fiscal year 2007 | 88890 |
| for use for the same purposes as in fiscal year 2006. | 88891 |
| SOUTHERN OHIO CORRECTIONAL FACILITY COST | 88892 |
| The Division of Criminal Justice Services in the Department | 88893 |
| of Public Safety and the Public Defender Commission may each | 88894 |
| request, upon approval of the Director of Budget and Management, | 88895 |
| additional funds from appropriation item 911-401, Emergency | 88896 |
| Purposes/Contingencies, for costs related to the disturbance that | 88897 |
| occurred on April 11, 1993, at the Southern Ohio Correctional | 88898 |
| Facility in Lucasville, Ohio. | 88899 |
| MANDATE ASSISTANCE | 88900 |
| (A) The foregoing appropriation item 911-404, Mandate | 88901 |
| Assistance, shall be used to provide financial assistance to local | 88902 |
| units of government and school districts for the cost of the | 88903 |
| following two unfunded state mandates: | 88904 |
| (1) The cost to county prosecutors for prosecuting certain | 88905 |
| felonies that occur on the grounds of state institutions operated | 88906 |
| by the Department of Rehabilitation and Correction and the | 88907 |
| Department of Youth Services; | 88908 |
| (2) The cost to school districts of in-service training for | 88909 |
| child abuse detection. | 88910 |
| (B) The Division of Criminal Justice Services in the | 88911 |
| Department of Public Safety and the Department of Education may | 88912 |

prepare and submit to the Controlling Board one or more requests 88913
to transfer appropriations from appropriation item 911-404, 88914
Mandate Assistance. The state agencies charged with this 88915
administrative responsibility are listed below, as well as the 88916
estimated annual amounts that may be used for each program of 88917
state financial assistance. 88918

| | ADMINISTERING | ESTIMATED ANNUAL | |
|---|--|------------------|----------------|
| PROGRAM | AGENCY | AMOUNT | |
| Prosecution Costs | Division of Criminal Justice Services | \$150,000 | 88921 88922 |
| Child Abuse Detection Training Costs | Department of Education | \$500,000 | 88923 |

(C) Subject to the total amount appropriated in each fiscal 88924
year for appropriation item 911-404, Mandate Assistance, the 88925
Division of Criminal Justice Services in the Department of Public 88926
Safety and the Department of Education may request from the 88927
Controlling Board that amounts smaller or larger than these 88928
estimated annual amounts be transferred to each program. 88929

(D) In addition to making the initial transfers requested by 88930
the Division of Criminal Justice Services in the Department of 88931
Public Safety and the Department of Education, the Controlling 88932
Board may transfer appropriations received by a state agency under 88933
this section back to appropriation item 911-404, Mandate 88934
Assistance, or to the other program of state financial assistance 88935
identified under this section. 88936

(E) It is expected that not all costs incurred by local units 88937
of government and school districts under each of the two programs 88938
of state financial assistance identified in this section will be 88939
fully reimbursed by the state. Reimbursement levels may vary by 88940
program and shall be based on: the relationship between the 88941
appropriation transfers requested by the Division of Criminal 88942
Justice Services in the Department of Public Safety and the 88943

Department of Education and provided by the Controlling Board for 88944
each of the programs; the rules and procedures established for 88945
each program by the administering state agency; and the actual 88946
costs incurred by local units of government and school districts. 88947

(F) Each of these programs of state financial assistance 88948
shall be carried out as follows: 88949

(1) PROSECUTION COSTS 88950

(a) Appropriations may be transferred to the Division of 88951
Criminal Justice Services in the Department of Public Safety to 88952
cover local prosecution costs for aggravated murder, murder, 88953
felonies of the first degree, and felonies of the second degree 88954
that occur on the grounds of institutions operated by the 88955
Department of Rehabilitation and Correction and the Department of 88956
Youth Services. 88957

(b) Upon a delinquency filing in juvenile court or the return 88958
of an indictment for aggravated murder, murder, or any felony of 88959
the first or second degree that was committed at a Department of 88960
Youth Services or a Department of Rehabilitation and Correction 88961
institution, the affected county may, in accordance with rules 88962
that the Division of Criminal Justice Services in the Department 88963
of Public Safety shall adopt, apply to the Division of Criminal 88964
Justice Services for a grant to cover all documented costs that 88965
are incurred by the county prosecutor's office. 88966

(c) Twice each year, the Division of Criminal Justice 88967
Services in the Department of Public Safety shall designate 88968
counties to receive grants from those counties that have submitted 88969
one or more applications in compliance with the rules that have 88970
been adopted by the Division of Criminal Justice Services for the 88971
receipt of such grants. In each year's first round of grant 88972
awards, if sufficient appropriations have been made, up to a total 88973
of \$100,000 may be awarded. In each year's second round of grant 88974

awards, the remaining appropriations available for this purpose 88975
may be awarded. 88976

(d) If for a given round of grants there are insufficient 88977
appropriations to make grant awards to all the eligible counties, 88978
the first priority shall be given to counties with cases involving 88979
aggravated murder and murder; second priority shall be given to 88980
counties with cases involving a felony of the first degree; and 88981
third priority shall be given to counties with cases involving a 88982
felony of the second degree. Within these priorities, the grant 88983
awards shall be based on the order in which the applications were 88984
received, except that applications for cases involving a felony of 88985
the first or second degree shall not be considered in more than 88986
two consecutive rounds of grant awards. 88987

(2) CHILD ABUSE DETECTION TRAINING COSTS 88988

Appropriations may be transferred to the Department of 88989
Education for disbursement to local school districts as full or 88990
partial reimbursement for the cost of providing in-service 88991
training for child abuse detection. In accordance with rules that 88992
the department shall adopt, a local school district may apply to 88993
the department for a grant to cover all documented costs that are 88994
incurred to provide in-service training for child abuse detection. 88995
The department shall make grants within the limits of the funding 88996
provided. 88997

(G) Any moneys allocated within appropriation item 911-404, 88998
Mandate Assistance, not fully utilized may, upon application of 88999
the Ohio Public Defender Commission, and with the approval of the 89000
Controlling Board, be disbursed to boards of county commissioners 89001
to provide additional reimbursement for the costs incurred by 89002
counties in providing defense to indigent defendants pursuant to 89003
Chapter 120. of the Revised Code. Application for the unutilized 89004
funds shall be made by the Ohio Public Defender Commission at the 89005
first June meeting of the Controlling Board. 89006

The amount to be disbursed to each county shall be allocated 89007
 proportionately on the basis of the total amount of reimbursement 89008
 paid to each county as a percentage of the amount of reimbursement 89009
 paid to all of the counties during the most recent state fiscal 89010
 year for which data is available and as calculated by the Ohio 89011
 Public Defender Commission. 89012

BALLOT ADVERTISING COSTS 89013

Pursuant to requests submitted by the Ohio Ballot Board, the 89014
 Controlling Board shall approve transfers from the foregoing 89015
 appropriation item 911-441, Ballot Advertising Costs, to an Ohio 89016
 Ballot Board appropriation item in order to reimburse county 89017
 boards of elections for the cost of public notices associated with 89018
 statewide ballot initiatives. 89019

Section 203.84. COS STATE BOARD OF COSMETOLOGY 89020

General Services Fund Group 89021
 4K9 879-609 Operating Expenses \$ 2,929,630 \$ 0 89022
 TOTAL GSF General Services Fund 89023
 Group \$ 2,929,630 \$ 0 89024
 TOTAL ALL BUDGET FUND GROUPS \$ 2,929,630 \$ 0 89025

Section 203.87. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE 89027

AND FAMILY THERAPIST BOARD 89028
 General Services Fund Group 89029
 4K9 899-609 Operating Expenses \$ 1,058,445 \$ 0 89030
 TOTAL GSF General Services Fund 89031
 Group \$ 1,058,445 \$ 0 89032
 TOTAL ALL BUDGET FUND GROUPS \$ 1,058,445 \$ 0 89033

Section 203.90. CLA COURT OF CLAIMS 89035

General Revenue Fund 89036

| | | | | | |
|----------------------------------|----|-----------|----|-----------|-------|
| GRF 015-321 Operating Expenses | \$ | 2,598,040 | \$ | 2,678,331 | 89037 |
| TOTAL GRF General Revenue Fund | \$ | 2,598,040 | \$ | 2,678,331 | 89038 |
| State Special Revenue Fund Group | | | | | 89039 |
| 5K2 015-603 CLA Victims of Crime | \$ | 1,582,684 | \$ | 1,582,684 | 89040 |
| TOTAL SSR State Special Revenue | | | | | 89041 |
| Fund Group | \$ | 1,582,684 | \$ | 1,582,684 | 89042 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 4,180,724 | \$ | 4,261,015 | 89043 |

Section 203.91. AFC OHIO CULTURAL FACILITIES COMMISSION 89045

| | | | | | |
|------------------------------------|----|------------|----|------------|-------|
| General Revenue Fund | | | | | 89046 |
| GRF 371-321 Operating Expenses | \$ | 198,406 | \$ | 195,707 | 89047 |
| GRF 371-401 Lease Rental Payments | \$ | 38,126,600 | \$ | 38,246,500 | 89048 |
| TOTAL GRF General Revenue Fund | \$ | 38,325,006 | \$ | 38,442,207 | 89049 |
| State Special Revenue Fund Group | | | | | 89050 |
| 4T8 371-601 Riffe Theatre | \$ | 81,000 | \$ | 81,000 | 89051 |
| Equipment Maintenance | | | | | |
| 4T8 371-603 Project Administration | \$ | 920,448 | \$ | 983,295 | 89052 |
| TOTAL SSR State Special Revenue | \$ | 1,001,448 | \$ | 1,064,295 | 89053 |
| Group | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 39,326,454 | \$ | 39,506,502 | 89054 |

LEASE RENTAL PAYMENTS 89055

The foregoing appropriation item 371-401, Lease Rental 89056
 Payments, shall be used for payments to the Ohio Building 89057
 Authority and the Treasurer of State for the period from July 1, 89058
 2005, to June 30, 2007, under the primary leases and agreements 89059
 for those arts and sports facilities made under Chapters 152. and 89060
 154. of the Revised Code, but limited to the aggregate amount of 89061
 \$76,373,100. This appropriation is the source of funds pledged for 89062
 bond service charges on related obligations issued pursuant to 89063
 Chapter 152. of the Revised Code. 89064

OPERATING EXPENSES 89065

The foregoing appropriation item 371-321, Operating Expenses, 89066
shall be used by the Ohio Cultural Facilities Commission to carry 89067
out its responsibilities under this section and Chapter 3383. of 89068
the Revised Code. 89069

By July 10, 2005, or as soon as possible thereafter, the 89070
Director of Budget and Management shall determine the amount of 89071
cash from interest earnings to be transferred from the Ohio 89072
Cultural Facilities Building Fund (Fund 030) to the AFC 89073
Administration Fund (Fund 4T8). 89074

By July 10, 2006, or as soon as possible thereafter, the 89075
Director of Budget and Management shall determine the amount of 89076
cash from interest earnings to be transferred from the Ohio 89077
Cultural Facilities Building Fund (Fund 030) to the AFC 89078
Administration Fund (Fund 4T8). 89079

As soon as possible after each bond issuance made on behalf 89080
of the Cultural Facilities Commission, the Director of Budget and 89081
Management shall determine the amount of cash from any premium 89082
paid on each issuance that is available to be transferred after 89083
all issuance costs have been paid from the Ohio Cultural and 89084
Sports Facilities Building Fund (Fund 030) to the AFC 89085
Administration Fund (Fund 4T8). 89086

Section 203.93. DEN STATE DENTAL BOARD 89087

General Services Fund Group 89088
4K9 880-609 Operating Expenses \$ 1,424,791 \$ 1,424,791 89089
TOTAL GSF General Services Fund 89090
Group \$ 1,424,791 \$ 1,424,791 89091
TOTAL ALL BUDGET FUND GROUPS \$ 1,424,791 \$ 1,424,791 89092

Section 203.96. BDP BOARD OF DEPOSIT 89094

General Services Fund Group 89095

| | | | | | |
|---------------------------------|----|-----------|----|-----------|-------|
| 4M2 974-601 Board of Deposit | \$ | 1,676,000 | \$ | 1,676,000 | 89096 |
| TOTAL GSF General Services Fund | | | | | 89097 |
| Group | \$ | 1,676,000 | \$ | 1,676,000 | 89098 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 1,676,000 | \$ | 1,676,000 | 89099 |

BOARD OF DEPOSIT EXPENSE FUND 89100

Upon receiving certification of expenses from the Treasurer 89101
of State, the Director of Budget and Management shall transfer 89102
cash from the Investment Earnings Redistribution Fund (Fund 608) 89103
to the Board of Deposit Expense Fund (Fund 4M2). The latter fund 89104
shall be used to pay for banking charges and fees required for the 89105
operation of the State of Ohio Regular Account. 89106

Section 203.99. DEV DEPARTMENT OF DEVELOPMENT 89107

General Revenue Fund 89108

| | | | | | |
|-----------------------------------|----|------------|----|------------|-------|
| GRF 195-321 Operating Expenses | \$ | 2,738,908 | \$ | 2,723,908 | 89109 |
| GRF 195-401 Thomas Edison Program | \$ | 17,554,838 | \$ | 17,454,838 | 89110 |
| GRF 195-404 Small Business | \$ | 1,740,722 | \$ | 1,740,722 | 89111 |
| Development | | | | | |
| GRF 195-405 Minority Business | \$ | 1,580,291 | \$ | 1,580,291 | 89112 |
| Development Division | | | | | |
| GRF 195-407 Travel and Tourism | \$ | 6,812,845 | \$ | 6,712,845 | 89113 |
| GRF 195-410 Defense Conversion | \$ | 300,000 | \$ | 200,000 | 89114 |
| Assistance | | | | | |
| GRF 195-412 Business Development | \$ | 11,750,000 | \$ | 11,750,000 | 89115 |
| Grants | | | | | |
| GRF 195-415 Economic Development | \$ | 5,794,975 | \$ | 5,894,975 | 89116 |
| Division and Regional | | | | | |
| Offices | | | | | |
| GRF 195-416 Governor's Office of | \$ | 4,122,372 | \$ | 4,122,372 | 89117 |
| Appalachia | | | | | |
| GRF 195-422 Third Frontier Action | \$ | 16,790,000 | \$ | 16,790,000 | 89118 |
| Fund | | | | | |

| | | | | | | |
|-------------|-----------------------------|----|------------|----|-------------|-------|
| GRF 195-426 | Clean Ohio | \$ | 300,000 | \$ | 300,000 | 89119 |
| | Implementation | | | | | |
| GRF 195-432 | International Trade | \$ | 4,223,787 | \$ | 4,223,787 | 89120 |
| GRF 195-434 | Investment in Training | \$ | 12,227,500 | \$ | 12,227,500 | 89121 |
| | Grants | | | | | |
| GRF 195-436 | Labor/Management | \$ | 811,869 | \$ | 811,869 | 89122 |
| | Cooperation | | | | | |
| GRF 195-497 | CDBG Operating Match | \$ | 1,040,956 | \$ | 1,040,956 | 89123 |
| GRF 195-498 | State Match Energy | \$ | 94,000 | \$ | 94,000 | 89124 |
| GRF 195-501 | Appalachian Local | \$ | 380,080 | \$ | 380,080 | 89125 |
| | Development Districts | | | | | |
| GRF 195-502 | Appalachian Regional | \$ | 246,803 | \$ | 246,803 | 89126 |
| | Commission Dues | | | | | |
| GRF 195-507 | Travel and Tourism | \$ | 1,287,500 | \$ | 1,162,500 | 89127 |
| | Grants | | | | | |
| GRF 195-515 | Economic Development | \$ | 10,000,000 | \$ | 0 | 89128 |
| | Contingency | | | | | |
| GRF 195-905 | Third Frontier | \$ | 0 | \$ | 13,910,000 | 89129 |
| | Research & | | | | | |
| | Commercialization | | | | | |
| | General Obligation | | | | | |
| | Debt Service | | | | | |
| TOTAL GRF | General Revenue Fund | \$ | 99,797,446 | \$ | 103,367,446 | 89130 |
| | General Services Fund Group | | | | | 89131 |
| 135 195-605 | Supportive Services | \$ | 7,450,000 | \$ | 7,539,686 | 89132 |
| 5AD 195-667 | Investment in Training | \$ | 5,000,000 | \$ | 5,000,000 | 89133 |
| | Expansion | | | | | |
| 5AD 195-668 | Worker Guarantee | \$ | 3,000,000 | \$ | 3,000,000 | 89134 |
| | Program | | | | | |
| 5AD 195-677 | Economic Development | \$ | 0 | \$ | 10,000,000 | 89135 |
| | Contingency | | | | | |
| 685 195-636 | General Reimbursements | \$ | 1,000,000 | \$ | 1,000,000 | 89136 |
| TOTAL GSF | General Services Fund | | | | | 89137 |

| | | | | | | |
|------------------------------------|-------------------------|----|-------------|----|-------------|-------|
| Group | | \$ | 16,450,000 | \$ | 26,539,686 | 89138 |
| Federal Special Revenue Fund Group | | | | | | 89139 |
| 3AE 195-643 | Workforce Development | \$ | 5,800,000 | \$ | 5,800,000 | 89140 |
| | Initiatives | | | | | |
| 3K8 195-613 | Community Development | \$ | 65,000,000 | \$ | 65,000,000 | 89141 |
| | Block Grant | | | | | |
| 3K9 195-611 | Home Energy Assistance | \$ | 90,500,000 | \$ | 90,500,000 | 89142 |
| | Block Grant | | | | | |
| 3K9 195-614 | HEAP Weatherization | \$ | 16,219,478 | \$ | 16,219,478 | 89143 |
| 3L0 195-612 | Community Services | \$ | 25,235,000 | \$ | 25,235,000 | 89144 |
| | Block Grant | | | | | |
| 3V1 195-601 | HOME Program | \$ | 40,000,000 | \$ | 40,000,000 | 89145 |
| 308 195-602 | Appalachian Regional | \$ | 600,660 | \$ | 600,660 | 89146 |
| | Commission | | | | | |
| 308 195-603 | Housing and Urban | \$ | 5,000,000 | \$ | 5,000,000 | 89147 |
| | Development | | | | | |
| 308 195-605 | Federal Projects | \$ | 15,300,249 | \$ | 15,300,249 | 89148 |
| 308 195-609 | Small Business | \$ | 4,296,381 | \$ | 4,296,381 | 89149 |
| | Administration | | | | | |
| 308 195-618 | Energy Federal Grants | \$ | 3,397,659 | \$ | 3,397,659 | 89150 |
| 335 195-610 | Oil Overcharge | \$ | 3,000,000 | \$ | 3,000,000 | 89151 |
| TOTAL FED | Federal Special Revenue | | | | | 89152 |
| Fund Group | | \$ | 274,349,427 | \$ | 274,349,427 | 89153 |
| State Special Revenue Fund Group | | | | | | 89154 |
| 4F2 195-639 | State Special Projects | \$ | 290,183 | \$ | 290,183 | 89155 |
| 4F2 195-676 | Promote Ohio | \$ | 5,228,210 | \$ | 5,228,210 | 89156 |
| 4S0 195-630 | Enterprise Zone | \$ | 275,000 | \$ | 275,000 | 89157 |
| | Operating | | | | | |
| 4S1 195-634 | Job Creation Tax | \$ | 375,800 | \$ | 375,800 | 89158 |
| | Credit Operating | | | | | |
| 4W1 195-646 | Minority Business | \$ | 2,580,597 | \$ | 2,580,597 | 89159 |
| | Enterprise Loan | | | | | |

| | | | | | | | |
|-------------------------------------|---------|--|----|-------------|----|-------------|-------|
| 444 | 195-607 | Water and Sewer Commission Loans | \$ | 523,775 | \$ | 523,775 | 89160 |
| 450 | 195-624 | Minority Business Bonding Program Administration | \$ | 53,967 | \$ | 53,967 | 89161 |
| 451 | 195-625 | Economic Development Financing Operating | \$ | 2,358,311 | \$ | 2,358,311 | 89162 |
| 5CA | 195-678 | Shovel Ready Sites | \$ | 5,000,000 | \$ | 5,000,000 | 89163 |
| 5CG | 195-679 | Alternative Fuel Transportation | \$ | 150,000 | \$ | 150,000 | 89164 |
| 5CV | 195-680 | Defense Conversion Assistance | \$ | 1,000,000 | \$ | 0 | 89165 |
| 5CY | 195-682 | Lung Cancer and Lung Disease Research | \$ | 10,000,000 | \$ | 0 | 89166 |
| 5M4 | 195-659 | Universal Service | \$ | 210,000,000 | \$ | 210,000,000 | 89167 |
| 5M5 | 195-660 | Energy Efficiency Loan and Grant | \$ | 12,000,000 | \$ | 12,000,000 | 89168 |
| 5X1 | 195-651 | Exempt Facility Inspection | \$ | 25,000 | \$ | 25,000 | 89169 |
| 611 | 195-631 | Water and Sewer Administration | \$ | 15,713 | \$ | 15,713 | 89170 |
| 617 | 195-654 | Volume Cap Administration | \$ | 200,000 | \$ | 200,000 | 89171 |
| 646 | 195-638 | Low- and Moderate- Income Housing Trust Fund | \$ | 53,000,000 | \$ | 53,000,000 | 89172 |
| TOTAL SSR State Special Revenue | | | | | | | 89173 |
| Fund Group | | | \$ | 303,076,556 | \$ | 292,076,556 | 89174 |
| Facilities Establishment Fund Group | | | | | | | 89175 |
| 009 | 195-664 | Innovation Ohio | \$ | 50,000,000 | \$ | 50,000,000 | 89176 |
| 010 | 195-665 | Research and Development | \$ | 50,000,000 | \$ | 50,000,000 | 89177 |
| 037 | 195-615 | Facilities | \$ | 63,931,149 | \$ | 63,931,149 | 89178 |

| | | | | | | | |
|---------------|---------|---------------------------|----|-------------|----|-------------|-------|
| | | Establishment | | | | | |
| 4Z6 | 195-647 | Rural Industrial Park | \$ | 3,000,000 | \$ | 3,000,000 | 89179 |
| | | Loan | | | | | |
| 5D2 | 195-650 | Urban Redevelopment | \$ | 5,475,000 | \$ | 5,475,000 | 89180 |
| | | Loans | | | | | |
| 5H1 | 195-652 | Family Farm Loan | \$ | 1,000,000 | \$ | 1,000,000 | 89181 |
| | | Guarantee | | | | | |
| 5S8 | 195-627 | Rural Development | \$ | 3,000,000 | \$ | 3,000,000 | 89182 |
| | | Initiative | | | | | |
| 5S9 | 195-628 | Capital Access Loan | \$ | 3,000,000 | \$ | 3,000,000 | 89183 |
| | | Program | | | | | |
| TOTAL | 037 | Facilities | | | | | 89184 |
| Establishment | | Fund Group | \$ | 179,406,149 | \$ | 179,406,149 | 89185 |
| Clean Ohio | | Revitalization Fund | | | | | 89186 |
| 003 | 195-663 | Clean Ohio Operating | \$ | 350,000 | \$ | 350,000 | 89187 |
| TOTAL | 003 | Clean Ohio Revitalization | \$ | 350,000 | \$ | 350,000 | 89188 |
| Fund | | | | | | | |
| TOTAL | ALL | BUDGET FUND GROUPS | \$ | 873,429,578 | \$ | 876,089,264 | 89189 |

Section 203.99.01. OPERATING EXPENSES 89191

Of the foregoing appropriation item 195-321, Operating 89192
Expenses, \$50,000 in fiscal year 2006 and \$35,000 in fiscal year 89193
2007 shall be used for Crawford County to hire an employee to act 89194
as a local economic development coordinator for Crawford, Hancock, 89195
Richland, and Marion Counties. 89196

Section 203.99.03. THOMAS EDISON PROGRAM 89197

The foregoing appropriation item 195-401, Thomas Edison 89198
Program, shall be used for the purposes of sections 122.28 to 89199
122.38 of the Revised Code in order to provide funds for 89200
cooperative public and private efforts in technological innovation 89201
to promote the development and transfer of technology by and to 89202

Ohio businesses that will lead to the creation of jobs, and to 89203
provide for the administration of the program by the Technology 89204
Division. 89205

Of the foregoing appropriation item 195-401, Thomas Edison 89206
Program, not more than \$2,000,000 in fiscal year 2006 and 89207
\$2,300,000 in fiscal year 2007 shall be used for operating 89208
expenditures in administering the programs of the Technology 89209
Division. 89210

The Department of Development, in consultation with the Third 89211
Frontier Commission, shall develop a plan providing for 89212
appropriate, value-added participation of Edison Centers and 89213
Incubators in Third Frontier Project proposals and grants. 89214

The Department of Development shall work with Edison Centers 89215
and Incubators and the Third Frontier Network, when appropriate, 89216
to provide for Third Frontier Network connections to Edison 89217
Centers and Incubators and their tenants and, as appropriate, 89218
clients. 89219

Of the foregoing appropriation item 195-401, Thomas Edison 89220
Program, \$100,000 in fiscal year 2006 shall be used for technology 89221
recruitment, development, and construction. 89222

Section 203.99.06. SMALL BUSINESS DEVELOPMENT 89223

The foregoing appropriation item 195-404, Small Business 89224
Development, shall be used to ensure that the unique needs and 89225
concerns of small businesses are addressed. 89226

The foregoing appropriation item 195-404, Small Business 89227
Development, may be used to provide grants to local organizations 89228
to support the operation of Small Business Development Centers and 89229
other local economic development activity promoting small 89230
business, and for the cost of administering the small business 89231
development center program. The centers shall provide technical, 89232

financial, and management consultation for small business and 89233
shall facilitate access to state and federal programs. These funds 89234
shall be used as matching funds for grants from the United States 89235
Small Business Administration and other federal agencies, pursuant 89236
to Public Law No. 96-302 (1980) as amended by Public Law No. 89237
98-395 (1984), and regulations and policy guidelines for the 89238
programs under this law. 89239

In addition, the Office of Small Business may operate the 89240
1st-Stop Business Connection and implement and coordinate the 89241
duties imposed on the Department of Development by Am. Sub. S.B. 89242
239 of the 115th General Assembly. 89243

MINORITY BUSINESS DEVELOPMENT DIVISION 89244

Of the foregoing appropriation item 195-405, Minority 89245
Business Development Division, up to \$1,060,000 but not less than 89246
\$954,000 in each fiscal year shall be used to fund minority 89247
contractors and business assistance organizations. The Minority 89248
Business Development Division shall determine which cities need 89249
minority contractors and business assistance organizations by 89250
utilizing United States Census Bureau data and zip codes to locate 89251
the highest concentrations of minority businesses. The Minority 89252
Business Development Division also shall determine the numbers of 89253
minority contractors and business assistance organizations 89254
necessary and the amount of funding to be provided each. In 89255
addition, the Minority Business Development Division shall 89256
continue to plan and implement business conferences. 89257

Section 203.99.09. BUSINESS DEVELOPMENT 89258

The foregoing appropriation item 195-412, Business 89259
Development Grants, shall be used as an incentive for attracting 89260
and retaining business opportunities for the state. Any such 89261
business opportunity, whether new, expanding, or relocating in 89262
Ohio, is eligible for funding. The project must create or retain a 89263

significant number of jobs for Ohioans. Grant awards may be 89264
considered only when (1) the project's viability hinges on an 89265
award of funds from appropriation item 195-412, Business 89266
Development Grants; (2) all other public or private sources of 89267
financing have been considered; or (3) the funds act as a catalyst 89268
for the infusion into the project of other financing sources. 89269

The department's primary goal shall be to award funds to 89270
political subdivisions of the state for off-site infrastructure 89271
improvements. In order to meet the particular needs of economic 89272
development in a region, the department may elect to award funds 89273
directly to a business for on-site infrastructure improvements. 89274
"Infrastructure improvements" mean improvements to water system 89275
facilities, sewer and sewage treatment facilities, electric or gas 89276
service facilities, fiber optic facilities, rail facilities, site 89277
preparation, and parking facilities. The Director of Development 89278
may recommend the funds be used in an alternative manner when 89279
considered appropriate to meet an extraordinary economic 89280
development opportunity or need. 89281

The foregoing appropriation item 195-412, Business 89282
Development Grants, may be expended only after the submission of a 89283
request to the Controlling Board by the Department of Development 89284
outlining the planned use of the funds, and the subsequent 89285
approval of the request by the Controlling Board. 89286

The foregoing appropriation item 195-412, Business 89287
Development Grants, may be used for, but is not limited to, 89288
construction, rehabilitation, and acquisition projects for rail 89289
freight assistance as requested by the Department of 89290
Transportation. The Director of Transportation shall submit the 89291
proposed projects to the Director of Development for an evaluation 89292
of potential economic benefit. 89293

Section 203.99.12. ECONOMIC DEVELOPMENT DIVISION AND REGIONAL 89294

| | |
|--|--|
| OFFICES | 89295 |
| The foregoing appropriation item 195-415, Economic Development Division and Regional Offices, shall be used for the operating expenses of the Economic Development Division and the regional economic development offices and for grants for cooperative economic development ventures. | 89296 89297 89298 89299 89300 |
| Section 203.99.15. GOVERNOR'S OFFICE OF APPALACHIA | 89301 |
| The foregoing appropriation item 195-416, Governor's Office of Appalachia, shall be used for the administrative costs of planning and liaison activities for the Governor's Office of Appalachia. Funds not expended for planning and liaison activities may be expended for special project grants within the Appalachian Region. | 89302 89303 89304 89305 89306 89307 |
| Of the foregoing appropriation item 195-416, Governor's Office of Appalachia, up to \$250,000 each fiscal year shall be used to match federal funds from the Appalachian Regional Commission to provide job training to impact the Appalachian Region. | 89308 89309 89310 89311 89312 |
| Of the foregoing appropriation item 195-416, Governor's Office of Appalachia, up to \$4,122,372 in each fiscal year shall be used in conjunction with other federal and state funds to provide financial assistance to projects in Ohio's Appalachian counties in order to further the goals of the Appalachian Regional Commission. The projects and project sponsors shall meet Appalachian Regional Commission eligibility requirements. Grants shall be administered by the Department of Development. | 89313 89314 89315 89316 89317 89318 89319 89320 |
| Section 203.99.18. THIRD FRONTIER ACTION FUND | 89321 |
| The foregoing appropriation item 195-422, Third Frontier Action Fund, shall be used to make grants under sections 184.01 | 89322 89323 |

and 184.02 of the Revised Code. Prior to the release of funds from 89324
appropriation item 195-422, Third Frontier Action Fund, each grant 89325
award shall be recommended for funding by the Third Frontier 89326
Commission and obtain approval from the Controlling Board. 89327

Of the foregoing appropriation item 195-422, Third Frontier 89328
Action Fund, not more than six per cent in each fiscal year shall 89329
be used for operating expenditures in administering the program. 89330

In addition to the six per cent for operating expenditures, 89331
an additional administrative amount, not to exceed \$1,500,000 89332
within the biennium, shall be available for proposal evaluation, 89333
research and analyses, and marketing efforts considered necessary 89334
to receive and disseminate information about science and 89335
technology-related opportunities in the state. 89336

SCIENCE AND TECHNOLOGY COLLABORATION 89337

The Department of Development shall work in close 89338
collaboration with the Board of Regents, the Air Quality 89339
Development Authority, and the Third Frontier Commission in 89340
relation to appropriation items and programs referred to as 89341
Alignment Programs in the following paragraph, and other 89342
technology-related appropriations and programs in the Department 89343
of Development, Air Quality Development Authority, and the Board 89344
of Regents as these agencies may designate, to ensure 89345
implementation of a coherent state strategy with respect to 89346
science and technology. 89347

"Alignment Programs" means appropriation items 195-401, 89348
Thomas Edison Program; 898-402, Coal Development Office; 195-422, 89349
Third Frontier Action Fund; 898-604, Coal Research and Development 89350
Fund; 235-433, Economic Growth Challenge; 235-508, Air Force 89351
Institute of Technology; 235-510, Ohio Supercomputer Center; 89352
235-451, Eminent Scholars; 235-527, Ohio Aerospace Institute; 89353
235-535, Ohio Agricultural Research and Development Center; 89354

235-553, Dayton Area Graduate Studies Institute; 235-554, 89355
Priorities in Collaborative Graduate Education; 235-556, Ohio 89356
Academic Resources Network; and 195-435, Biomedical Research and 89357
Technology Transfer Trust. 89358

Consistent with the recommendations of the Governor's 89359
Commission on Higher Education and the Economy, Alignment Programs 89360
shall be managed and administered in accordance with the following 89361
objectives: (1) to build on existing competitive research 89362
strengths; (2) to encourage new and emerging discoveries and 89363
commercialization of products and ideas that will benefit the Ohio 89364
economy; (3) and to assure improved collaboration among Alignment 89365
Programs with programs administered by the Third Frontier 89366
Commission and with other state programs that are intended to 89367
improve economic growth and job creation. As directed by the Third 89368
Frontier Commission, Alignment Program managers shall report to 89369
the Commission or the Third Frontier Advisory Board regarding the 89370
contributions of their programs to achieving these objectives. 89371

Each Alignment Program shall be reviewed annually by the 89372
Third Frontier Commission with respect to its development of 89373
complementary relationships within a combined state science and 89374
technology investment portfolio, and with respect to its overall 89375
contribution to the state's science and technology strategy, 89376
including the adoption of appropriately consistent criteria for: 89377
(1) the scientific merit of activities supported by the program; 89378
(2) the relevance of the program's activities to commercial 89379
opportunities in the private sector; (3) the private sector's 89380
involvement in a process that continually evaluates commercial 89381
opportunities to use the work supported by the program; and (4) 89382
the ability of the program and recipients of grant funding from 89383
the program to engage in activities that are collaborative, 89384
complementary, and efficient with respect to the expenditures of 89385
state funds. Each Alignment Program shall provide an annual report 89386

to the Third Frontier Commission that discusses existing, planned, 89387
or possible collaborations between programs and between recipients 89388
of grant funding related to technology, development, 89389
commercialization, and the support of Ohio's economic development. 89390
The annual review conducted by the Third Frontier Commission shall 89391
be a comprehensive review of the entire state science and 89392
technology program portfolio rather than a review of individual 89393
programs. 89394

Applicants for Third Frontier and Alignment Programs funding 89395
shall identify their requirements for high-performance computing 89396
facilities and services, including both hardware and software, in 89397
all proposals. If an applicant's requirements exceed approximately 89398
\$100,000 for a proposal, the Ohio Supercomputer Center shall 89399
convene a panel of experts. The panel shall review the proposal to 89400
determine whether the proposal's requirements can be met through 89401
Ohio Supercomputer Center facilities or through other means and 89402
report such information to the Third Frontier Commission. 89403

To ensure that the state receives the maximum benefit from 89404
its investment in the Third Frontier Project and the Third 89405
Frontier Network, organizations receiving Third Frontier awards 89406
and Alignment Programs awards shall, as appropriate, be expected 89407
to have a connection to the Third Frontier Network that enables 89408
them and their collaborators to achieve award objectives through 89409
the Third Frontier Network. 89410

Section 203.99.21. INTERNATIONAL TRADE 89411

The foregoing appropriation item 195-432, International 89412
Trade, shall be used to operate and to maintain Ohio's 89413
out-of-state trade offices. 89414

The Director of Development may enter into contracts with 89415
foreign nationals to staff foreign offices. The contracts may be 89416
paid in local currency or United States currency and shall be 89417

exempt from section 127.16 of the Revised Code. The director also 89418
may establish foreign currency accounts under section 122.05 of 89419
the Revised Code for the payment of expenses related to the 89420
operation and maintenance of the foreign trade offices. 89421

The foregoing appropriation item 195-432, International 89422
Trade, shall be used to fund the International Trade Division and 89423
to assist Ohio manufacturers and agricultural producers in 89424
exporting to foreign countries in conjunction with the Department 89425
of Agriculture. 89426

Of the foregoing appropriation item 195-432, International 89427
Trade, up to \$35,000 may be used to purchase gifts for 89428
representatives of foreign governments or dignitaries of foreign 89429
countries. 89430

Section 203.99.24. OHIO INVESTMENT IN TRAINING PROGRAM 89431

The foregoing appropriation items 195-434, Investment in 89432
Training Grants, and 195-667, Investment in Training Expansion, 89433
shall be used to promote training through grants for the 89434
reimbursement of eligible training expenses. 89435

Section 203.99.27. CDBG OPERATING MATCH 89436

The foregoing appropriation item 195-497, CDBG Operating 89437
Match, shall be used to provide matching funds as requested by the 89438
United States Department of Housing and Urban Development to 89439
administer the federally funded Community Development Block Grant 89440
(CDBG) program. 89441

STATE OPERATING MATCH 89442

The foregoing appropriation item 195-498, State Match Energy, 89443
shall be used to provide matching funds as required by the United 89444
States Department of Energy to administer the federally funded 89445
State Energy Plan. 89446

Section 203.99.30. TRAVEL AND TOURISM GRANTS 89447

The foregoing appropriation item 195-507, Travel and Tourism Grants, shall be used to provide grants to local organizations to support various local travel and tourism events in Ohio. 89448
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Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$25,000 in each fiscal year shall be used for the Lorain County Visitors Bureau. 89451
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89453

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$25,000 in each fiscal year shall be used for the Sandusky/Erie County Visitors and Convention Bureau. 89454
89455
89456

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$25,000 in each fiscal year shall be used for the Ottawa County Convention and Visitors Bureau. 89457
89458
89459

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$50,000 in each fiscal year shall be used for the Greene County Convention and Visitors Bureau. 89460
89461
89462

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$45,000 in each fiscal year shall be used for the Warren County Convention and Visitors Bureau. 89463
89464
89465

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$25,000 in each fiscal year shall be used for grants to the Wood County Economic Development Commission. 89466
89467
89468

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, \$50,000 in each fiscal year shall be used for the Wright Dunbar Historical Site. 89469
89470
89471

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, up to \$120,000 in each fiscal year may be used to support the outdoor dramas "Trumpet in the Land," "Blue Jacket," and "Tecumseh!". 89472
89473
89474
89475

Of the foregoing appropriation item 195-507, Travel and 89476
Tourism Grants, \$40,000 in each fiscal year shall be used for the 89477
Cincinnati Film Commission and \$40,000 in each fiscal year shall 89478
be used for the Cleveland Film Commission. 89479

Of the foregoing appropriation item 195-507, Travel and 89480
Tourism Grants, \$100,000 in each fiscal year shall be used for the 89481
Cleveland Institute of Art. 89482

Of the foregoing appropriation item 195-507, Travel and 89483
Tourism Grants, up to \$500,000 in each fiscal year shall be used 89484
for grants to The International Center for the Preservation of 89485
Wild Animals. 89486

Of the foregoing appropriation item 195-507, Travel and 89487
Tourism Grants, \$50,000 in each fiscal year shall be used for the 89488
Lake Shore Railway Association, Inc. 89489

Of the foregoing appropriation item 195-507, Travel and 89490
Tourism Grants, \$50,000 in each fiscal year shall be used for the 89491
Ohio River Trails program. 89492

Of the foregoing appropriation item 195-507, Travel and 89493
Tourism Grants, \$12,500 in each fiscal year shall be used for the 89494
Morgan County Community Improvement Corporation. 89495

Of the foregoing appropriation item 195-507, Travel and 89496
Tourism Grants, \$25,000 in fiscal year 2006 shall be used for the 89497
Ohio Buckeye Junior Hereford Association. 89498

Of the foregoing appropriation item 195-507, Travel and 89499
Tourism Grants, \$100,000 in fiscal year 2006 shall be used for 89500
grants to the NCR U.S. Senior Open. 89501

Of the foregoing appropriation item 195-507, Travel and 89502
Tourism Grants, \$5,000 in each fiscal year shall be used for the 89503
Canton Football Hall of Fame. 89504

Section 203.99.33. THIRD FRONTIER RESEARCH & 89505

COMMERCIALIZATION GENERAL OBLIGATION DEBT SERVICE 89506

The foregoing appropriation item 195-905, Third Frontier 89507
Research & Commercialization General Obligation Debt Service, 89508
shall be used to pay all debt service and related financing costs 89509
during the period from July 1, 2005, to June 30, 2007, on 89510
obligations to be issued for research and development purposes, as 89511
authorized by the Ohio Constitution and implementing statutes. The 89512
Office of the Sinking Fund or the Director of Budget and 89513
Management shall effectuate the required payments by intrastate 89514
transfer voucher. 89515

Section 203.99.36. SUPPORTIVE SERVICES 89516

The Director of Development may assess divisions of the 89517
department for the cost of central service operations. An 89518
assessment shall be based on a plan submitted to and approved by 89519
the Office of Budget and Management by August 1, 2005, and shall 89520
contain the characteristics of administrative ease and uniform 89521
application. 89522

A division's payments shall be credited to the Supportive 89523
Services Fund (Fund 135) using an intrastate transfer voucher. 89524

GENERAL REIMBURSEMENT 89525

The foregoing appropriation item 195-636, General 89526
Reimbursements, shall be used for conference and subscription fees 89527
and other reimbursable costs. Revenues to the General 89528
Reimbursement Fund (Fund 685) shall consist of fees and other 89529
moneys charged for conferences, subscriptions, and other 89530
administrative costs that are not central service costs. 89531

WORKER GUARANTEE PROGRAM 89532

The foregoing appropriation item 195-668, Worker Guarantee 89533
Program, shall be used for the Worker Guarantee Program. 89534

Benefited employers must create at least 100 high-paying, 89535
full-time jobs over a three-year period and must demonstrate prior 89536
to the commitment of state funds that the availability of those 89537
skilled workers is a major factor in the employer's decision to 89538
locate or expand in Ohio. Activities eligible for funding through 89539
the Worker Guarantee Program include job assessment services, 89540
screening and testing of potential employees, customized training 89541
activities, and any other training or related service determined 89542
by the Director. 89543

A local workforce development service provider may include, 89544
but is not limited to, a community college, technical or 89545
vocational school, one-stop center, or any other entity designated 89546
by the Director of Development to provide services under the 89547
program. 89548

State matching funds totaling one-third of a project's cost 89549
shall be provided for each approved project when an employer and 89550
any local workforce development service provider, in conjunction 89551
with the local community, contracts with the Department of 89552
Development to provide services under the program. The employer 89553
and the local community each shall provide matching funds totaling 89554
one-third of a project's cost, and each portion of the matching 89555
funds shall be equal to state funding, which also shall be 89556
one-third of a project's cost. 89557

The state shall count in-kind contributions when determining 89558
a contribution from entities associated with the local community. 89559

The Director of Development, under Chapter 119. of the 89560
Revised Code, shall adopt, and may amend or rescind, rules the 89561
Director finds necessary for the implementation and successful 89562
operation of the Worker Guarantee Program. 89563

Section 203.99.37. TRAINING SERVICES 89564

Of the foregoing appropriation item 195-605, Federal 89565
Projects, \$400,000 in each fiscal year shall be used for grants to 89566
the Ohio Weatherization Training Center, administered by the 89567
Corporation for Ohio Appalachian Development, for training and 89568
technical assistance services. 89569

Section 203.99.39. HEAP WEATHERIZATION 89570

Fifteen per cent of the federal funds received by the state 89571
for the Home Energy Assistance Block Grant shall be deposited in 89572
appropriation item 195-614, HEAP Weatherization (Fund 3K9), and 89573
shall be used to provide home weatherization services in the 89574
state. 89575

Of the foregoing appropriation item 195-614, HEAP 89576
Weatherization, \$200,000 in each fiscal year shall be used for 89577
grants to the Ohio Weatherization Training Center, administered by 89578
the Corporation for Ohio Appalachian Development, for training and 89579
technical assistance services. 89580

STATE SPECIAL PROJECTS 89581

The foregoing fund, Fund 4F2, State Special Projects, shall 89582
be used for the deposit of private-sector funds from utility 89583
companies and for the deposit of other miscellaneous state funds. 89584
Private-sector moneys shall be used to (1) pay the expenses of 89585
verifying the income-eligibility of HEAP applicants, (2) market 89586
economic development opportunities in the state, and (3) leverage 89587
additional federal funds. State funds shall be used to match 89588
federal housing grants for the homeless and to market economic 89589
development opportunities in the state. 89590

Section 203.99.42. MINORITY BUSINESS ENTERPRISE LOAN 89591

All repayments from the Minority Development Financing 89592
Advisory Board Loan Program and the Ohio Mini-Loan Guarantee 89593
Program shall be deposited in the State Treasury to the credit of 89594

| | |
|---|---|
| the Minority Business Enterprise Loan Fund (Fund 4W1). | 89595 |
| All operating costs of administering the Minority Business Enterprise Loan Fund shall be paid from the Minority Business Enterprise Loan Fund (Fund 4WI). | 89596 89597 89598 |
| MINORITY BUSINESS BONDING FUND | 89599 |
| Notwithstanding Chapters 122., 169., and 175. of the Revised Code and other provisions of Am. Sub. H.B. 283 of the 123rd General Assembly, the Director of Development may, upon the recommendation of the Minority Development Financing Advisory Board, pledge up to \$10,000,000 in the FY 2006-2007 biennium of unclaimed funds administered by the Director of Commerce and allocated to the Minority Business Bonding Program under section 169.05 of the Revised Code. The transfer of any cash by the Director of Budget and Management from the Department of Commerce's Unclaimed Funds Fund (Fund 543) to the Department of Development's Minority Business Bonding Fund (Fund 449) shall occur, if requested by the Director of Development, only if such funds are needed for payment of losses arising from the Minority Business Bonding Program, and only after proceeds of the initial transfer of \$2,700,000 by the Controlling Board to the Minority Business Bonding Program has been used for that purpose. Moneys transferred by the Director of Budget and Management from the Department of Commerce for this purpose may be moneys in custodial funds held by the Treasurer of State. If expenditures are required for payment of losses arising from the Minority Business Bonding Program, such expenditures shall be made from appropriation item 195-623, Minority Business Bonding Contingency in the Minority Business Bonding Fund, and such amounts are appropriated. | 89600 89601 89602 89603 89604 89605 89606 89607 89608 89609 89610 89611 89612 89613 89614 89615 89616 89617 89618 89619 89620 89621 89622 |
| Section 203.99.45. ECONOMIC DEVELOPMENT FINANCING OPERATING | 89623 |
| The foregoing appropriation item 195-625, Economic Development Financing Operating, shall be used for the operating | 89624 89625 |

expenses of financial assistance programs authorized under Chapter 89626
166. of the Revised Code and under sections 122.43 and 122.45 of 89627
the Revised Code. 89628

VOLUME CAP ADMINISTRATION 89629

The foregoing appropriation item 195-654, Volume Cap 89630
Administration, shall be used for expenses related to the 89631
administration of the Volume Cap Program. Revenues received by the 89632
Volume Cap Administration Fund (Fund 617) shall consist of 89633
application fees, forfeited deposits, and interest earned from the 89634
custodial account held by the Treasurer of State. 89635

UNIVERSAL SERVICE FUND 89636

The foregoing appropriation item 195-659, Universal Service, 89637
shall be used to provide payments to regulated electric utility 89638
companies for low-income customers enrolled in Percentage of 89639
Income Payment Plan (PIPP) electric accounts, to fund targeted 89640
energy efficiency and customer education services to PIPP 89641
customers, and to cover the department's administrative costs 89642
related to Universal Service Fund Programs. 89643

SHOVEL READY SITES 89644

The foregoing appropriation item 195-678, Shovel Ready Sites, 89645
shall be used to administer the Shovel Ready Sites Program under 89646
section 122.083 of the Revised Code. 89647

ALTERNATIVE FUEL TRANSPORTATION 89648

The foregoing appropriation item 195-679, Alternative Fuel 89649
Transportation, shall be used by the Director of Development to 89650
make grants under the Alternative Fuel Transportation Grant Fund 89651
Program in accordance with section 122.075 of the Revised Code, 89652
and for administrative costs associated with the program. 89653

TRANSFER OF UNCLAIMED FUNDS TO THE DEFENSE CONVERSION 89654
ASSISTANCE FUND FOR BASE REALIGNMENT AND CLOSURE GRANTS 89655

(A) There is hereby created in the State Treasury the Defense Conversion Assistance Fund (Fund 5CV). The fund shall consist of all cash deposited to it pursuant to division (C) of this section.

(B) The foregoing appropriation item 195-680, Defense Conversion Assistance, shall be used by the Director of Development to provide grants to local communities for costs associated with the preparation and redevelopment of military installations in Ohio that are slated for realignment or closure under the United States Department of Defense Base Realignment and Closure Program.

(C) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2006, shall transfer to the Defense Conversion Assistance Fund (Fund 5CV) \$1,000,000 of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code regardless of the allocation of the unclaimed funds described in that section.

(D) On or before June 30, 2006, the unencumbered balance of the foregoing appropriation item 195-680, Defense Conversion Assistance, for fiscal year 2006 is hereby appropriated for the same purpose for fiscal year 2007.

LUNG CANCER AND LUNG DISEASE RESEARCH

The foregoing appropriation item 195-682, Lung Cancer and Lung Disease Research, shall be used by the Director of Development to promote lung cancer and lung disease research.

ENERGY EFFICIENCY REVOLVING LOAN FUND

The foregoing appropriation item 195-660, Energy Efficiency Loan and Grant, shall be used to provide financial assistance to customers for eligible energy efficiency projects for residential, commercial and industrial business, local government, educational

institution, nonprofit, and agriculture customers, and to pay for 89687
the program's administrative costs as provided in the Revised Code 89688
and rules adopted by the Director of Development. 89689

TRANSFER FROM THE ENERGY EFFICIENCY REVOLVING LOAN FUND TO 89690
THE INDUSTRIAL SITE IMPROVEMENTS FUND 89691

Notwithstanding Chapters 122. and 4928. of the Revised Code 89692
and any other law to the contrary, the Director of Budget and 89693
Management shall transfer \$2,500,000 in cash in fiscal year 2006 89694
and \$2,500,000 in cash in fiscal year 2007 from the Energy 89695
Efficiency Revolving Loan Fund (Fund 5M5) to the Industrial Site 89696
Improvements Fund (Fund 5AR). 89697

Moneys in Fund 5AR, Industrial Site Improvements, shall be 89698
used by the Director of Development to make grants to eligible 89699
counties for the improvement of commercial or industrial areas 89700
within those counties under section 122.951 of the Revised Code. 89701

TRANSFER FROM THE ENERGY EFFICIENCY REVOLVING LOAN FUND TO 89702
THE RAIL TRANSLOAD FACILITIES FUND 89703

Notwithstanding Chapters 122. and 4928. of the Revised Code 89704
and any other law to the contrary, the Director of Budget and 89705
Management shall transfer \$500,000 in cash in fiscal year 2006 89706
from the Energy Efficiency Revolving Loan Fund (Fund 5M5) in the 89707
Department of Development to the Rail Transload Facilities Fund 89708
(Fund 5CF) in the Department of Transportation. 89709

TRANSFER FROM THE ENERGY EFFICIENCY REVOLVING LOAN FUND TO 89710
THE ALTERNATIVE FUEL TRANSPORTATION GRANT FUND 89711

Notwithstanding Chapter 4928. of the Revised Code and any 89712
other law to the contrary, the Director of Budget and Management 89713
shall transfer \$150,000 in cash in fiscal year 2006 and \$150,000 89714
in cash in fiscal year 2007 from the Energy Efficiency Revolving 89715
Loan Fund (Fund 5M5) to the Alternative Fuel Transportation Grant 89716
Fund (Fund 5CG). 89717

GLOBAL ANALYST SETTLEMENT AGREEMENTS PAYMENTS 89718

All payments received by the state pursuant to a series of 89719
settlements with ten brokerage firms reached with the United 89720
States Securities and Exchange Commission, the National 89721
Association of Securities Dealers, the New York Stock Exchange, 89722
the New York Attorney General, and other state regulators 89723
(henceforth referred to as the "Global Analysts Settlement 89724
Agreements"), shall be deposited into the state treasury to the 89725
credit of the Economic Development Contingency Fund (Fund 5Y6), 89726
which is hereby created in the state treasury. The fund shall be 89727
used by the Director of Development to support economic 89728
development projects for which appropriations would not otherwise 89729
be available, and shall be subject to the submission of a request 89730
to the Controlling Board by the Director outlining the planned use 89731
of the funds, and the subsequent approval of the request by the 89732
Controlling Board. 89733

Section 203.99.46. TRANSFER FROM THE LOW- AND MODERATE-INCOME 89734
HOUSING TRUST FUND TO THE RESIDENTIAL STATE SUPPLEMENT FUND 89735

Notwithstanding Chapter 175. of the Revised Code and any 89736
other law to the contrary, the Director of Budget and Management 89737
shall transfer \$1,500,000 in cash in fiscal year 2006 and 89738
\$1,500,000 in cash in fiscal year 2007 from the Low- and 89739
Moderate-Income Housing Trust Fund (Fund 646) in the Department of 89740
Development to the Residential State Supplement Fund (Fund 5CH) in 89741
the Department of Mental Health. 89742

Section 203.99.48. FACILITIES ESTABLISHMENT FUND 89743

The foregoing appropriation item 195-615, Facilities 89744
Establishment (Fund 037), shall be used for the purposes of the 89745
Facilities Establishment Fund under Chapter 166. of the Revised 89746
Code. 89747

Notwithstanding Chapter 166. of the Revised Code, up to 89748
\$1,800,000 in cash each fiscal year may be transferred from the 89749
Facilities Establishment Fund (Fund 037) to the Economic 89750
Development Financing Operating Fund (Fund 451). The transfer is 89751
subject to Controlling Board approval under division (B) of 89752
section 166.03 of the Revised Code. 89753

Notwithstanding Chapter 166. of the Revised Code, up to 89754
\$5,000,000 in cash each fiscal year may be transferred from the 89755
Facilities Establishment Fund (Fund 037) to the Shovel Ready Sites 89756
Fund (Fund 5CA). The transfer is subject to Controlling Board 89757
approval under division (B) of section 166.03 of the Revised Code. 89758

Notwithstanding Chapter 166. of the Revised Code, up to 89759
\$10,950,000 in cash may be transferred during the biennium from 89760
the Facilities Establishment Fund (Fund 037) to the Urban 89761
Redevelopment Loans Fund (Fund 5D2) for the purpose of removing 89762
barriers to urban core redevelopment. The Director of Development 89763
shall develop program guidelines for the transfer and release of 89764
funds, including, but not limited to, the completion of all 89765
appropriate environmental assessments before state assistance is 89766
committed to a project. 89767

Notwithstanding Chapter 166. of the Revised Code, up to 89768
\$3,000,000 each fiscal year in cash may be transferred from the 89769
Facilities Establishment Fund (Fund 037) to the Rural Industrial 89770
Park Loan Fund (Fund 4Z6). The transfer is subject to Controlling 89771
Board approval under section 166.03 of the Revised Code. 89772

FAMILY FARM LOAN PROGRAM 89773

Notwithstanding Chapter 166. of the Revised Code, up to 89774
\$1,000,000 in each fiscal year shall be transferred from moneys in 89775
the Facilities Establishment Fund (Fund 037) to the Family Farm 89776
Loan Guarantee Fund (Fund 5H1) in the Department of Development. 89777
The moneys shall be used for loan guarantees. The transfer is 89778

subject to Controlling Board approval. 89779

Financial assistance from the Family Farm Loan Guarantee Fund 89780
(Fund 5H1) shall be repaid to Fund 5H1. This fund is established 89781
under sections 166.031, 901.80, 901.81, 901.82, and 901.83 of the 89782
Revised Code. 89783

When the Family Farm Loan Guarantee Fund (Fund 5H1) ceases to 89784
exist, all outstanding balances, all loan repayments, and any 89785
other outstanding obligations shall revert to the Facilities 89786
Establishment Fund (Fund 037). 89787

RURAL DEVELOPMENT INITIATIVE FUND 89788

(A)(1) The Rural Development Initiative Fund (Fund 5S8) is 89789
entitled to receive moneys from the Facilities Establishment Fund 89790
(Fund 037). The Director of Development may make grants from the 89791
Rural Development Initiative Fund as specified in division (A)(2) 89792
of this section to eligible applicants in Appalachian counties and 89793
in rural counties in the state that are designated as distressed 89794
under section 122.25 of the Revised Code. Preference shall be 89795
given to eligible applicants located in Appalachian counties 89796
designated as distressed by the federal Appalachian Regional 89797
Commission. The Rural Development Initiative Fund (Fund 5S8) shall 89798
cease to exist after June 30, 2007. All moneys remaining in the 89799
Fund after that date shall revert to the Facilities Establishment 89800
Fund (Fund 037). 89801

(2) The Director of Development shall make grants from the 89802
Rural Development Initiative Fund (Fund 5S8) only to eligible 89803
applicants who also qualify for and receive funding under the 89804
Rural Industrial Park Loan Program as specified in sections 122.23 89805
to 122.27 of the Revised Code. Eligible applicants shall use the 89806
grants for the purposes specified in section 122.24 of the Revised 89807
Code. All projects supported by grants from the fund are subject 89808
to Chapter 4115. of the Revised Code as specified in division (E) 89809

of section 166.02 of the Revised Code. The Director shall develop 89810
program guidelines for the transfer and release of funds. The 89811
release of grant moneys to an eligible applicant is subject to 89812
Controlling Board approval. 89813

(B) Notwithstanding Chapter 166. of the Revised Code, the 89814
Director of Budget and Management may transfer up to \$3,000,000 89815
each fiscal year in cash on an as needed basis at the request of 89816
the Director of Development from the Facilities Establishment Fund 89817
(Fund 037) to the Rural Development Initiative Fund (Fund 5S8). 89818
The transfer is subject to Controlling Board approval under 89819
section 166.03 of the Revised Code. 89820

CAPITAL ACCESS LOAN PROGRAM 89821

The foregoing appropriation item 195-628, Capital Access Loan 89822
Program, shall be used for operating, program, and administrative 89823
expenses of the program. Funds of the Capital Access Loan Program 89824
shall be used to assist participating financial institutions in 89825
making program loans to eligible businesses that face barriers in 89826
accessing working capital and obtaining fixed asset financing. 89827

Notwithstanding Chapter 166. of the Revised Code, the 89828
Director of Budget and Management may transfer up to \$3,000,000 89829
each fiscal year in cash on an as needed basis at the request of 89830
the Director of Development from the Facilities Establishment Fund 89831
(Fund 037) to the Capital Access Loan Program Fund (Fund 5S9). The 89832
transfer is subject to Controlling Board approval under section 89833
166.03 of the Revised Code. 89834

INNOVATION OHIO LOAN FUND 89835

The foregoing appropriation item 195-664, Innovation Ohio, 89836
shall be used to provide for innovation Ohio purposes, including 89837
loan guarantees and loans under Chapter 166. and particularly 89838
sections 166.12 to 166.16 of the Revised Code. 89839

RESEARCH AND DEVELOPMENT 89840

The foregoing appropriation item 195-665, Research and Development, shall be used to provide for research and development purposes, including loans, under Chapter 166. and particularly sections 166.17 to 166.21 of the Revised Code.

Section 203.99.51. CLEAN OHIO OPERATING EXPENSES 89845

The foregoing appropriation item 195-663, Clean Ohio Operating, shall be used by the Department of Development in administering sections 122.65 to 122.658 of the Revised Code.

Section 203.99.54. UNCLAIMED FUNDS TRANSFER 89849

(A) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2006, shall transfer to the Job Development Initiatives Fund (Fund 5AD) up to \$8,000,000 of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2007, shall transfer to the Job Development Initiatives Fund (Fund 5AD) up to \$18,000,000 of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

(B) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2006, shall transfer to the State Special Projects Fund (Fund 4F2) up to \$5,228,210 of the unclaimed funds that have been reported by the

holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section. 89871
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89873

Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2007, shall transfer to the State Special Projects Fund (Fund 4F2) up to \$5,228,210 of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section. 89874
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Section 206.03. OBD OHIO BOARD OF DIETETICS 89882

General Services Fund Group 89883
4K9 860-609 Operating Expenses \$ 332,495 \$ 0 89884
TOTAL GSF General Services Fund 89885
Group \$ 332,495 \$ 0 89886
TOTAL ALL BUDGET FUND GROUPS \$ 332,495 \$ 0 89887

Section 206.06. CDR COMMISSION ON DISPUTE RESOLUTION AND CONFLICT MANAGEMENT 89889
89890

General Revenue Fund 89891
GRF 145-401 Commission on Dispute \$ 470,000 \$ 470,000 89892
Resolution/Management
TOTAL GRF General Revenue Fund \$ 470,000 \$ 470,000 89893
General Services Fund Group 89894
4B6 145-601 Gifts and Grants \$ 140,000 \$ 140,000 89895
TOTAL GSF General Services Fund \$ 140,000 \$ 140,000 89896
Group
Federal Special Revenue Fund Group 89897
3S6 145-602 Dispute Resolution: \$ 140,000 \$ 140,000 89898

| | | | |
|--|----|------------|---------------------|
| Federal | | | |
| TOTAL FED Federal Special Revenue | \$ | 140,000 | \$ 140,000 89899 |
| Fund Group | | | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 750,000 | \$ 750,000 89900 |
| Section 206.09. EDU DEPARTMENT OF EDUCATION | | | 89902 |
| General Revenue Fund | | | 89903 |
| GRF 200-100 Personal Services | \$ | 9,880,406 | \$ 10,880,655 89904 |
| GRF 200-320 Maintenance and Equipment | \$ | 4,344,235 | \$ 4,344,235 89905 |
| GRF 200-408 Early Childhood Education | \$ | 19,002,195 | \$ 19,002,195 89906 |
| GRF 200-410 Educator Training | \$ | 19,302,057 | \$ 19,802,057 89907 |
| GRF 200-416 Career-Technical Education Match | \$ | 2,233,195 | \$ 2,233,195 89908 |
| GRF 200-420 Computer/Application/ Network Development | \$ | 5,361,525 | \$ 5,361,525 89909 |
| GRF 200-421 Alternative Education Programs | \$ | 13,907,665 | \$ 13,732,665 89910 |
| GRF 200-422 School Management Assistance | \$ | 2,683,208 | \$ 2,710,572 89911 |
| GRF 200-424 Policy Analysis | \$ | 556,687 | \$ 556,687 89912 |
| GRF 200-425 Tech Prep Consortia Support | \$ | 2,069,217 | \$ 2,069,217 89913 |
| GRF 200-426 Ohio Educational Computer Network | \$ | 30,446,197 | \$ 30,446,197 89914 |
| GRF 200-427 Academic Standards | \$ | 11,607,753 | \$ 11,679,181 89915 |
| GRF 200-431 School Improvement Initiatives | \$ | 21,813,649 | \$ 23,842,828 89916 |
| GRF 200-433 Reading/Writing Improvement-Professional Development | \$ | 16,165,000 | \$ 16,165,000 89917 |
| GRF 200-437 Student Assessment | \$ | 54,445,234 | \$ 60,011,935 89918 |

| | | | | |
|-------------|--|------------------|------------------|-------|
| GRF 200-439 | Accountability/Report Cards | \$ 3,878,850 | \$ 7,457,290 | 89919 |
| GRF 200-442 | Child Care Licensing | \$ 1,302,495 | \$ 1,302,495 | 89920 |
| GRF 200-445 | OhioReads Volunteer Support | \$ 3,905,000 | \$ 3,905,000 | 89921 |
| GRF 200-446 | Education Management Information System | \$ 15,674,805 | \$ 15,674,805 | 89922 |
| GRF 200-447 | GED Testing | \$ 1,544,360 | \$ 1,544,360 | 89923 |
| GRF 200-448 | Educator Preparation | \$ 1,651,000 | \$ 1,651,000 | 89924 |
| GRF 200-455 | Community Schools | \$ 2,942,094 | \$ 2,942,094 | 89925 |
| GRF 200-502 | Pupil Transportation | \$ 412,330,728 | \$ 420,577,343 | 89926 |
| GRF 200-503 | Bus Purchase Allowance | \$ 8,600,000 | \$ 14,000,000 | 89927 |
| GRF 200-505 | School Lunch Match | \$ 8,998,025 | \$ 8,998,025 | 89928 |
| GRF 200-509 | Adult Literacy Education | \$ 8,669,738 | \$ 8,669,738 | 89929 |
| GRF 200-511 | Auxiliary Services | \$ 127,903,356 | \$ 127,903,356 | 89930 |
| GRF 200-514 | Postsecondary Adult Career-Technical Education | \$ 19,481,875 | \$ 19,481,875 | 89931 |
| GRF 200-521 | Gifted Pupil Program | \$ 46,910,068 | \$ 47,157,293 | 89932 |
| GRF 200-532 | Nonpublic Administrative Cost Reimbursement | \$ 56,762,916 | \$ 58,068,463 | 89933 |
| GRF 200-540 | Special Education Enhancements | \$ 134,169,606 | \$ 135,430,125 | 89934 |
| GRF 200-545 | Career-Technical Education Enhancements | \$ 10,169,442 | \$ 9,225,569 | 89935 |
| GRF 200-550 | Foundation Funding | \$ 5,579,031,663 | \$ 5,709,057,366 | 89936 |
| GRF 200-558 | Emergency Loan Interest Subsidy | \$ 1,388,164 | \$ 651,404 | 89937 |
| GRF 200-566 | Reading/Writing Improvement-Classroom Grants | \$ 12,062,336 | \$ 12,062,336 | 89938 |

| | | | | |
|-------------|---|------------------|------------------|-------|
| GRF 200-578 | Safe and Supportive Schools | \$ 1,218,555 | \$ 1,218,555 | 89939 |
| GRF 200-901 | Property Tax Allocation - Education | \$ 764,626,987 | \$ 728,793,318 | 89940 |
| GRF 200-906 | Tangible Tax Exemption - Education | \$ 42,830,487 | \$ 32,122,865 | 89941 |
| TOTAL GRF | General Revenue Fund | \$ 7,479,870,773 | \$ 7,590,732,819 | 89942 |
| | General Services Fund Group | | | 89943 |
| 138 200-606 | Computer Services-Operational Support | \$ 7,600,091 | \$ 7,600,091 | 89944 |
| 4D1 200-602 | Ohio Prevention/Education Resource Center | \$ 832,000 | \$ 832,000 | 89945 |
| 4L2 200-681 | Teacher Certification and Licensure | \$ 5,497,158 | \$ 5,628,332 | 89946 |
| 452 200-638 | Miscellaneous Educational Services | \$ 400,000 | \$ 400,000 | 89947 |
| 5H3 200-687 | School District Solvency Assistance | \$ 18,000,000 | \$ 18,000,000 | 89948 |
| 596 200-656 | Ohio Career Information System | \$ 529,761 | \$ 529,761 | 89949 |
| TOTAL GSF | General Services Fund Group | \$ 32,859,010 | \$ 32,990,184 | 89950 |
| | Federal Special Revenue Fund Group | | | 89951 |
| 3AF 200-603 | Schools Medicaid Administrative Claims | \$ 1,000,000 | \$ 1,000,000 | 89953 |
| 3C5 200-661 | Early Childhood Education | \$ 23,874,338 | \$ 23,874,338 | 89954 |
| 3D1 200-664 | Drug Free Schools | \$ 13,347,966 | \$ 13,347,966 | 89955 |
| 3D2 200-667 | Honors Scholarship Program | \$ 5,812,903 | \$ 5,833,965 | 89956 |

| | | | | | | | |
|-----|---------|---|----|-------------|----|-------------|-------|
| 3H9 | 200-605 | Head Start Collaboration Project | \$ | 275,000 | \$ | 275,000 | 89957 |
| 3L6 | 200-617 | Federal School Lunch | \$ | 220,256,132 | \$ | 227,583,653 | 89958 |
| 3L7 | 200-618 | Federal School Breakfast | \$ | 56,382,851 | \$ | 58,405,608 | 89959 |
| 3L8 | 200-619 | Child/Adult Food Programs | \$ | 66,590,622 | \$ | 67,915,843 | 89960 |
| 3L9 | 200-621 | Career-Technical Education Basic Grant | \$ | 48,029,701 | \$ | 48,029,701 | 89961 |
| 3M0 | 200-623 | ESEA Title 1A | \$ | 440,260,178 | \$ | 461,026,070 | 89962 |
| 3M1 | 200-678 | Innovative Education | \$ | 11,800,000 | \$ | 11,800,000 | 89963 |
| 3M2 | 200-680 | Individuals with Disabilities Education Act | \$ | 513,058,569 | \$ | 605,581,547 | 89964 |
| 3S2 | 200-641 | Education Technology | \$ | 20,800,000 | \$ | 20,800,000 | 89965 |
| 3T4 | 200-613 | Public Charter Schools | \$ | 22,000,000 | \$ | 22,000,000 | 89966 |
| 3U2 | 200-662 | Teacher Quality Enhancement Grants | \$ | 795,280 | \$ | 795,280 | 89967 |
| 3X5 | 200-684 | School Renovation/IDEA | \$ | 2,200,000 | \$ | 0 | 89968 |
| 3Y2 | 200-688 | 21st Century Community Learning Centers | \$ | 30,681,554 | \$ | 30,681,554 | 89969 |
| 3Y4 | 200-632 | Reading First | \$ | 50,775,637 | \$ | 31,215,798 | 89970 |
| 3Y5 | 200-634 | Community Service Grants | \$ | 1,000,000 | \$ | 0 | 89971 |
| 3Y6 | 200-635 | Improving Teacher Quality | \$ | 107,000,000 | \$ | 107,000,000 | 89972 |
| 3Y7 | 200-689 | English Language Acquisition | \$ | 8,500,000 | \$ | 9,000,000 | 89973 |
| 3Y8 | 200-639 | Rural and Low Income | \$ | 1,700,000 | \$ | 1,700,000 | 89974 |
| 3Z2 | 200-690 | State Assessments | \$ | 12,681,031 | \$ | 12,883,799 | 89975 |
| 3Z3 | 200-645 | Consolidated USDE Administration | \$ | 9,200,000 | \$ | 9,200,000 | 89976 |
| 309 | 200-601 | Educationally | \$ | 19,658,846 | \$ | 19,658,846 | 89977 |

| | | Disadvantaged | | | |
|----------------------------------|---------|--|------------------|------------------|-------|
| 366 | 200-604 | Adult Basic Education | \$ 18,500,000 | \$ 18,500,000 | 89978 |
| 367 | 200-607 | School Food Services | \$ 11,383,637 | \$ 11,666,732 | 89979 |
| 368 | 200-614 | Veterans' Training | \$ 672,961 | \$ 691,130 | 89980 |
| 369 | 200-616 | Career-Technical Education Federal Enhancement | \$ 6,500,000 | \$ 6,500,000 | 89981 |
| 370 | 200-624 | Education of Exceptional Children | \$ 2,386,610 | \$ 2,386,610 | 89982 |
| 371 | 200-631 | Immigrant Education Opportunities | \$ 400,000 | \$ 400,000 | 89983 |
| 374 | 200-647 | Troops to Teachers | \$ 1,600,000 | \$ 0 | 89984 |
| 378 | 200-660 | Learn and Serve | \$ 1,200,000 | \$ 1,200,000 | 89985 |
| TOTAL FED Federal Special | | | | | 89986 |
| Revenue Fund Group | | | \$ 1,730,323,816 | \$ 1,830,953,440 | 89987 |
| State Special Revenue Fund Group | | | | | 89988 |
| 4R7 | 200-695 | Indirect Operational Support | \$ 5,382,864 | \$ 5,449,748 | 89989 |
| 4V7 | 200-633 | Interagency Operational Support | \$ 500,000 | \$ 500,000 | 89990 |
| 454 | 200-610 | Guidance and Testing | \$ 400,000 | \$ 400,000 | 89991 |
| 455 | 200-608 | Commodity Foods | \$ 24,000,000 | \$ 24,000,000 | 89992 |
| 5BB | 200-696 | State Action for Education Leadership | \$ 1,200,000 | \$ 1,200,000 | 89993 |
| 5BJ | 200-626 | Half-Mill Maintenance Equalization | \$ 0 | \$ 10,700,000 | 89994 |
| 5U2 | 200-685 | National Education Statistics | \$ 300,000 | \$ 300,000 | 89995 |
| 5W2 | 200-663 | Early Learning Initiative | \$ 106,580,000 | \$ 127,456,000 | 89996 |
| 598 | 200-659 | Auxiliary Services Reimbursement | \$ 1,328,910 | \$ 1,328,910 | 89997 |
| 620 | 200-615 | Educational | \$ 1,000,000 | \$ 1,000,000 | 89998 |

| | | | |
|---|------------------|------------------|-------|
| Improvement Grants | | | |
| TOTAL SSR State Special Revenue | | | 89999 |
| Fund Group | \$ 140,691,774 | \$ 172,334,658 | 90000 |
| | | | |
| Lottery Profits Education Fund Group | | | 90001 |
| 017 200-612 Foundation Funding | \$ 606,208,300 | \$ 606,296,800 | 90002 |
| 017 200-682 Lease Rental Payment | \$ 31,691,700 | \$ 31,603,200 | 90003 |
| Reimbursement | | | |
| TOTAL LPE Lottery Profits | | | 90004 |
| Education Fund Group | \$ 637,900,000 | \$ 637,900,000 | 90005 |
| | | | |
| Revenue Distribution Fund Group | | | 90006 |
| 047 200-909 School District | \$ 49,350,000 | \$ 369,054,000 | 90007 |
| Property Tax | | | |
| Replacement-Business | | | |
| 053 200-900 School District | \$ 116,647,522 | \$ 101,647,522 | 90008 |
| Property Tax | | | |
| Replacement-Utility | | | |
| TOTAL RDF Revenue Distribution | | | 90009 |
| Fund Group | \$ 165,997,522 | \$ 470,701,522 | 90010 |
| TOTAL ALL BUDGET FUND GROUPS | \$10,187,642,895 | \$10,735,612,623 | 90011 |
| | | | |
| Section 206.09.03. MAINTENANCE AND EQUIPMENT | | | 90013 |
| Of the foregoing appropriation item 200-320, Maintenance and | | | 90014 |
| Equipment, up to \$25,000 may be expended in each fiscal year for | | | 90015 |
| State Board of Education out-of-state travel. | | | 90016 |
| | | | |
| Section 206.09.06. EARLY CHILDHOOD EDUCATION | | | 90017 |
| The Department of Education shall distribute the foregoing | | | 90018 |
| appropriation item 200-408, Early Childhood Education, to pay the | | | 90019 |
| costs of early childhood education programs. As used in this | | | 90020 |
| section, "provider" means a city, local, exempted village, or | | | 90021 |
| joint vocational school district, or an educational service | | | 90022 |
| center. | | | 90023 |

(A) In each fiscal year, up to two per cent of the total 90024
appropriation may be used by the Department for program support 90025
and technical assistance. The Department shall distribute the 90026
remainder of the appropriation in each fiscal year to serve 90027
children from families earning not more than 200 per cent of the 90028
federal poverty guidelines. 90029

(B) The Department shall provide an annual report to the 90030
Governor, the Speaker of the House of Representatives, and the 90031
President of the Senate and post the report to the Department's 90032
web site, regarding early childhood education programs operated 90033
under this section and the early learning program guidelines for 90034
school readiness. 90035

(C) For purposes of this section, "eligible child" means a 90036
child who is at least three years of age, is not of the age to be 90037
eligible for kindergarten, and whose family earns not more than 90038
200 per cent of the federal poverty guidelines. 90039

(D) After setting aside the amounts to make payments due from 90040
the previous fiscal year, in fiscal year 2006, the Department 90041
shall distribute funds first to recipients of funds for public 90042
preschool programs under Section 41.02 of Am. Sub. H.B. 95 of the 90043
125th General Assembly in the previous fiscal year and the balance 90044
to new providers of early childhood education programs under this 90045
section. After setting aside the amounts to make payments due from 90046
the previous fiscal year, in fiscal year 2007, the Department 90047
shall distribute funds first to providers of early childhood 90048
education programs under this section in the previous fiscal year 90049
and the balance to new providers. Awards under this section shall 90050
be distributed on a per-pupil basis, which the Department may 90051
adjust so that the per-pupil amount multiplied by the number of 90052
eligible children enrolled and receiving services, as defined by 90053
the Department, reported on the first day of December or the first 90054
business day following that date equals the amount allocated under 90055

division (A) of this section. The Department may increase the 90056
per-pupil amount by a reasonable percentage, to be determined by 90057
the Department. 90058

The Department may reallocate unobligated or unspent money to 90059
participating providers for purposes of program expansion, 90060
improvement, or special projects to promote quality and 90061
innovation. 90062

(E) Costs for developing and administering an early childhood 90063
education program may not exceed fifteen per cent of the total 90064
approved costs of the program. 90065

All providers shall maintain such fiscal control and 90066
accounting procedures as may be necessary to ensure the 90067
disbursement of, and accounting for, these funds. The control of 90068
funds provided in this program, and title to property obtained 90069
therefrom, shall be under the authority of the approved provider 90070
for purposes provided in the program unless, as described in 90071
division (I) of this section, the program waives its right for 90072
funding or a program's funding is eliminated or reduced due to its 90073
inability to meet financial or early learning program guidelines 90074
for school readiness. The approved provider shall administer and 90075
use such property and funds for the purposes specified. 90076

(F) The Department may examine a provider's financial and 90077
program records. If the financial practices of the program are not 90078
in accordance with standard accounting principles or do not meet 90079
financial standards outlined under division (E) of this section, 90080
or if the program fails to substantially meet the early learning 90081
program guidelines for school readiness or exhibits below average 90082
performance as measured against the guidelines, the early 90083
childhood education program shall propose and implement a 90084
corrective action plan that has been approved by the Department. 90085
The approved corrective action plan shall be signed by the chief 90086
executive officer and the executive of the official governing body 90087

of the provider. The corrective action plan shall include a 90088
schedule for monitoring by the Department. Such monitoring may 90089
include monthly reports, inspections, a timeline for correction of 90090
deficiencies, and technical assistance to be provided by the 90091
Department or obtained by the early childhood education program. 90092
The Department may withhold funding pending corrective action. If 90093
an early childhood education program fails to satisfactorily 90094
complete a corrective action plan, the Department may deny 90095
expansion funding to the program or withdraw all or part of the 90096
funding to the program and establish a new provider through a 90097
competitive bidding process established by the Department. 90098

(G) Each early childhood education program shall do all of 90099
the following: 90100

(1) Meet teacher qualification requirements prescribed by 90101
section 3301.311 of the Revised Code; 90102

(2) Align curriculum to the early learning content standards; 90103

(3) Meet any assessment requirements prescribed by section 90104
3301.0715 of the Revised Code that are applicable to the program; 90105

(4) Require teachers, except teachers enrolled and working to 90106
obtain a degree pursuant to section 3301.311 of the Revised Code, 90107
to attend a minimum of twenty hours per year of professional 90108
development as prescribed by the Department regarding the 90109
implementation of content standards and assessments; 90110

(5) Document and report child progress; 90111

(6) Meet and report compliance with the early learning 90112
program guidelines for school readiness. 90113

(H) Each provider shall develop a sliding fee scale based on 90114
family incomes and shall charge families who earn more than the 90115
federal poverty guidelines for the early childhood education 90116
program. 90117

(I) If an early childhood education program voluntarily 90118
waives its right for funding, or has its funding eliminated for 90119
not meeting financial standards or the early learning program 90120
guidelines for school readiness, the provider shall transfer 90121
control of title to property, equipment, and remaining supplies 90122
obtained through the program to providers designated by the 90123
Department and return any unexpended funds to the Department along 90124
with any reports prescribed by the Department. The funding made 90125
available from a program that waives its right for funding or has 90126
its funding eliminated or reduced may be used by the Department 90127
for new grant awards or expansion grants. The Department may award 90128
new grants or expansion grants to eligible providers who apply. 90129
The eligible providers who apply must do so in accordance with the 90130
competitive bidding process established by the Department. 90131

(J) As used in this section, "early learning program 90132
guidelines for school readiness" means the guidelines established 90133
by the Department pursuant to division (C)(3) of Section 206.09.54 90134
of this act. 90135

Section 206.09.09. EDUCATOR TRAINING 90136

The foregoing appropriation item 200-410, Educator Training, 90137
shall be used to fund professional development programs in Ohio. 90138
The Department of Education shall, when possible, incorporate 90139
cultural competency as a component of professional development and 90140
actively promote the development of cultural competency in the 90141
operation of its professional development programs. As used in 90142
this section, "cultural competency" has the meaning specified by 90143
the Educator Standards Board under section 3319.61 of the Revised 90144
Code. 90145

Of the foregoing appropriation item 200-410, Educator 90146
Training, up to \$7,850,000 in fiscal year 2006 and up to 90147
\$8,250,000 in fiscal year 2007 shall be used by the Department of 90148

Education to provide grants to pay \$2,000 of the application fee 90149
in order to assist teachers from public and chartered nonpublic 90150
schools applying for the first time to the National Board for 90151
Professional Teaching Standards for professional teaching 90152
certificates or licenses that the board offers. This set aside 90153
shall also be used to recognize and reward teachers who become 90154
certified by the National Board for Professional Teaching 90155
Standards under section 3319.55 of the Revised Code. Up to 90156
\$300,000 in each fiscal year of this set aside may be used by the 90157
Department to pay for costs associated with activities to support 90158
candidates through the application and certification process. 90159

These moneys shall be used to pay up to the first 400 90160
applications in each fiscal year received by the Department. 90161

Of the foregoing appropriation item 200-410, Educator 90162
Training, up to \$9,515,817 in each fiscal year shall be allocated 90163
for entry year programs. These funds shall be used to support 90164
mentoring services and performance assessments of beginning 90165
teachers and principals in school districts and chartered 90166
nonpublic schools. 90167

Of the foregoing appropriation item 200-410, Educator 90168
Training, up to \$200,000 in each fiscal year shall be used to 90169
provide technical assistance and grants for districts to develop 90170
local knowledge/skills-based compensation systems (Teacher 90171
Advancement Program). Each district receiving grants shall issue 90172
an annual report to the Department of Education detailing the use 90173
of the funds and the impact of the system developed by the 90174
district. 90175

Of the foregoing appropriation item 200-410, Educator 90176
Training, up to \$350,000 in each fiscal year shall be used for 90177
training and professional development of school administrators, 90178
school treasurers, and school business officials. 90179

Of the foregoing appropriation item 200-410, Educator 90180
Training, up to \$100,000 in fiscal year 2007 shall be used by the 90181
Department of Education to develop a supply and demand report that 90182
describes the availability of quality educators and critical 90183
educator shortage areas in Ohio. 90184

Of the foregoing appropriation item 200-410, Educator 90185
Training, up to \$885,740 in each fiscal year shall be used for 90186
educator recruitment programs targeting shortage areas, including 90187
recruiting highly qualified minority candidates into teaching and 90188
recruiting prospective mathematics and science teachers. The funds 90189
also may be used to provide an alternative route to licensure for 90190
principals and other administrators. 90191

Of the foregoing appropriation item 200-410, Educator 90192
Training, up to \$187,500 in each fiscal year shall be used by the 90193
Department of Education to identify hard-to-staff schools and to 90194
provide incentives for highly qualified teachers to teach in these 90195
schools. Stipends shall be provided to teachers with at least 90196
three years of experience who teach in the areas of special 90197
education or middle or high school mathematics or science. 90198

Of the foregoing appropriation item 200-410, Educator 90199
Training, up to \$63,000 in each fiscal year shall be used to 90200
support the Ohio University Leadership Program. 90201

Of the foregoing appropriation item 200-410, Educator 90202
Training, \$250,000 in each fiscal year shall be used to support 90203
the Ohio School Leadership Institute. 90204

Section 206.09.10. CAREER-TECHNICAL EDUCATION MATCH 90205

The foregoing appropriation item 200-416, Career-Technical 90206
Education Match, shall be used by the Department of Education to 90207
provide vocational administration matching funds under 20 U.S.C. 90208
2311. 90209

Section 206.09.12. COMPUTER/APPLICATION/NETWORK DEVELOPMENT 90210

The foregoing appropriation item 200-420, 90211
Computer/Application/Network Development, shall be used to support 90212
the development and implementation of information technology 90213
solutions designed to improve the performance and services of the 90214
Department of Education. Funds may be used for personnel, 90215
maintenance, and equipment costs related to the development and 90216
implementation of these technical system projects. Implementation 90217
of these systems shall allow the Department to provide greater 90218
levels of assistance to school districts and to provide more 90219
timely information to the public, including school districts, 90220
administrators, and legislators. 90221

ALTERNATIVE EDUCATION PROGRAMS 90222

There is hereby created the Alternative Education Advisory 90223
Council, which shall consist of one representative from each of 90224
the following agencies: the Ohio Department of Education; the 90225
Department of Youth Services; the Ohio Department of Alcohol and 90226
Drug Addiction Services; the Department of Mental Health; the 90227
Office of the Governor or, at the Governor's discretion, the 90228
Office of the Lieutenant Governor; the Office of the Attorney 90229
General; and the Office of the Auditor of State. 90230

Of the foregoing appropriation item 200-421, Alternative 90231
Education Programs, up to \$6,227,310 in each fiscal year shall be 90232
used for the renewal of successful implementation grants and for 90233
competitive matching grants to the 21 urban school districts as 90234
defined in division (O) of section 3317.02 of the Revised Code as 90235
it existed prior to July 1, 1998, and up to \$6,408,074 in each 90236
fiscal year shall be used for the renewal of successful 90237
implementation grants and for competitive matching grants to rural 90238
and suburban school districts for alternative educational programs 90239
for existing and new at-risk and delinquent youth. Programs shall 90240

be focused on youth in one or more of the following categories: 90241
those who have been expelled or suspended, those who have dropped 90242
out of school or who are at risk of dropping out of school, those 90243
who are habitually truant or disruptive, or those on probation or 90244
on parole from a Department of Youth Services facility. Grants 90245
shall be awarded according to the criteria established by the 90246
Alternative Education Advisory Council in 1999. Grants shall be 90247
awarded only to programs in which the grant will not serve as the 90248
program's primary source of funding. These grants shall be 90249
administered by the Department of Education. 90250

The Department of Education may waive compliance with any 90251
minimum education standard established under section 3301.07 of 90252
the Revised Code for any alternative school that receives a grant 90253
under this section on the grounds that the waiver will enable the 90254
program to more effectively educate students enrolled in the 90255
alternative school. 90256

Of the foregoing appropriation item 200-421, Alternative 90257
Education Programs, up to \$422,281 in each fiscal year may be used 90258
for program administration, monitoring, technical assistance, 90259
support, research, and evaluation. Any unexpended balance may be 90260
used to provide additional matching grants to urban, suburban, or 90261
rural school districts as outlined above. 90262

Of the foregoing appropriation item 200-421, Alternative 90263
Education Programs, up to \$675,000 in fiscal year 2006 and up to 90264
\$500,000 in fiscal year 2007 may be used by the Department of 90265
Education to administer the Educational Choice Scholarship Pilot 90266
Program established under section 3310.02 of the Revised Code. 90267

Of the foregoing appropriation item 200-421, Alternative 90268
Education Programs, \$75,000 in each fiscal year shall be used to 90269
support the Toledo Tech Academy. 90270

Of the foregoing appropriation item 200-421, Alternative 90271

Education Programs, \$100,000 in each fiscal year shall be used for 90272
the Youth Opportunities United, Inc. 90273

SCHOOL MANAGEMENT ASSISTANCE 90274

Of the foregoing appropriation item 200-422, School 90275
Management Assistance, up to \$1,315,000 in each fiscal year shall 90276
be used by the Auditor of State in consultation with the 90277
Department of Education for expenses incurred in the Auditor of 90278
State's role relating to fiscal caution, fiscal watch, and fiscal 90279
emergency activities as defined in Chapter 3316. of the Revised 90280
Code and may also be used to conduct performance audits consistent 90281
with the recommendations of the Governor's Blue Ribbon Task Force 90282
on Financing Student Success, with priority given to districts in 90283
fiscal distress. Expenses include duties related to the completion 90284
of performance audits for school districts that the Superintendent 90285
of Public Instruction determines are employing fiscal practices or 90286
experiencing budgetary conditions that could produce a state of 90287
fiscal watch or fiscal emergency. 90288

The remainder of foregoing appropriation item 200-422, School 90289
Management Assistance, shall be used by the Department of 90290
Education to provide fiscal technical assistance and inservice 90291
education for school district management personnel and to 90292
administer, monitor, and implement the fiscal watch and fiscal 90293
emergency provisions under Chapter 3316. of the Revised Code. 90294

POLICY ANALYSIS 90295

The foregoing appropriation item 200-424, Policy Analysis, 90296
shall be used by the Department of Education to support a system 90297
of administrative, statistical, and legislative education 90298
information to be used for policy analysis. Staff supported by 90299
this appropriation shall administer the development of reports, 90300
analyses, and briefings to inform education policymakers of 90301
current trends in education practice, efficient and effective use 90302

of resources, and evaluation of programs to improve education 90303
results. The database shall be kept current at all times. These 90304
research efforts shall be used to supply information and analysis 90305
of data to the General Assembly and other state policymakers, 90306
including the Office of Budget and Management and the Legislative 90307
Service Commission. 90308

The Department of Education may use funding from this 90309
appropriation item to purchase or contract for the development of 90310
software systems or contract for policy studies that will assist 90311
in the provision and analysis of policy-related information. 90312
Funding from this appropriation item also may be used to monitor 90313
and enhance quality assurance for research-based policy analysis 90314
and program evaluation to enhance the effective use of education 90315
information to inform education policymakers. 90316

TECH PREP CONSORTIA SUPPORT 90317

The foregoing appropriation item 200-425, Tech Prep Consortia 90318
Support, shall be used by the Department of Education to support 90319
state-level activities designed to support, promote, and expand 90320
tech prep programs. Use of these funds shall include, but not be 90321
limited to, administration of grants, program evaluation, 90322
professional development, curriculum development, assessment 90323
development, program promotion, communications, and statewide 90324
coordination of tech prep consortia. 90325

OHIO EDUCATIONAL COMPUTER NETWORK 90326

The foregoing appropriation item 200-426, Ohio Educational 90327
Computer Network, shall be used by the Department of Education to 90328
maintain a system of information technology throughout Ohio and to 90329
provide technical assistance for such a system in support of the 90330
State Education Technology Plan under section 3301.07 of the 90331
Revised Code. 90332

Of the foregoing appropriation item 200-426, Ohio Educational 90333

Computer Network, up to \$18,136,691 in each fiscal year shall be 90334
used by the Department of Education to support connection of all 90335
public school buildings and participating chartered nonpublic 90336
schools to the state's education network, to each other, and to 90337
the Internet. In each fiscal year the Department of Education 90338
shall use these funds to assist data acquisition sites or school 90339
districts with the operational costs associated with this 90340
connectivity. The Department of Education shall develop a formula 90341
and guidelines for the distribution of these funds to the data 90342
acquisition sites or individual school districts. As used in this 90343
section, "public school building" means a school building of any 90344
city, local, exempted village, or joint vocational school 90345
district, any community school established under Chapter 3314. of 90346
the Revised Code, any educational service center building used for 90347
instructional purposes, the Ohio School for the Deaf and the Ohio 90348
School for the Blind, or high schools chartered by the Ohio 90349
Department of Youth Services and high schools operated by Ohio 90350
Department of Rehabilitation and Corrections' Ohio Central School 90351
System. 90352

Of the foregoing appropriation item 200-426, Ohio Educational 90353
Computer Network, up to \$1,700,000 in each fiscal year shall be 90354
used for the Union Catalog and InfOhio Network. 90355

Of the foregoing appropriation item 200-426, Ohio Educational 90356
Computer Network, up to \$8,338,468 in each fiscal year shall be 90357
used, through a formula and guidelines devised by the department, 90358
to subsidize the activities of designated data acquisition sites, 90359
as defined by State Board of Education rules, to provide school 90360
districts and chartered nonpublic schools with computer-based 90361
student and teacher instructional and administrative information 90362
services, including approved computerized financial accounting, 90363
and to ensure the effective operation of local automated 90364
administrative and instructional systems. 90365

Of the foregoing appropriation item 200-426, Ohio Educational Computer Network, up to \$769,223 in each fiscal year shall be used for the INFOhio Network to support the provision of electronic resources with priority given to resources that support the teaching of state academic content standards to all public schools. Consideration shall be given by the Department of Education to coordinating the allocation of these moneys with the efforts of Libraries Connect Ohio, whose members include OhioLINK, the Ohio Public Information Network, and the State Library of Ohio.

The remainder of appropriation item 200-426, Ohio Educational Computer Network, shall be used to support development, maintenance, and operation of a network of uniform and compatible computer-based information and instructional systems. This technical assistance shall include, but not be restricted to, development and maintenance of adequate computer software systems to support network activities. In order to improve the efficiency of network activities, the Department and data acquisition sites may jointly purchase equipment, materials, and services from funds provided under this appropriation for use by the network and, when considered practical by the Department, may utilize the services of appropriate state purchasing agencies.

ACADEMIC STANDARDS 90388

Of the foregoing appropriation item 200-427, Academic Standards, up to \$747,912 in each fiscal year shall be used to provide funds to school districts that have one or more teachers participating in the teachers-on-loan program.

Of the foregoing appropriation item 200-427, Academic Standards, \$150,000 in each fiscal year shall be used by the Department in combination with funding earmarked for this purpose in the Board of Regents' budget under appropriation item 235-321, Operating Expenses. Such funding shall be used to support Ohio's

Partnership for Continued Learning at the direction of the Office 90398
of the Governor. Ohio's Partnership for Continued Learning 90399
replaces and broadens the former Joint Council of the Department 90400
of Education and the Board of Regents. The Partnership shall 90401
advise and make recommendations to promote collaboration among 90402
relevant state entities in an effort to help local communities 90403
develop coherent and successful "P-16" learning systems. The 90404
Governor, or the Governor's designee, shall serve as the 90405
chairperson. 90406

Of the foregoing appropriation item 200-427, Academic 90407
Standards, \$1,000,000 in each fiscal year shall be used for 90408
Project Lead the Way leadership and management oversight and 90409
initial and continuing support of Project Lead the Way workforce 90410
development programs in participating school districts. Project 90411
Lead the Way is a program that supports students interested in 90412
pursuing engineering professions and stimulates growth of career 90413
pathways that meet business and industry workforce needs. 90414

Of the foregoing appropriation item 200-427, Academic 90415
Standards, up to \$2,600,000 in each fiscal year shall be used for 90416
intensive teacher professional development institutes that focus 90417
on classroom implementation of the mathematics standards. 90418

Of the foregoing appropriation item 200-427, Academic 90419
Standards, \$200,000 in each fiscal year may be used to support the 90420
Ohio Resource Center for Math and Science. 90421

Of the foregoing appropriation item 200-427, Academic 90422
Standards, up to \$282,000 in each fiscal year shall be used for 90423
the JASON Expedition project that provides statewide access to 90424
JASON Expedition content. Funds shall be used to provide 90425
professional development training for teachers participating in 90426
the project, statewide management, and a seventy-five per cent 90427
subsidy for statewide licensing of JASON Expedition content with 90428
priority given to content aligned with state academic content 90429

standards for approximately 90,000 middle school students 90430
statewide. 90431

Of the foregoing appropriation item 200-427, Academic 90432
Standards, \$285,000 in each fiscal year shall be used for the Ohio 90433
Science Institute (OSCI). 90434

The remainder of appropriation item 200-427, Academic 90435
Standards, shall be used by the Department of Education to develop 90436
and communicate to school districts academic content standards and 90437
curriculum models. 90438

Section 206.09.15. SCHOOL IMPROVEMENT INITIATIVES 90439

Of the foregoing appropriation item 200-431, School 90440
Improvement Initiatives, \$300,000 in fiscal year 2006 and \$450,000 90441
in fiscal year 2007 shall be used for Ohio's Rural Appalachian 90442
Leadership Development Initiative. 90443

Of the foregoing appropriation item 200-431, School 90444
Improvement Initiatives, up to \$601,165 in each fiscal year shall 90445
be used by the Department of Education to contract with 90446
educational media centers to provide Ohio public schools with 90447
instructional resources and services with priority given to 90448
resources and services aligned with state academic content 90449
standards. 90450

Of the foregoing appropriation item 200-431, School 90451
Improvement Initiatives, up to \$13,972,949 in fiscal year 2006 and 90452
\$13,672,678 in fiscal year 2007 shall be used to provide technical 90453
assistance to school districts that are declared to be in a state 90454
of academic watch or academic emergency under section 3302.03 of 90455
the Revised Code, to provide support to districts in the 90456
development and implementation of their continuous improvement 90457
plans as required in section 3302.04 of the Revised Code, to 90458
support a statewide comprehensive system of field relations that 90459

support local educators' abilities to foster academic achievement 90460
in the students they serve, and to provide technical assistance 90461
and support in accordance with Title I of the "No Child Left 90462
Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6317. The field 90463
relations system shall include training that assists educators, 90464
school leadership, and technical assistance providers in 90465
understanding and implementing standards-based education, data 90466
analysis, and development of assessment systems for quality 90467
instruction. 90468

Of the foregoing appropriation item 200-431, School 90469
Improvement Initiatives, up to \$315,000 in each fiscal year shall 90470
be used to reduce the dropout rate by addressing the academic and 90471
social problems of inner-city students through Project GRAD. 90472

Of the foregoing appropriation item 200-431, School 90473
Improvement Initiatives, \$1,574,535 in fiscal year 2006 and 90474
\$2,753,985 in fiscal year 2007 shall be used in conjunction with 90475
funding provided in the Board of Regents' budget under 90476
appropriation item 235-434, College Readiness and Access, to 90477
create early college high schools, which are small, autonomous 90478
schools that blend high school and college into a coherent 90479
educational program. 90480

Of the foregoing appropriation item 200-431, School 90481
Improvement Initiatives, up to \$2,935,000 in fiscal year 2006 and 90482
up to \$4,935,000 in fiscal year 2007 shall be used in partnership 90483
with nonprofit groups with expertise in converting existing large 90484
urban high schools into small, personalized high schools. 90485
Districts eligible for such funding include the Urban 21 high 90486
schools, as defined in division (0) of section 3317.02 of the 90487
Revised Code as it existed prior to July 1, 1998. 90488

Of the foregoing appropriation item 200-431, School 90489
Improvement Initiatives, up to \$65,000 in each fiscal year shall 90490
be provided to Southern State Community College for the Pilot 90491

Post-Secondary Enrollment Options Program with Miami Trace High School. 90492
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Of the foregoing appropriation item 200-431, School Improvement Initiatives, \$1,000,000 in each fiscal year shall be used to support Jobs for Ohio Graduates (JOG). The Department of Education shall require a two-to-one match of local funding to state funding before releasing these funds to JOG. 90494
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Of the foregoing appropriation item 200-431, School Improvement Initiatives, \$50,000 in each fiscal year shall be used for the Big City Schools Program in Cincinnati. 90499
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Of the foregoing appropriation item 200-431, School Improvement Initiatives, \$1,000,000 shall be used in fiscal year 2006 to support Improved Solutions for Urban Students (ISUS) in Dayton. 90502
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READING/WRITING IMPROVEMENT-PROFESSIONAL DEVELOPMENT 90506

Of the foregoing appropriation item 200-433, Reading/Writing Improvement-Professional Development, up to \$9,790,000 in each fiscal year shall be used for educator training in literacy for classroom teachers, administrators, and literacy specialists. 90507
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Of the foregoing appropriation item 200-433, Reading/Writing Improvement-Professional Development, up to \$5,000,000 in each fiscal year shall be used to support literacy professional development partnerships between the Department of Education, higher education institutions, literacy networks, and school districts. 90511
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Of the foregoing appropriation item 200-433, Reading/Writing Improvement-Professional Development, up to \$900,000 in each fiscal year shall be used by the Department of Education to fund the Reading Recovery Training Network, to cover the cost of release time for the teacher trainers, and to provide grants to districts to implement other reading improvement programs on a 90517
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pilot basis. Funds from this set-aside also may be used to conduct 90523
evaluations of the impact and effectiveness of Reading Recovery 90524
and other reading improvement programs. 90525

Of the foregoing appropriation item 200-433, Reading/Writing 90526
Improvement-Professional Development, up to \$250,000 in each 90527
fiscal year shall be used for the Waterford Early Reading Program. 90528

The remainder of appropriation item 200-433, Reading/Writing 90529
Improvement-Professional Development, shall be used by the 90530
Department of Education to provide administrative support of 90531
literacy professional development programs. 90532

STUDENT ASSESSMENT 90533

The foregoing appropriation item 200-437, Student Assessment, 90534
shall be used to develop, field test, print, distribute, score, 90535
report results, and support other associated costs for the tests 90536
required under sections 3301.0710 and 3301.0711 of the Revised 90537
Code and for similar purposes as required by section 3301.27 of 90538
the Revised Code. 90539

ACCOUNTABILITY/REPORT CARDS 90540

Of the foregoing appropriation item 200-439, 90541
Accountability/Report Cards, up to \$200,100 in fiscal year 2006 90542
and up to \$3,778,540 in fiscal year 2007 shall be used by the 90543
Department of Education to incorporate a statewide pilot 90544
value-added progress dimension into performance ratings for school 90545
districts and to train regional specialists. This funding shall be 90546
used in consultation with a credible nonprofit organization with 90547
expertise in value-added progress dimensions. 90548

The remainder of the appropriation item 200-439, 90549
Accountability/Report Cards, shall be used for the development of 90550
an accountability system that includes the preparation and 90551
distribution of school report cards under section 3302.03 of the 90552
Revised Code. 90553

CHILD CARE LICENSING 90554

The foregoing appropriation item 200-442, Child Care 90555
Licensing, shall be used by the Department of Education to license 90556
and to inspect preschool and school-age child care programs under 90557
sections 3301.52 to 3301.59 of the Revised Code. 90558

OHIOREADS VOLUNTEER SUPPORT 90559

The foregoing appropriation item 200-445, OhioReads Volunteer 90560
Support, may be allocated by the Department of Education for 90561
volunteer coordinators in public school buildings, for background 90562
checks for volunteers, to evaluate programs, and to develop, 90563
implement, and support literacy improvement activities and 90564
interventions for students in grades kindergarten through twelve. 90565

Section 206.09.18. EDUCATION MANAGEMENT INFORMATION SYSTEM 90566

The foregoing appropriation item 200-446, Education 90567
Management Information System, shall be used by the Department of 90568
Education to improve the Education Management Information System 90569
(EMIS). 90570

Of the foregoing appropriation item 200-446, Education 90571
Management Information System, up to \$1,295,857 in each fiscal 90572
year shall be distributed to designated data acquisition sites for 90573
costs relating to processing, storing, and transferring data for 90574
the effective operation of the EMIS. These costs may include, but 90575
are not limited to, personnel, hardware, software development, 90576
communications connectivity, professional development, and support 90577
services, and to provide services to participate in the State 90578
Education Technology Plan pursuant to section 3301.07 of the 90579
Revised Code. 90580

Of the foregoing appropriation item 200-446, Education 90581
Management Information System, up to \$8,055,189 in each fiscal 90582
year shall be distributed on a per-pupil basis to school 90583

districts, community schools established under Chapter 3314. of 90584
the Revised Code, educational service centers, joint vocational 90585
school districts, and any other education entity that reports data 90586
through EMIS. From this funding, each school district or community 90587
school established under Chapter 3314. of the Revised Code with 90588
enrollment greater than 100 students and each vocational school 90589
district shall receive a minimum of \$5,000 in each fiscal year. 90590
Each school district or community school established under Chapter 90591
3314. of the Revised Code with enrollment between one and one 90592
hundred and each educational service center and each county board 90593
of MR/DD that submits data through EMIS shall receive \$3,000 in 90594
each fiscal year. This subsidy shall be used for costs relating to 90595
reporting, processing, storing, transferring, and exchanging data 90596
necessary to meet requirements of the Department of Education's 90597
data system. 90598

The remainder of appropriation item 200-446, Education 90599
Management Information System, shall be used to develop and 90600
support a common core of data definitions and standards as adopted 90601
by the Education Data Advisory Council, including the ongoing 90602
development and maintenance of the data dictionary and data 90603
warehouse. In addition, such funds shall be used to support the 90604
development and implementation of data standards and the design, 90605
development, and implementation of a new data exchange system. 90606

Any provider of software meeting the standards approved by 90607
the Education Data Advisory Council shall be designated as an 90608
approved vendor and may enter into contracts with local school 90609
districts, community schools, data acquisition centers, or other 90610
educational entities for the purpose of collecting and managing 90611
data required under Ohio's education management information system 90612
(EMIS) laws. On an annual basis, the Department of Education shall 90613
convene an advisory group of school districts, community schools, 90614
and other education-related entities to review the Education 90615

Management Information System data definitions and data format 90616
standards. The advisory group shall recommend changes and 90617
enhancements based upon surveys of its members, education agencies 90618
in other states, and current industry practices, to reflect best 90619
practices, align with federal initiatives, and meet the needs of 90620
school districts. 90621

School districts and community schools not implementing a 90622
common and uniform set of data definitions and data format 90623
standards for Education Management Information System purposes 90624
shall have all EMIS funding withheld until they are in compliance. 90625

GED TESTING 90626

The foregoing appropriation item 200-447, GED Testing, shall 90627
be used to provide General Educational Development (GED) testing 90628
at no cost to applicants, under rules adopted by the State Board 90629
of Education. The Department of Education shall reimburse school 90630
districts and community schools, created under Chapter 3314. of 90631
the Revised Code, for a portion of the costs incurred in providing 90632
summer instructional or intervention services to students who have 90633
not graduated because of their inability to pass one or more parts 90634
of the state's Ohio Graduation Test or ninth grade proficiency 90635
test. School districts shall also provide such services to 90636
students who are residents of the district under section 3313.64 90637
of the Revised Code, but who are enrolled in chartered, nonpublic 90638
schools. The services shall be provided in the public school, in 90639
nonpublic schools, in public centers, or in mobile units located 90640
on or off the nonpublic school premises. No school district shall 90641
provide summer instructional or intervention services to nonpublic 90642
school students as authorized by this section unless such services 90643
are available to students attending the public schools within the 90644
district. No school district shall provide services for use in 90645
religious courses, devotional exercises, religious training, or 90646
any other religious activity. Chartered, nonpublic schools shall 90647

pay for any unreimbursed costs incurred by school districts for 90648
providing summer instruction or intervention services to students 90649
enrolled in chartered, nonpublic schools. School districts may 90650
provide these services to students directly or contract with 90651
postsecondary or nonprofit community-based institutions in 90652
providing instruction. 90653

EDUCATOR PREPARATION 90654

Of the foregoing appropriation item 200-448, Educator 90655
Preparation, \$100,000 in each fiscal year shall be provided in 90656
conjunction with funding in the Board of Regents' budget under 90657
appropriation item 235-435, Teacher Improvement Initiatives, to 90658
the Teacher Quality Partnership project. The Teacher Quality 90659
Partnership is a research consortium of Ohio's fifty colleges and 90660
universities providing teacher preparation programs. Funds shall 90661
be used to support a comprehensive longitudinal study of the 90662
preparation, in-school support, and effectiveness of Ohio 90663
teachers. 90664

Of the foregoing appropriation item 200-448, Educator 90665
Preparation, up to \$1,551,000 in each fiscal year shall be used by 90666
the Department to support the Educator Standards Board under 90667
section 3319.61 of the Revised Code as it develops and recommends 90668
to the State Board of Education standards for educator training 90669
and standards for teacher and other school leadership positions. 90670

COMMUNITY SCHOOLS 90671

Of the foregoing appropriation item 200-455, Community 90672
Schools, up to \$1,308,661 in each fiscal year may be used by the 90673
Department of Education for additional services and 90674
responsibilities under section 3314.11 of the Revised Code. 90675

Of the foregoing appropriation item 200-455, Community 90676
Schools, up to \$225,000 in each fiscal year may be used by the 90677
Department of Education for developing and conducting training 90678

sessions for sponsors and prospective sponsors of community 90679
schools as prescribed in division (A)(1) of section 3314.015 of 90680
the Revised Code. In developing the training sessions, the 90681
Department shall collect and disseminate examples of best 90682
practices used by sponsors of independent charter schools in Ohio 90683
and other states. 90684

The remaining appropriation may be used by the Department of 90685
Education to make grants of up to \$50,000 to each proposing group 90686
with a preliminary agreement obtained under division (C)(2) of 90687
section 3314.02 of the Revised Code in order to defray planning 90688
and initial start-up costs. In the first year of operation of a 90689
community school, the Department of Education may make a grant of 90690
not more than \$100,000 to the governing authority of the school to 90691
partially defray additional start-up costs. The amount of the 90692
grant shall be based on a thorough examination of the needs of the 90693
community school. The Department of Education shall not utilize 90694
moneys received under this section for any other purpose other 90695
than those specified under this section. 90696

A community school awarded start-up grants from appropriation 90697
item 200-613, Public Charter Schools (Fund 3T4), shall not be 90698
eligible for grants under this section. 90699

Section 206.09.21. PUPIL TRANSPORTATION 90700

Of the foregoing appropriation item 200-502, Pupil 90701
Transportation, up to \$822,400 in each fiscal year may be used by 90702
the Department of Education for training prospective and 90703
experienced school bus drivers in accordance with training 90704
programs prescribed by the Department. Up to \$58,115,428 in fiscal 90705
year 2006 and up to \$59,277,737 in fiscal year 2007 may be used by 90706
the Department of Education for special education transportation 90707
reimbursements to school districts and county MR/DD boards for 90708
transportation operating costs as provided in division (M) of 90709

section 3317.024 of the Revised Code. The remainder of 90710
appropriation item 200-502, Pupil Transportation, shall be used 90711
for the state reimbursement of public school districts' costs in 90712
transporting pupils to and from the school they attend in 90713
accordance with the district's policy, State Board of Education 90714
standards, and the Revised Code. 90715

Notwithstanding the distribution formula outlined in division 90716
(D) of section 3317.022 of the Revised Code, each school district 90717
shall receive an additional two per cent in state funding for 90718
transportation in fiscal year 2006 over what was received in 90719
fiscal year 2005, and the local share of transportation costs that 90720
is used in the calculation of the charge-off supplement and excess 90721
cost supplement for each school district in fiscal year 2006 shall 90722
be increased by two per cent from that used in calculations in 90723
fiscal year 2005. 90724

Notwithstanding the distribution formula outlined in division 90725
(D) of section 3317.022 of the Revised Code, each school district 90726
shall receive an additional two per cent in state funding for 90727
transportation in fiscal year 2007 over what was received in 90728
fiscal year 2006, and the local share of transportation costs that 90729
is used in the calculation of the charge-off supplement and excess 90730
cost supplement for each school district in fiscal year 2007 shall 90731
be increased by two per cent from that used in calculations in 90732
fiscal year 2006. 90733

The Department of Education shall recommend a new formula for 90734
allocating state funds for transportation costs. The Department 90735
shall submit the recommendation to the Director of Budget and 90736
Management, the Speaker of the House of Representatives, and the 90737
President of the Senate not later than July 1, 2006. 90738

School districts not receiving state funding for 90739
transportation in fiscal year 2005 under division (D) of section 90740
3317.022 of the Revised Code shall not receive state funding for 90741

transportation in fiscal year 2006 or fiscal year 2007. 90742

BUS PURCHASE ALLOWANCE 90743

The foregoing appropriation item 200-503, Bus Purchase 90744
Allowance, shall be distributed to school districts, educational 90745
service centers, and county MR/DD boards pursuant to rules adopted 90746
under section 3317.07 of the Revised Code. Up to 28 per cent of 90747
the amount appropriated may be used to reimburse school districts 90748
and educational service centers for the purchase of buses to 90749
transport handicapped and nonpublic school students and to county 90750
MR/DD boards, the Ohio School for the Deaf, and the Ohio School 90751
for the Blind for the purchase of buses to transport handicapped 90752
students. 90753

SCHOOL LUNCH MATCH 90754

The foregoing appropriation item 200-505, School Lunch Match, 90755
shall be used to provide matching funds to obtain federal funds 90756
for the school lunch program. 90757

Section 206.09.24. ADULT LITERACY EDUCATION 90758

The foregoing appropriation item 200-509, Adult Literacy 90759
Education, shall be used to support adult basic and literacy 90760
education instructional programs and the State Literacy Resource 90761
Center Program. 90762

Of the foregoing appropriation item 200-509, Adult Literacy 90763
Education, up to \$488,037 in each fiscal year shall be used for 90764
the support and operation of the State Literacy Resource Center. 90765

Of the foregoing appropriation item 200-509, Adult Literacy 90766
Education, up to \$175,000 in each fiscal year shall be used for 90767
state reimbursement to school districts for adult high school 90768
continuing education programs under section 3313.531 of the 90769
Revised Code or for costs associated with awarding adult high 90770
school diplomas under section 3313.611 of the Revised Code. 90771

Of the foregoing appropriation item 200-509, Adult Literacy Education, \$130,000 in each fiscal year shall be used to support initiatives for English as a Second Language programs. Funding shall be distributed as follows: \$60,000 in each fiscal year for Jewish Community Federation of Cleveland, \$25,000 in each fiscal year for Yassenoff Jewish Community Center of Columbus, \$30,000 in each fiscal year for Jewish Family Services of Cincinnati, and \$15,000 in each fiscal year for Jewish Family Services of Dayton.

The remainder of the appropriation shall be used to continue to satisfy the state match and maintenance of effort requirements for the support and operation of the Department of Education-administered instructional grant program for adult basic and literacy education in accordance with the Department's state plan for adult basic and literacy education as approved by the State Board of Education and the Secretary of the United States Department of Education.

AUXILIARY SERVICES

The foregoing appropriation item 200-511, Auxiliary Services, shall be used by the Department of Education for the purpose of implementing section 3317.06 of the Revised Code. Of the appropriation, up to \$2,000,000 in each fiscal year may be used for payment of the Post-Secondary Enrollment Options Program for nonpublic students under section 3365.10 of the Revised Code.

POSTSECONDARY ADULT CAREER-TECHNICAL EDUCATION

Of the foregoing appropriation item 200-514, Postsecondary Adult Career-Technical Education, \$40,000 in each fiscal year shall be used for statewide coordination of the activities of the Ohio Young Farmers.

The remainder of appropriation item 200-514, Postsecondary Adult Career-Technical Education, shall be used by the State Board of Education to provide postsecondary adult career-technical

education under sections 3313.52 and 3313.53 of the Revised Code. 90803

Section 206.09.27. GIFTED PUPIL PROGRAM 90804

The foregoing appropriation item 200-521, Gifted Pupil 90805
Program, shall be used for gifted education units not to exceed 90806
1,110 in each fiscal year under division (P) of section 3317.024 90807
and division (F) of section 3317.05 of the Revised Code. 90808

Of the foregoing appropriation item 200-521, Gifted Pupil 90809
Program, up to \$4,700,000 in each fiscal year may be used as an 90810
additional supplement for identifying gifted students under 90811
Chapter 3324. of the Revised Code. 90812

Of the foregoing appropriation item 200-521, Gifted Pupil 90813
Program, the Department of Education may expend up to \$940,000 in 90814
each fiscal year for the Summer Honors Institute for gifted 90815
freshman and sophomore high school students. Up to \$65,800 in each 90816
fiscal year shall be used for the Ohio Summer School for the 90817
Gifted (Martin Essex Program). 90818

NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT 90819

The foregoing appropriation item 200-532, Nonpublic 90820
Administrative Cost Reimbursement, shall be used by the Department 90821
of Education for the purpose of implementing section 3317.063 of 90822
the Revised Code. 90823

Section 206.09.30. SPECIAL EDUCATION ENHANCEMENTS 90824

Of the foregoing appropriation item 200-540, Special 90825
Education Enhancements, up to \$2,906,875 in each fiscal year shall 90826
be used for home instruction for children with disabilities; up to 90827
\$1,462,500 in each fiscal year shall be used for parent mentoring 90828
programs; and up to \$2,783,396 in each fiscal year may be used for 90829
school psychology interns. 90830

Of the foregoing appropriation item 200-540, Special 90831

Education Enhancements, \$750,000 in each fiscal year shall be used 90832
for the Out of School Initiative of Sinclair Community College. 90833

Of the foregoing appropriation item 200-540, Special 90834
Education Enhancements, \$200,000 shall be used for a preschool 90835
special education pilot program in Bowling Green City School 90836
District. 90837

Of the foregoing appropriation item 200-540, Special 90838
Education Enhancements, \$200,000 in each fiscal year shall be used 90839
to support the Bellefaire Jewish Children's Bureau. 90840

Of the foregoing appropriation item 200-540, Special 90841
Education Enhancements, up to \$79,194,060 in fiscal year 2006 and 90842
up to \$79,986,001 in fiscal year 2007 shall be distributed by the 90843
Department of Education to county boards of mental retardation and 90844
developmental disabilities, educational service centers, and 90845
school districts for preschool special education units and 90846
preschool supervisory units under section 3317.052 of the Revised 90847
Code. The Department may reimburse county boards of mental 90848
retardation and developmental disabilities, educational service 90849
centers, and school districts for related services as defined in 90850
rule 3301-51-11 of the Administrative Code, for preschool 90851
occupational and physical therapy services provided by a physical 90852
therapy assistant and certified occupational therapy assistant, 90853
and for an instructional assistant. To the greatest extent 90854
possible, the Department of Education shall allocate these units 90855
to school districts and educational service centers. 90856

No physical therapy assistant who provides services under 90857
this section shall fail to practice in accordance with the 90858
requirements of Chapter 4755. of the Revised Code and rules 90859
4755-27-02 and 4755-27-03 of the Administrative Code. No 90860
occupational therapy assistant who provides services under this 90861
section shall fail to practice in accordance with the requirements 90862
of Chapter 4755. of the Revised Code and rules 4755-7-01 and 90863

4755-7-03 of the Administrative Code. 90864

The Department of Education shall require school districts, 90865
educational service centers, and county MR/DD boards serving 90866
preschool children with disabilities to document child progress 90867
using research-based indicators prescribed by the Department and 90868
report results annually. The reporting dates and method shall be 90869
determined by the Department. 90870

Of the foregoing appropriation item 200-540, Special 90871
Education Enhancements, up to \$315,000 in each fiscal year shall 90872
be used for the Collaborative Language and Literacy Instruction 90873
Project. 90874

The remainder of appropriation item 200-540, Special 90875
Education Enhancements, shall be used to fund special education 90876
and related services at county boards of mental retardation and 90877
developmental disabilities for eligible students under section 90878
3317.20 of the Revised Code and at institutions for eligible 90879
students under section 3317.201 of the Revised Code. 90880

Section 206.09.33. CAREER-TECHNICAL EDUCATION ENHANCEMENTS 90881

Of the foregoing appropriation item 200-545, Career-Technical 90882
Education Enhancements, up to \$2,436,070 in each fiscal year shall 90883
be used to fund career-technical education units at institutions. 90884

Of the foregoing appropriation item 200-545, Career-Technical 90885
Education Enhancements, up to \$2,621,507 in each fiscal year shall 90886
be used by the Department of Education to fund competitive grants 90887
to tech prep consortia that expand the number of students enrolled 90888
in tech prep programs. These grant funds shall be used to directly 90889
support expanded tech prep programs, including equipment, provided 90890
to students enrolled in school districts, including joint 90891
vocational school districts, and affiliated higher education 90892
institutions. 90893

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, \$943,873 in fiscal year 2006 shall be used to provide an amount to each eligible school district for the replacement or updating of equipment essential for the instruction of students in job skills taught as part of a career-technical program or programs approved for such instruction by the State Board of Education. School districts replacing or updating career-technical education equipment may purchase or lease such equipment. The Department of Education shall review and approve all equipment requests and may allot appropriated funds to eligible school districts on the basis of the number of full-time equivalent workforce development teachers in all eligible districts making application for funds.

The State Board of Education may adopt standards of need for equipment allocation. Pursuant to the adoption of any such standards of need by the State Board of Education, appropriated funds may be allotted to eligible districts according to such standards. Equipment funds allotted under either process shall be provided to a school district at 30, 40, or 50 per cent of cost on the basis of a rating developed by the Department of Education using the state share percentage as provided in division (B)(2) of section 3317.022 of the Revised Code.

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$3,401,000 in each fiscal year shall be used by the Department of Education to support existing High Schools That Work (HSTW) sites, develop and support new sites, fund technical assistance, and support regional centers and middle school programs. The purpose of HSTW is to combine challenging academic courses and modern career-technical studies to raise the academic achievement of students. HSTW provides intensive technical assistance, focused staff development, targeted assessment services, and ongoing communications and networking

opportunities. 90926

Of the foregoing appropriation item 200-545, Career-Technical 90927
Education Enhancements, up to \$466,992 in each fiscal year shall 90928
be allocated for the Ohio Career Information System (OCIS) and 90929
used for the dissemination of career information data to public 90930
schools, libraries, rehabilitation centers, two- and four-year 90931
colleges and universities, and other governmental units. 90932

Of the foregoing appropriation item 200-545, Career-Technical 90933
Educational Enhancements, up to \$300,000 in each fiscal year shall 90934
be used by the Department of Education to enable students in 90935
agricultural programs to enroll in a fifth quarter of instruction 90936
based on the agricultural education model of delivering work-based 90937
learning through supervised agricultural experience. The 90938
Department of Education shall determine eligibility criteria and 90939
the reporting process for the Agriculture 5th Quarter Project and 90940
shall fund as many programs as possible given the set aside. 90941

Section 206.09.36. FOUNDATION FUNDING 90942

The foregoing appropriation item 200-550, Foundation Funding, 90943
includes \$85,000,000 in each fiscal year for the state education 90944
aid offset due to the change in public utility valuation as a 90945
result of Am. Sub. S.B. 3 and Am. Sub. S.B. 287, both of the 123rd 90946
General Assembly. This amount represents the total state education 90947
aid offset due to the valuation change for school districts and 90948
joint vocational school districts from all relevant appropriation 90949
line item sources. Upon certification by the Department of 90950
Education, in consultation with the Department of Taxation, to the 90951
Director of Budget and Management of the actual state aid offset, 90952
the cash transfer from fund 053, appropriation item 200-900, 90953
School District Property Tax Replacement - Utility, shall be 90954
decreased or increased by the Director of Budget and Management to 90955
match the certification in accordance with section 5727.84 of the 90956

Revised Code. 90957

Of the foregoing appropriation item 200-550, Foundation 90958
Funding, up to \$425,000 shall be expended in each fiscal year for 90959
court payments under section 2151.357 of the Revised Code; an 90960
amount shall be available in each fiscal year for the cost of 90961
reappraisal guarantee under section 3317.04 of the Revised Code; 90962
an amount shall be available in each fiscal year to fund up to 225 90963
full-time equivalent approved GRADS teacher grants under division 90964
(R) of section 3317.024 of the Revised Code; an amount shall be 90965
available in each fiscal year to make payments to school districts 90966
under division (A)(3) of section 3317.022 of the Revised Code; an 90967
amount shall be available in each fiscal year to make payments to 90968
school districts under division (F) of section 3317.022 of the 90969
Revised Code; an amount shall be available in each fiscal year to 90970
make payments to school districts under division (C) of section 90971
3317.0212 of the Revised Code; and up to \$30,000,000 in each 90972
fiscal year shall be reserved for payments under sections 90973
3317.026, 3317.027, and 3317.028 of the Revised Code except that 90974
the Controlling Board may increase the \$30,000,000 amount if 90975
presented with such a request from the Department of Education. Of 90976
the foregoing appropriation item 200-550, Foundation Funding, up 90977
to \$18,000,000 in fiscal year 2006 and up to \$19,000,000 in fiscal 90978
year 2007 shall be used to provide additional state aid to school 90979
districts for special education students under division (C)(3) of 90980
section 3317.022 of the Revised Code; up to \$2,000,000 in each 90981
fiscal year shall be reserved for Youth Services tuition payments 90982
under section 3317.024 of the Revised Code; and up to \$52,000,000 90983
in each fiscal year shall be reserved to fund the state 90984
reimbursement of educational service centers under section 3317.11 90985
of the Revised Code and the section of this act entitled 90986
"EDUCATIONAL SERVICE CENTERS FUNDING." An amount shall be 90987
available for special education weighted funding under division 90988
(C)(1) of section 3317.022 and division (D)(1) of section 3317.16 90989

of the Revised Code. 90990

Of the foregoing appropriation item 200-550, Foundation 90991
Funding, an amount shall be available in each fiscal year to be 90992
used by the Department of Education for transitional aid for 90993
school districts and joint vocational school districts. Funds 90994
shall be distributed under the sections of this act entitled 90995
"TRANSITIONAL AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE SCHOOL 90996
DISTRICTS" AND "TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL 90997
DISTRICTS." 90998

Of the foregoing appropriation item 200-550, Foundation 90999
Funding, up to \$1,000,000 in each fiscal year shall be used by the 91000
Department of Education for a program to pay for educational 91001
services for youth who have been assigned by a juvenile court or 91002
other authorized agency to any of the facilities described in 91003
division (A) of the section of this act entitled "PRIVATE 91004
TREATMENT FACILITY PROJECT." 91005

Of the foregoing appropriation item 200-550, Foundation 91006
Funding, up to \$3,700,000 in each fiscal year shall be used for 91007
school breakfast programs. Of this amount, up to \$900,000 shall be 91008
used in each fiscal year by the Department of Education to 91009
contract with the Children's Hunger Alliance to expand access to 91010
child nutrition programs consistent with the organization's 91011
continued ability to meet specified performance measures as 91012
detailed in the contract. Of this amount, the Children's Hunger 91013
Alliance shall use at least \$150,000 in each fiscal year to 91014
subcontract with an appropriate organization or organizations to 91015
expand summer food participation in underserved areas of the 91016
state, consistent with those organizations' continued ability to 91017
meet specified performance measures as detailed in the 91018
subcontracts. The remainder of the appropriation shall be used to 91019
partially reimburse school buildings within school districts that 91020
are required to have a school breakfast program under section 91021

3313.813 of the Revised Code, at a rate decided by the Department. 91022

Of the foregoing appropriation item 200-550, Foundation 91023
Funding, up to \$8,800,000 in fiscal year 2006 and up to \$8,600,000 91024
in fiscal year 2007 shall be used to operate the school choice 91025
program in the Cleveland Municipal School District under sections 91026
3313.974 to 3313.979 of the Revised Code. 91027

Of the portion of the funds distributed to the Cleveland 91028
Municipal School District under this section, up to \$10,401,887 in 91029
fiscal year 2006 and up to \$11,901,887 in fiscal year 2007 shall 91030
be used to operate the school choice program in the Cleveland 91031
Municipal School District under sections 3313.974 to 3313.979 of 91032
the Revised Code. 91033

The remaining portion of appropriation item 200-550, 91034
Foundation Funding, shall be expended for the public schools of 91035
city, local, exempted village, and joint vocational school 91036
districts, including base cost funding, special education speech 91037
service enhancement funding, career-technical education weight 91038
funding, career-technical education associated service funding, 91039
guarantee funding, teacher training and experience funding, 91040
poverty-based assistance, parity aid, charge-off supplement, and 91041
excess cost supplement under sections 3317.022, 3317.023, 91042
3317.029, 3317.0212, 3317.0216, 3317.0217, and 3317.16 of the 91043
Revised Code. 91044

Appropriation items 200-502, Pupil Transportation, 200-521, 91045
Gifted Pupil Program, 200-540, Special Education Enhancements, and 91046
200-550, Foundation Funding, other than specific set-asides, are 91047
collectively used in each fiscal year to pay state formula aid 91048
obligations for school districts and joint vocational school 91049
districts under Chapter 3317. of the Revised Code. The first 91050
priority of these appropriation items, with the exception of 91051
specific set-asides, is to fund state formula aid obligations 91052
under Chapter 3317. of the Revised Code. It may be necessary to 91053

reallocate funds among these appropriation items or use excess 91054
funds from other general revenue fund appropriation items in the 91055
Department of Education's budget in each fiscal year, in order to 91056
meet state formula aid obligations. If it is determined that it is 91057
necessary to transfer funds among these appropriation items or to 91058
transfer funds from other General Revenue Fund appropriations in 91059
the Department of Education's budget to meet state formula aid 91060
obligations, the Department of Education shall seek approval from 91061
the Controlling Board to transfer funds as needed. 91062

Section 206.09.37. DISTRICT SPENDING REQUIREMENTS 91063

The Department of Education shall review district spending 91064
requirements as specified in section 3317.029 of the Revised Code 91065
and shall submit a report recommending modifications by March 31, 91066
2007. Copies of the report shall be provided to the Director of 91067
Budget and Management, the Speaker of the House of 91068
Representatives, and the President of the Senate. The 91069
recommendations shall include decreasing degrees of flexibility of 91070
spending for districts not meeting adequate progress standards as 91071
defined by the Department of Education. Recommendations shall also 91072
specifically review the definition of class size reduction in 91073
division (J)(7) of section 3317.029 of the Revised Code. The 91074
reports submitted by school districts under the section of this 91075
act entitled "INTERVENTION FUNDING" shall be used to inform these 91076
recommendations. 91077

**Section 206.09.39. TRANSITIONAL AID FOR CITY, LOCAL, AND 91078
EXEMPTED VILLAGE SCHOOL DISTRICTS** 91079

(A) The Department of Education shall distribute funds within 91080
appropriation item 200-550, Foundation Funding, for transitional 91081
aid in each fiscal year to each qualifying city, local, and 91082
exempted village school district. 91083

In fiscal years 2006 and 2007, the Department shall pay 91084
transitional aid to each city, local, or exempted village school 91085
district that experiences any decrease in its SF-3 funding plus 91086
charge-off supplement for the current fiscal year from its SF-3 91087
funding plus charge-off supplement for the previous fiscal year. 91088
The amount of the transitional aid payment shall equal the 91089
difference between the district's SF-3 funding plus charge-off 91090
supplement for the current fiscal year and its SF-3 funding plus 91091
charge-off supplement for the previous fiscal year. 91092

(B)(1) Subject to divisions (B)(2) and (3) of this section, 91093
the "SF-3 funding plus charge-off supplement" for each city, 91094
local, and exempted village school district in fiscal years 2006 91095
and 2007 equals the sum of the following: 91096

(a) Base-cost funding under division (A) of section 3317.022 91097
of the Revised Code; 91098

(b) Special education and related services additional 91099
weighted funding under division (C)(1) of section 3317.022 of the 91100
Revised Code; 91101

(c) Speech services funding under division (C)(4) of section 91102
3317.022 of the Revised Code; 91103

(d) Vocational education additional weighted funding under 91104
division (E) of section 3317.022 of the Revised Code; 91105

(e) GRADS funding under division (R) of section 3317.024 of 91106
the Revised Code; 91107

(f) Adjustments for classroom teachers and educational 91108
service personnel under divisions (B), (C), and (D) of section 91109
3317.023 of the Revised Code; 91110

(g) Poverty-Based Assistance under section 3317.029 of the 91111
Revised Code; 91112

(h) Gifted education units under section 3317.05 of the 91113

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| Revised Code; | 91114 |
| (i) Transportation under the section of this act entitled | 91115 |
| "PUPIL TRANSPORTATION"; | 91116 |
| (j) The excess cost supplement under division (F) of section | 91117 |
| 3317.022 of the Revised Code; | 91118 |
| (k) Parity aid under section 3317.0217 of the Revised Code; | 91119 |
| (l) The reappraisal guarantee under division (C) of section | 91120 |
| 3317.04 of the Revised Code; | 91121 |
| (m) The charge-off supplement under section 3317.0216 of the | 91122 |
| Revised Code. | 91123 |
| (2) For purposes of calculating transitional aid in fiscal | 91124 |
| year 2006, a district's fiscal year 2005 SF-3 funding plus | 91125 |
| charge-off supplement is the difference of (a) the sum of the | 91126 |
| amounts described in divisions (A) to (O) of Section 41.37 of Am. | 91127 |
| Sub. H.B. 95 of the 125th General Assembly, as amended, plus any | 91128 |
| transitional aid paid to the district under that section, that the | 91129 |
| district actually received in fiscal year 2005 minus (b) the | 91130 |
| amount of parity aid and the amount of disadvantaged pupil impact | 91131 |
| aid deducted that year under division (C)(6) of section 3314.08 of | 91132 |
| the Revised Code, as that section existed that year, and Section | 91133 |
| 16 of Am. Sub. S.B. 2 of the 125th General Assembly on behalf of | 91134 |
| students entitled to attend school in the district who were | 91135 |
| enrolled in Internet- and computer-based community schools. For | 91136 |
| purposes of calculating transitional aid in fiscal year 2007, a | 91137 |
| district's fiscal year 2006 SF-3 funding plus charge-off | 91138 |
| supplement is the sum of the amounts described in divisions | 91139 |
| (B)(1)(a) to (n) of this section, plus any transitional aid paid | 91140 |
| to the district under this section, that the district actually | 91141 |
| received in fiscal year 2006. | 91142 |
| (3) The SF-3 funding plus charge-off supplement in each | 91143 |
| fiscal year for each district is the sum of the amounts specified | 91144 |

in divisions (B)(1)(a) to (n) and (B)(2) of this section less any 91145
general revenue fund spending reductions ordered by the Governor 91146
under section 126.05 of the Revised Code. 91147

(C)(1) When calculating the reappraisal guarantee under 91148
division (C) or (D) of section 3317.04 of the Revised Code in 91149
fiscal year 2006, the Department shall: 91150

(a) Include in a school district's fiscal year 2005 payments 91151
any transitional aid paid to the district in fiscal year 2005 91152
under Section 41.37 of Am. Sub. H.B. 95 of the 125th General 91153
Assembly, as amended; 91154

(b) Subtract from a school district's fiscal year 2005 91155
payments the amount of parity aid and the amount of disadvantaged 91156
pupil impact aid deducted that year under division (C)(6) of 91157
section 3314.08 of the Revised Code, as that section existed that 91158
year, and Section 16 of Am. Sub. S.B. 2 of the 125th General 91159
Assembly on behalf of students entitled to attend school in the 91160
district who were enrolled in Internet- and computer-based 91161
community schools. 91162

(2) When calculating the reappraisal guarantee under division 91163
(C) or (D) of section 3317.04 of the Revised Code in fiscal year 91164
2007, the Department shall include in a school district's fiscal 91165
year 2006 payments any transitional aid paid to the district in 91166
fiscal year 2006 under this section. 91167

(3) When calculating the reappraisal guarantee under division 91168
(C) or (D) of section 3317.04 of the Revised Code in fiscal year 91169
2008, the Department shall include in a school district's fiscal 91170
year 2007 payments any transitional aid paid to the district in 91171
fiscal year 2007 under this section. 91172

Section 206.09.42. TRANSITIONAL AID FOR JOINT VOCATIONAL 91173
SCHOOL DISTRICTS 91174

(A) The Department of Education shall distribute funds within 91175
appropriation item 200-550, Foundation Funding, for transitional 91176
aid in each fiscal year to each joint vocational school district 91177
that experiences a decrease in its joint vocational funding for 91178
the current fiscal year from the previous fiscal year. The 91179
Department shall distribute to each such district transitional aid 91180
in an amount equal to the decrease in the district's joint 91181
vocational funding from the previous fiscal year. 91182

(B)(1) Subject to divisions (B)(2) and (3) of this section, a 91183
district's joint vocational funding equals the sum of the 91184
following: 91185

(a) Base-cost funding under division (B) of section 3317.16 91186
of the Revised Code; 91187

(b) Special education and related services additional 91188
weighted funding under division (D)(1) of section 3317.16 of the 91189
Revised Code; 91190

(c) Speech services funding under division (D)(2) of section 91191
3317.16 of the Revised Code; 91192

(d) Vocational education additional weighted funding under 91193
division (C) of section 3317.16 of the Revised Code; 91194

(e) GRADS funding under division (R) of section 3317.024 of 91195
the Revised Code; 91196

(f) The state aid guarantee under division (H) of section 91197
3317.16 of the Revised Code. 91198

(2) For purposes of calculating transitional aid in fiscal 91199
year 2007, a district's fiscal year 2006 joint vocational funding 91200
is the sum of the amounts described in divisions (B)(1)(a) to (f) 91201
of this section, plus any transitional aid paid to the district 91202
under this section, that the district actually received in fiscal 91203
year 2006. 91204

(3) The joint vocational funding in each fiscal year for each district is the sum of the amounts specified in divisions (B)(1)(a) to (f) and (B)(2) of this section less any general revenue fund spending reductions ordered by the Governor under section 126.05 of the Revised Code.

EMERGENCY LOAN INTEREST SUBSIDY

The foregoing appropriation item 200-558, Emergency Loan Interest Subsidy, shall be used to provide a subsidy to school districts receiving emergency school loans pursuant to section 3313.484 of the Revised Code. The subsidy shall be used to pay these districts the difference between the amount of interest the district is paying on an emergency loan, and the interest that the district would have paid if the interest rate on the loan had been two per cent.

Section 206.09.45. READING/WRITING IMPROVEMENT-CLASSROOM GRANTS

The foregoing appropriation item 200-566, Reading/Writing Improvement-Classroom Grants, shall be disbursed by the Department of Education to provide reading improvement grants to public schools in city, local, and exempted village school districts; community schools; and educational service centers serving kindergarten through twelfth grade students to help struggling students improve their reading skills, improve reading outcomes in low-performing schools, and help close achievement gaps.

SAFE AND SUPPORTIVE SCHOOLS

Of the foregoing appropriation item 200-578, Safe and Supportive Schools, up to \$224,250 in each fiscal year shall be used to fund a safe school center to provide resources for parents and for school and law enforcement personnel.

The remainder of the appropriation shall be distributed based

on guidelines developed by the Department of Education to enhance 91235
school safety. The guidelines shall provide a list of 91236
research-based best practices and programs from which local 91237
grantees shall select based on local needs. These practices shall 91238
include, but not be limited to, school resource officers and safe 91239
and drug free school coordinators and social-emotional development 91240
programs. 91241

Section 206.09.48. PROPERTY TAX ALLOCATION - EDUCATION 91242

The Superintendent of Public Instruction shall not request, 91243
and the Controlling Board shall not approve, the transfer of funds 91244
from appropriation item 200-901, Property Tax Allocation - 91245
Education, to any other appropriation item. 91246

The appropriation item 200-901, Property Tax Allocation - 91247
Education, is appropriated to pay for the state's costs incurred 91248
because of the homestead exemption and the property tax rollback. 91249
In cooperation with the Department of Taxation, the Department of 91250
Education shall distribute these funds directly to the appropriate 91251
school districts of the state, notwithstanding sections 321.24 and 91252
323.156 of the Revised Code, which provide for payment of the 91253
homestead exemption and property tax rollback by the Tax 91254
Commissioner to the appropriate county treasurer and the 91255
subsequent redistribution of these funds to the appropriate local 91256
taxing districts by the county auditor. 91257

Appropriation item 200-906, Tangible Tax Exemption - 91258
Education, is appropriated to pay for the state's costs incurred 91259
because of the tangible personal property tax exemption required 91260
by division (C)(3) of section 5709.01 of the Revised Code. In 91261
cooperation with the Department of Taxation, the Department of 91262
Education shall distribute to each county treasurer the total 91263
amount appearing in the notification from the county treasurer 91264

under division (G) of section 321.24 of the Revised Code, for all 91265
school districts located in the county, notwithstanding section 91266
321.24 of the Revised Code insofar as it provides for payment of 91267
the \$10,000 tangible personal property tax exemption by the Tax 91268
Commissioner to the appropriate county treasurer for all local 91269
taxing districts located in the county. Pursuant to division (G) 91270
of section 321.24 of the Revised Code, the county auditor shall 91271
distribute the amount paid by the Department of Education among 91272
the appropriate school districts. 91273

Upon receipt of these amounts, each school district shall 91274
distribute the amount among the proper funds as if it had been 91275
paid as real or tangible personal property taxes. Payments for the 91276
costs of administration shall continue to be paid to the county 91277
treasurer and county auditor as provided for in sections 319.54, 91278
321.26, and 323.156 of the Revised Code. 91279

Any sums, in addition to the amounts specifically 91280
appropriated in appropriation items 200-901, Property Tax 91281
Allocation - Education, for the homestead exemption and the 91282
property tax rollback payments, and 200-906, Tangible Tax 91283
Exemption - Education, for the \$10,000 tangible personal property 91284
tax exemption payments, which are determined to be necessary for 91285
these purposes, are hereby appropriated. 91286

Section 206.09.51. TEACHER CERTIFICATION AND LICENSURE 91287

The foregoing appropriation item 200-681, Teacher 91288
Certification and Licensure, shall be used by the Department of 91289
Education in each year of the biennium to administer and support 91290
teacher certification and licensure activities. 91291

SCHOOL DISTRICT SOLVENCY ASSISTANCE 91292

Of the foregoing appropriation item 200-687, School District 91293
Solvency Assistance, \$9,000,000 in each fiscal year shall be 91294

allocated to the School District Shared Resource Account and 91295
\$9,000,000 in each fiscal year shall be allocated to the 91296
Catastrophic Expenditures Account. These funds shall be used to 91297
provide assistance and grants to school districts to enable them 91298
to remain solvent under section 3316.20 of the Revised Code. 91299
Assistance and grants shall be subject to approval by the 91300
Controlling Board. Any required reimbursements from school 91301
districts for solvency assistance shall be made to the appropriate 91302
account in the School District Solvency Assistance Fund (Fund 91303
5H3). 91304

Notwithstanding any provision of law to the contrary, upon 91305
the request of the Superintendent of Public Instruction, the 91306
Director of Budget and Management may make transfers to the School 91307
District Solvency Assistance Fund (Fund 5H3) from any Department 91308
of Education-administered fund or the General Revenue Fund to 91309
maintain sufficient cash balances in the School District Solvency 91310
Assistance Fund (Fund 5H3) in fiscal years 2006 and 2007. Any 91311
funds transferred are hereby appropriated. The transferred funds 91312
may be used by the Department of Education to provide assistance 91313
and grants to school districts to enable them to remain solvent 91314
and to pay unforeseeable expenses of a temporary or emergency 91315
nature that the school district is unable to pay from existing 91316
resources. The Director of Budget and Management shall notify the 91317
members of the Controlling Board of any such transfers. 91318

READING FIRST 91319

The foregoing appropriation item 200-632, Reading First, 91320
shall be used by school districts to administer federal diagnostic 91321
tests as well as other functions permitted by federal statute. 91322
Notwithstanding section 3301.079 of the Revised Code, federal 91323
diagnostic tests may be recognized as meeting the state diagnostic 91324
testing requirements outlined in section 3301.079 of the Revised 91325
Code. 91326

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| HALF-MILL MAINTENANCE EQUALIZATION | 91327 |
| The foregoing appropriation item 200-626, Half-Mill | 91328 |
| Maintenance Equalization, shall be used in fiscal year 2007 to | 91329 |
| make payments pursuant to section 3318.18 of the Revised Code. | 91330 |
| Section 206.09.54. EARLY LEARNING INITIATIVE | 91331 |
| (A) As used in this section: | 91332 |
| (1) "Title IV-A services" means benefits and services that | 91333 |
| are allowable under Title IV-A of the "Social Security Act," as | 91334 |
| specified in 42 U.S.C. 604(a), except that they shall not be | 91335 |
| benefits and services included in the term "assistance" as defined | 91336 |
| in 45 C.F.R. 260.31(a) and shall be benefits and services that are | 91337 |
| excluded from the definition of the term "assistance" under 45 | 91338 |
| C.F.R. 260.31(b). | 91339 |
| (2) "Title IV-A funds" means funds provided under the | 91340 |
| temporary assistance for needy families block grant established by | 91341 |
| Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 | 91342 |
| U.S.C. 601, as amended. | 91343 |
| (3) "Child care" has the same meaning as in section 5104.01 | 91344 |
| of the Revised Code. | 91345 |
| (4) "Eligible child" means a child who is at least three | 91346 |
| years of age but not of compulsory school age or enrolled in | 91347 |
| kindergarten, is eligible for Title IV-A services, and whose | 91348 |
| family income does not exceed one hundred eighty-five per cent of | 91349 |
| the federal poverty line at application. If the family income of a | 91350 |
| child receiving early learning services under this section exceeds | 91351 |
| one hundred ninety-five per cent of the federal poverty line, the | 91352 |
| child ceases to be eligible for an early learning program. | 91353 |
| (5) "Early learning program" means a program for eligible | 91354 |
| children that is funded with Title IV-A funds and provides Title | 91355 |
| IV-A services that are both of the following: | 91356 |

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| (a) Early learning services, as defined by the Department of Education pursuant to division (C)(1) of this section; | 91357 91358 |
| (b) Child care. | 91359 |
| (6) "Early learning provider" means an entity that is receiving Title IV-A funds to operate an early learning program. | 91360 91361 |
| (7) "Early learning agency" means an early learning provider or an entity that has entered into an agreement with an early learning provider requiring the early learning provider to operate an early learning program on behalf of the entity. | 91362 91363 91364 91365 |
| (8) "Federal poverty line" has the same meaning as in section 5104.01 of the Revised Code. | 91366 91367 |
| (9) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code. | 91368 91369 |
| (B) The Early Learning Initiative is hereby established. The Initiative shall be administered by the Department of Education and the Department of Job and Family Services in accordance with sections 5101.80 and 5101.801 of the Revised Code. The Initiative shall provide early learning programs and child care to eligible children. Early learning programs may provide early learning services on a full-day basis, a part-day basis, or both a full-day and part-day basis. | 91370 91371 91372 91373 91374 91375 91376 91377 |
| (C) The Department of Education shall do all of the following: | 91378 91379 |
| (1) Define the early learning services that will be provided to eligible children through the Early Learning Initiative; | 91380 91381 |
| (2) In consultation with the Department of Job and Family Services, develop an application form and criteria for the selection of early learning agencies. The criteria shall require an early learning agency, or each early learning provider with which the agency has entered into an agreement for the operation | 91382 91383 91384 91385 91386 |

of an early learning program on the agency's behalf, to be 91387
licensed or certified by the Department of Education under 91388
sections 3301.52 to 3301.59 of the Revised Code or by the 91389
Department of Job and Family Services under Chapter 5104. of the 91390
Revised Code. 91391

(3) Establish early learning program guidelines for school 91392
readiness to assess the operation of early learning programs. 91393

(D) Any entity that seeks to be an early learning agency 91394
shall apply to the Department of Education by a deadline 91395
established by the Department. The Department of Education shall 91396
select entities that meet the criteria established under division 91397
(C)(2) of this section to be early learning agencies. Upon 91398
selection of an entity to be an early learning agency, the 91399
Department of Education shall designate the number of eligible 91400
children the agency will serve. The Department of Education shall 91401
notify the Office of Budget and Management and the Department of 91402
Job and Family Services of the number so designated. 91403

(E) The Department of Education and the Department of Job and 91404
Family Services shall enter into a contract with each early 91405
learning agency selected under division (D) of this section. The 91406
contract shall outline the terms and conditions applicable to the 91407
provision of Title IV-A services for eligible children and shall 91408
include at least the following: 91409

(1) The respective duties of the early learning agency, the 91410
Department of Education, and the Department of Job and Family 91411
Services; 91412

(2) Requirements applicable to the allowable use of and 91413
accountability for Title IV-A funds; 91414

(3) A requirement that the amount used by the early learning 91415
agency for development and administrative costs shall not exceed 91416
fifteen per cent of the total approved costs for the early 91417

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| learning program; | 91418 |
| (4) Reporting requirements, including a requirement that the early learning provider inform the Department of Education when the provider learns that a kindergarten eligible child will not be enrolled in kindergarten; | 91419 91420 91421 91422 |
| (5) The reimbursement methodology, including a requirement that reimbursement shall be based upon the weekly attendance rate of each eligible child, which shall be consistent with the rules adopted pursuant to division (C)(3) of Section 206.67.12 of this act; | 91423 91424 91425 91426 91427 |
| (6) Audit requirements; | 91428 |
| (7) Provisions for suspending, modifying, or terminating the contract; | 91429 91430 |
| (8) A requirement that a child enrolled in a Head Start Plus program during fiscal year 2005 be given higher priority if the child is an eligible child and enrolls in an early learning program. | 91431 91432 91433 91434 |
| The requirements of section 127.16 of the Revised Code do not apply to contracts entered into under this section. | 91435 91436 |
| (F) If an early learning agency, or an early learning provider operating an early learning program on the agency's behalf, substantially fails to meet the early learning program guidelines for school readiness or exhibits below average performance, as determined by the Department of Education, the agency shall develop and implement a corrective action plan. The Department of Education shall approve the corrective action plan prior to implementation. | 91437 91438 91439 91440 91441 91442 91443 91444 |
| (G) If an early learning agency fails to implement a corrective action plan under division (F) of this section, the Department of Education may direct the Department of Job and | 91445 91446 91447 |

Family Services to withhold funding from the agency or either the Department of Education or the Department of Job and Family Services may suspend or terminate the contract with the agency.

(H) Each early learning program shall do all of the following:

- (1) Meet teacher qualification requirements prescribed by section 3301.311 of the Revised Code;
- (2) Align curriculum to the early learning content standards;
- (3) Meet any assessment requirements prescribed by section 3301.0715 of the Revised Code that apply to the program;
- (4) Require teachers, except teachers enrolled and working to obtain a degree pursuant to section 3301.311 of the Revised Code, to attend a minimum of twenty hours per year of professional development as prescribed by the Department of Education regarding the implementation of content standards and assessments;
- (5) Document and report child progress;
- (6) Meet and report compliance with the early learning program guidelines for school success.

(I) Of the foregoing appropriation item 200-663, Early Learning Initiative, up to \$2,200,000 in each fiscal year may be used by the Department of Education to perform administrative functions for the Early Learning Initiative. The Director of Budget and Management may transfer appropriation, as needed, from the Department of Education, appropriation item 200-663, Early Learning Initiative in Fund 5W2, to the Department of Job and Family Services, appropriation item 600-689, TANF Block Grant in Fund 3V6, for the successful operation of the Early Learning Initiative. This transfer shall take place not less than fifteen days after the Department of Education has provided the Office of Budget and Management and the Department of Job and Family

Services its determination as to the number of children to be 91478
served by each early learning agency under division (D) of this 91479
section. The appropriation transferred is hereby authorized. 91480

START-UP FUNDS 91481

Funds appropriated for the purpose of providing start-up 91482
grants to Title IV-A Head Start and Title IV-A Head Start Plus 91483
agencies in fiscal year 2004 and fiscal year 2005 for the 91484
provision of services to children eligible for Title IV-A services 91485
under the Title IV-A Head Start or Title IV-A Head Start Plus 91486
programs shall be reimbursed to the General Revenue Fund as 91487
follows: 91488

(A) If, for fiscal year 2006, an entity that was a Title IV-A 91489
Head Start or Title IV-A Head Start Plus agency will not be an 91490
early learning agency or early learning provider, the entity shall 91491
repay the entire amount of the start-up grant it received in 91492
fiscal year 2004 and fiscal year 2005 not later than June 30, 91493
2007, in accordance with a payment schedule agreed to by the 91494
Department of Education. 91495

(B) If, for fiscal year 2006, an entity that was a Title IV-A 91496
Head Start or Title IV-A Head Start Plus agency will be an early 91497
learning agency or early learning provider and the number of 91498
eligible children served beginning in fiscal year 2006 is less 91499
than the number for which the start-up grant was based, the amount 91500
of reimbursement shall be adjusted based on the number of eligible 91501
children who will be served by the entity in fiscal year 2006 and 91502
the rate of reimbursement for the early learning program set by 91503
the Department of Job and Family Services. The entity shall repay 91504
the amount determined pursuant to this division by not later than 91505
June 30, 2007, in accordance with a payment schedule agreed to by 91506
the Department of Education. 91507

(C) If, for fiscal year 2006, an entity that was a Title IV-A 91508

Head Start or Title IV-A Head Start Plus agency will be an early 91509
learning agency or early learning provider and the number of 91510
eligible children served beginning in fiscal year 2006 is greater 91511
than or equal to the number for which the start-up grants were 91512
based, the entity shall be allowed to retain the total amount of 91513
the start-up grant it received. 91514

(D) Within ninety days after the effective date of this 91515
section, the Title IV-A Head Start agencies, Title IV-A Head Start 91516
Plus agencies, and the Department of Education shall determine the 91517
amounts of the start-up grants to be repaid and within thirty days 91518
thereafter determine the repayment schedule for such amounts. The 91519
Department of Education shall refer any amounts remaining due and 91520
payable to the state after June 30, 2007, to the Attorney General 91521
for collection under section 131.02 of the Revised Code. 91522

(E) Any start-up grants that are retained by early learning 91523
agencies or early learning providers pursuant to this section 91524
shall be reimbursed to the General Revenue Fund when the early 91525
learning program ceases or is no longer funded from Title IV-A or 91526
if an early learning agency's or early learning provider's 91527
participation in the early learning program ceases. 91528

Section 206.09.55. AUXILIARY SERVICES REIMBURSEMENT 91529

Notwithstanding section 3317.064 of the Revised Code, if the 91530
unobligated cash balance is sufficient, the Treasurer of State 91531
shall transfer \$1,500,000 in fiscal year 2006 within thirty days 91532
after the effective date of this section, and \$1,500,000 in fiscal 91533
year 2007 by August 1, 2006, from the Auxiliary Services Personnel 91534
Unemployment Compensation Fund to the Department of Education's 91535
Auxiliary Services Reimbursement Fund (Fund 598). 91536

Section 206.09.57. LOTTERY PROFITS EDUCATION FUND 91537

Appropriation item 200-612, Foundation Funding (Fund 017), 91538

shall be used in conjunction with appropriation item 200-550, 91539
Foundation Funding (GRF), to provide payments to school districts 91540
under Chapter 3317. of the Revised Code. 91541

The Department of Education, with the approval of the 91542
Director of Budget and Management, shall determine the monthly 91543
distribution schedules of appropriation item 200-550, Foundation 91544
Funding (GRF), and appropriation item 200-612, Foundation Funding 91545
(Fund 017). If adjustments to the monthly distribution schedule 91546
are necessary, the Department of Education shall make such 91547
adjustments with the approval of the Director of Budget and 91548
Management. 91549

The Director of Budget and Management shall transfer via 91550
intrastate transfer voucher the amount appropriated under the 91551
Lottery Profits Education Fund for appropriation item 200-682, 91552
Lease Rental Payment Reimbursement, to the General Revenue Fund on 91553
a schedule determined by the director. These funds shall support 91554
the appropriation item 230-428, Lease Rental Payments (GRF), of 91555
the School Facilities Commission. 91556

Section 206.09.60. LOTTERY PROFITS EDUCATION RESERVE FUND 91557

(A) There is hereby created the Lottery Profits Education 91558
Reserve Fund (Fund 018) in the State Treasury. Investment earnings 91559
of the Lottery Profits Education Reserve Fund shall be credited to 91560
the fund. The Superintendent of Public Instruction may certify 91561
cash balances exceeding \$75,000,000 in the Lottery Profits 91562
Education Reserve Fund (Fund 018) to the Director of Budget and 91563
Management in June of any given fiscal year. Prior to making the 91564
certification, the Superintendent of Public Instruction shall 91565
determine whether the funds above the \$75,000,000 threshold are 91566
needed to help pay for foundation program obligations for that 91567
fiscal year under Chapter 3317. of the Revised Code. If those 91568
funds are needed for the foundation program, the Superintendent of 91569

Public Instruction shall notify and consult with the Director of 91570
Budget and Management to determine the amount that may be 91571
transferred to the Public School Building Fund (Fund 021). Upon 91572
this determination, the Director of Budget and Management shall 91573
transfer the amount from the Lottery Profits Education Reserve 91574
Fund (Fund 018) to the Public School Building Fund (Fund 021). The 91575
amount transferred is hereby appropriated to appropriation item 91576
CAP-622, Public School Buildings. 91577

For fiscal years 2006 and 2007, notwithstanding any 91578
provisions of law to the contrary, amounts necessary to make loans 91579
authorized by sections 3317.0210, 3317.0211, and 3317.62 of the 91580
Revised Code are hereby appropriated to the Lottery Profits 91581
Education Reserve Fund (Fund 018). Loan repayments from loans made 91582
in previous years shall be deposited to the fund. 91583

(B) On July 15, 2005, or as soon as possible thereafter, the 91584
Director of the Ohio Lottery Commission shall certify to the 91585
Director of Budget and Management the amount by which lottery 91586
profit transfers received by the Lottery Profits Education Fund 91587
(Fund 017) exceeded \$637,900,000 in fiscal year 2005. The Director 91588
of Budget and Management shall transfer the amount so certified, 91589
plus the cash balance in Fund 017, to the Lottery Profits 91590
Education Reserve Fund (Fund 018). 91591

(C) On July 15, 2006, or as soon as possible thereafter, the 91592
Director of the Ohio Lottery Commission shall certify to the 91593
Director of Budget and Management the amount by which lottery 91594
profit transfers received by the Lottery Profits Education Fund 91595
(Fund 017) exceeded \$637,900,000 in fiscal year 2006. The Director 91596
of Budget and Management shall transfer the amount so certified, 91597
plus the cash balance in Fund 017, to the Lottery profits 91598
Education Reserve Fund (Fund 018). 91599

(D) Any amounts transferred under division (B) or (C) of this 91600
section may be made available by the Controlling Board in fiscal 91601

years 2006 or 2007, at the request of the Superintendent of Public 91602
Instruction, to provide assistance and grants to school districts 91603
to enable them to remain solvent and to pay unforeseeable expenses 91604
of a temporary or emergency nature that they are unable to pay 91605
from existing resources under section 3316.20 of the Revised Code, 91606
and to provide payments to school districts under Chapter 3317. of 91607
the Revised Code. 91608

Section 206.09.61. GENERAL REVENUE FUND TRANSFERS TO SCHOOL 91609
DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 047) 91610

Notwithstanding any provision of law to the contrary, the 91611
Director of Budget and Management shall transfer \$10,010,000 in 91612
fiscal year 2006 and \$70,210,000 in fiscal year 2007 from the 91613
General Revenue Fund to appropriation item 200-909, School 91614
District Property Tax Replacement - Business (Fund 047) in the 91615
Department of Education. The funds shall be used to reimburse 91616
school districts and joint vocational districts under section 91617
5751.21 of the Revised Code. 91618

Section 206.09.63. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - 91619
BUSINESS 91620

The foregoing appropriation item, 200-909, School District 91621
Property Tax Replacement - Business, in Fund 047, shall be used by 91622
the Department of Education, in consultation with the Department 91623
of Taxation, to make payments to school districts and joint 91624
vocational school districts under section 5751.21 of the Revised 91625
Code. 91626

SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - UTILITY 91627

The foregoing appropriation item 200-900, School District 91628
Property Tax Replacement-Utility, in Fund 053, shall be used by 91629
the Department of Education, in consultation with the Department 91630
of Taxation, to make payments to school districts and joint 91631

vocational school districts under section 5727.85 of the Revised Code. 91632
91633

***Section 206.09.66. DISTRIBUTION FORMULAS** 91634

The Department of Education shall report the following to the Director of Budget and Management, the Legislative Office of Education Oversight, and the Legislative Service Commission: 91635
91636
91637

(A) Changes in formulas for distributing state appropriations, including administratively defined formula factors; 91638
91639
91640

(B) Discretionary changes in formulas for distributing federal appropriations; 91641
91642

(C) Federally mandated changes in formulas for distributing federal appropriations. 91643
91644

Any such changes shall be reported two weeks prior to the effective date of the change. 91645
91646

Section 206.09.69. EDUCATIONAL SERVICE CENTERS FUNDING 91647

(A) As used in this section: 91648

(1) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code. 91649
91650

(2) "Service center ADM" has the same meaning as in section 3317.11 of the Revised Code. 91651
91652

(B) Notwithstanding division (F) of section 3317.11 of the Revised Code, no funds shall be provided under that division to an educational service center in either fiscal year for any pupils of a city or exempted village school district unless an agreement to provide services under section 3313.843 of the Revised Code was entered into by January 1, 1997, except that funds shall be provided to an educational service center for any pupils of a city 91653
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school district if the agreement to provide services was entered 91660
into within one year of the date upon which such district changed 91661
from a local school district to a city school district. 91662

(C) Notwithstanding any provision of the Revised Code to the 91663
contrary, an educational service center that sponsors a community 91664
school under Chapter 3314. of the Revised Code in either fiscal 91665
year may include the students of that community school in its 91666
service center ADM for purposes of state funding under division 91667
(F) of section 3317.11 of the Revised Code, unless the community 91668
school is an Internet- or computer-based community school. A 91669
service center shall include the community school students in its 91670
service center ADM only to the extent that the students are not 91671
already so included, and only in accordance with guidelines issued 91672
by the Department of Education. If the students of a community 91673
school sponsored by an educational service center are included in 91674
the service center ADM of another educational service center, 91675
those students shall be removed from the service center ADM of the 91676
other educational service center and added to the service center 91677
ADM of the community school's sponsoring service center. The 91678
General Assembly authorizes this procedure as an incentive for 91679
educational service centers to take over sponsorship of community 91680
schools from the State Board of Education as the State Board's 91681
sponsorship is phased out in accordance with Sub. H.B. 364 of the 91682
124th General Assembly. No student of an Internet- or 91683
computer-based community school shall be counted in the service 91684
center ADM of any educational service center. The Department shall 91685
pay educational service centers under division (F) of section 91686
3317.11 of the Revised Code for community school students included 91687
in their service center ADMs under this division only if 91688
sufficient funds earmarked within appropriation item 200-550, 91689
Foundation Funding, for payments under that division remain after 91690
first paying for students attributable to their local and client 91691
school districts, in accordance with divisions (B) and (D) of this 91692

section. 91693

(D) If insufficient funds are earmarked within appropriation 91694
item 200-550, Foundation Funding, for payments under division (F) 91695
of section 3317.11 of the Revised Code and division (C) of this 91696
section in fiscal year 2006 or fiscal year 2007, the Department 91697
shall prioritize the distribution of the earmarked funds as 91698
follows: 91699

(1) The Department shall first distribute to each educational 91700
service center the per-student amount specified in division (F) of 91701
section 3317.11 of the Revised Code for each student in its 91702
service center ADM attributable to the local school districts 91703
within the service center's territory. 91704

(2) The Department shall distribute the remaining funds in 91705
each fiscal year to each educational service center for the 91706
students in its service center ADM attributable to each city and 91707
exempted village school district that had entered into an 91708
agreement with an educational service center for that fiscal year 91709
under section 3313.843 of the Revised Code by January 1, 1997, up 91710
to the per-student amount specified in division (F) of section 91711
3317.11 of the Revised Code. If insufficient funds remain to pay 91712
each service center the full amount specified in division (F) of 91713
that section for each such student, the Department shall 91714
distribute the remaining funds to each service center 91715
proportionally, on a per-student basis for each such student, 91716
unless that proportional per-student amount exceeds the amount 91717
specified in division (F)(1) of that section. In that case, the 91718
Department shall distribute the per-student amount specified in 91719
division (F)(1) of that section to each service center for each 91720
such student and shall distribute the remainder proportionally, on 91721
a per-student basis for each such student, to the multi-county 91722
service centers described in division (F)(2) of that section. 91723

(3) If the Department has paid each service center under 91724

divisions (D)(1) and (2) of this section, the full amount 91725
specified in division (F) of section 3317.11 of the Revised Code 91726
for each student attributable to its local school districts and 91727
its client school districts described in division (D)(2) of this 91728
section the Department shall distribute any remaining funds 91729
proportionally, on a per-student basis, to each service center 91730
that sponsors a community school, other than an Internet- or 91731
computer-based community school, for the students included in the 91732
service center ADM under division (C) of this section. These 91733
payments shall not exceed per student the amount specified in 91734
division (F) of section 3317.11 of the Revised Code. 91735

***Section 206.09.72.** For the school year commencing July 1, 91736
2005, or the school year commencing July 1, 2006, or both, the 91737
Superintendent of Public Instruction may waive for the board of 91738
education of any school district the ratio of teachers to pupils 91739
in kindergarten through fourth grade required under paragraph 91740
(A)(3) of rule 3301-35-05 of the Administrative Code if the 91741
following conditions apply: 91742

(A) The board of education requests the waiver. 91743

(B) After the Department of Education conducts an on-site 91744
evaluation of the district related to meeting the required ratio, 91745
the board of education demonstrates to the satisfaction of the 91746
Superintendent of Public Instruction that providing the facilities 91747
necessary to meet the required ratio during the district's regular 91748
school hours with pupils in attendance would impose an extreme 91749
hardship on the district. 91750

(C) The board of education provides assurances that are 91751
satisfactory to the Superintendent of Public Instruction that the 91752
board will act in good faith to meet the required ratio as soon as 91753
possible. 91754

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| Section 206.09.75. PRIVATE TREATMENT FACILITY PROJECT | 91755 |
| (A) As used in this section: | 91756 |
| (1) The following are "participating residential treatment centers": | 91757 91758 |
| (a) Private residential treatment facilities that have entered into a contract with the Department of Youth Services to provide services to children placed at the facility by the Department and which, in fiscal year 2006 or fiscal year 2007 or both, the Department pays through appropriation item 470-401, Care and Custody; | 91759 91760 91761 91762 91763 91764 |
| (b) Abraxas, in Shelby; | 91765 |
| (c) Paint Creek, in Bainbridge; | 91766 |
| (d) Act One, in Akron; | 91767 |
| (e) Friars Club, in Cincinnati. | 91768 |
| (2) "Education program" means an elementary or secondary education program or a special education program and related services. | 91769 91770 91771 |
| (3) "Served child" means any child receiving an education program pursuant to division (B) of this section. | 91772 91773 |
| (4) "School district responsible for tuition" means a city, exempted village, or local school district that, if tuition payment for a child by a school district is required under law that existed in fiscal year 1998, is the school district required to pay that tuition. | 91774 91775 91776 91777 91778 |
| (5) "Residential child" means a child who resides in a participating residential treatment center and who is receiving an educational program under division (B) of this section. | 91779 91780 91781 |
| (B) A youth who is a resident of the state and has been assigned by a juvenile court or other authorized agency to a | 91782 91783 |

residential treatment facility specified in division (A) of this 91784
section shall be enrolled in an approved educational program 91785
located in or near the facility. Approval of the educational 91786
program shall be contingent upon compliance with the criteria 91787
established for such programs by the Department of Education. The 91788
educational program shall be provided by a school district or 91789
educational service center, or by the residential facility itself. 91790
Maximum flexibility shall be given to the residential treatment 91791
facility to determine the provider. In the event that a voluntary 91792
agreement cannot be reached and the residential facility does not 91793
choose to provide the educational program, the educational service 91794
center in the county in which the facility is located shall 91795
provide the educational program at the treatment center to 91796
children under twenty-two years of age residing in the treatment 91797
center. 91798

(C) Any school district responsible for tuition for a 91799
residential child shall, notwithstanding any conflicting provision 91800
of the Revised Code regarding tuition payment, pay tuition for the 91801
child for fiscal year 2006 and fiscal year 2007 to the education 91802
program provider and in the amount specified in this division. If 91803
there is no school district responsible for tuition for a 91804
residential child and if the participating residential treatment 91805
center to which the child is assigned is located in the city, 91806
exempted village, or local school district that, if the child were 91807
not a resident of that treatment center, would be the school 91808
district where the child is entitled to attend school under 91809
sections 3313.64 and 3313.65 of the Revised Code, that school 91810
district, notwithstanding any conflicting provision of the Revised 91811
Code, shall pay tuition for the child for fiscal year 2006 and 91812
fiscal year 2007 under this division unless that school district 91813
is providing the educational program to the child under division 91814
(B) of this section. 91815

A tuition payment under this division shall be made to the 91816
school district, educational service center, or residential 91817
treatment facility providing the educational program to the child. 91818

The amount of tuition paid shall be: 91819

(1) The amount of tuition determined for the district under 91820
division (A) of section 3317.08 of the Revised Code; 91821

(2) In addition, for any student receiving special education 91822
pursuant to an individualized education program as defined in 91823
section 3323.01 of the Revised Code, a payment for excess costs. 91824
This payment shall equal the actual cost to the school district, 91825
educational service center, or residential treatment facility of 91826
providing special education and related services to the student 91827
pursuant to the student's individualized education program, minus 91828
the tuition paid for the child under division (C)(1) of this 91829
section. 91830

A school district paying tuition under this division shall 91831
not include the child for whom tuition is paid in the district's 91832
average daily membership certified under division (A) of section 91833
3317.03 of the Revised Code. 91834

(D) In each of fiscal years 2006 and 2007, the Department of 91835
Education shall reimburse, from appropriations made for the 91836
purpose, a school district, educational service center, or 91837
residential treatment facility, whichever is providing the 91838
service, that has demonstrated that it is in compliance with the 91839
funding criteria for each served child for whom a school district 91840
must pay tuition under division (C) of this section. The amount of 91841
the reimbursement shall be the formula amount specified in section 91842
3317.022 of the Revised Code, except that the department shall 91843
proportionately reduce this reimbursement if sufficient funds are 91844
not available to pay this amount to all qualified providers. 91845

(E) Funds provided to a school district, educational service 91846

center, or residential treatment facility under this section shall 91847
be used to supplement, not supplant, funds from other public 91848
sources for which the school district, service center, or 91849
residential treatment facility is entitled or eligible. 91850

(F) The Department of Education shall track the utilization 91851
of funds provided to school districts, educational service 91852
centers, and residential treatment facilities under this section 91853
and monitor the effect of the funding on the educational programs 91854
they provide in participating residential treatment facilities. 91855
The department shall monitor the programs for educational 91856
accountability. 91857

Section 206.09.78. SCHOOL DISTRICT PARTICIPATION IN NATIONAL 91858
ASSESSMENT OF EDUCATION PROGRESS 91859

The General Assembly intends for the Superintendent of Public 91860
Instruction to provide for school district participation in the 91861
administration of the National Assessment of Education Progress in 91862
accordance with section 3301.27 of the Revised Code. Each school 91863
and school district selected for participation by the 91864
Superintendent of Public Instruction shall participate. 91865

Section 206.09.81. DEPARTMENT OF EDUCATION APPROPRIATION 91866
TRANSFERS FOR STUDENT ASSESSMENT 91867

In fiscal year 2006 and fiscal year 2007, if the 91868
Superintendent of Public Instruction determines that additional 91869
funds are needed to fully fund the requirements of Am. Sub. H.B. 3 91870
of the 125th General Assembly and this act for assessments of 91871
student performance, the Superintendent of Public Instruction may 91872
recommend the reallocation of unspent and unencumbered 91873
appropriations within the Department of Education to the General 91874
Revenue Fund appropriation item 200-437, Student Assessment, to 91875
the Director of Budget and Management. If the Director of Budget 91876

and Management determines that such a reallocation is required, 91877
the Director of Budget and Management may transfer unspent and 91878
unencumbered funds within the Department of Education as necessary 91879
to appropriation item 200-437, Student Assessment. If these 91880
unspent and unencumbered funds are not sufficient to fully fund 91881
the assessment requirements in fiscal year 2007, the 91882
Superintendent of Public Instruction may request that the 91883
Controlling Board transfer up to \$5,000,000 cash from the Lottery 91884
Profits Education Reserve Fund (Fund 018) to the General Revenue 91885
Fund and appropriate these transferred funds to appropriation item 91886
200-437, Student Assessment. 91887

Section 206.09.82. (A) As used in this section: 91888

(1) "IEP" has the same meaning as in section 3314.08 of the 91889
Revised Code. 91890

(2) "SBH student" means a student receiving special education 91891
and related services for severe behavior handicap conditions 91892
pursuant to an IEP. 91893

(B) This section applies only to a community school 91894
established under Chapter 3314. of the Revised Code that in each 91895
of fiscal years 2006 and 2007 enrolls a number of SBH students 91896
equal to at least fifty per cent of the total number of students 91897
enrolled in the school in the applicable fiscal year. 91898

(C) In addition to any payments made under section 3314.08 of 91899
the Revised Code, in each of fiscal years 2006 and 2007, the 91900
Department of Education shall pay to a community school to which 91901
this section applies a subsidy equal to the difference between the 91902
aggregate amount calculated and paid in that fiscal year to the 91903
community school for special education and related services 91904
additional weighted costs for the SBH students enrolled in the 91905
school and the aggregate amount that would have been calculated 91906
for the school for special education and related services 91907

additional weighted costs for those same students in fiscal year 2001. If the difference is a negative number, the amount of the subsidy shall be zero.

(D) The amount of any subsidy paid to a community school under this section shall not be deducted from the school district in which any of the students enrolled in the community school are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. The amount of any subsidy paid to a community school under this section shall be paid from funds appropriated to the Department of Education in appropriation item 200-550, Foundation Funding.

Section 206.09.84. (A) As used in this section:

(1) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 and 3313.65 of the Revised Code.

(2) "Formula ADM" and "category six special education ADM" have the same meanings as in section 3317.02 of the Revised Code.

(3) "Individualized education program" has the same meaning as in section 3323.01 of the Revised Code.

(4) "Parent" has the same meaning as in section 3313.64 of the Revised Code.

(5) "Qualified special education child" is a child for whom all of the following conditions apply:

(a) The school district in which the child is entitled to attend school has identified the child as autistic.

(b) The school district in which the child is entitled to attend school has developed an individualized education program under Chapter 3323. of the Revised Code for the child.

(c) The child either:

(i) Was enrolled in the school district in which the child is 91937
entitled to attend school in any grade from preschool through 91938
twelve in the school year prior to the year in which a scholarship 91939
under this section is first sought for the child; or 91940

(ii) Is eligible to enter school in any grade preschool 91941
through twelve in the school district in which the child is 91942
entitled to attend school in the school year in which a 91943
scholarship under this section is first sought for the child. 91944

(6) "Registered private provider" means a nonpublic school or 91945
other nonpublic entity that has been approved by the Department of 91946
Education to participate in the program established under this 91947
section. 91948

(B) There is hereby established the Pilot Project Special 91949
Education Scholarship Program. Under the program, in fiscal years 91950
2006 and 2007, the Department of Education shall pay a scholarship 91951
to the parent of each qualified special education child upon 91952
application of that parent pursuant to procedures and deadlines 91953
established by rule of the State Board of Education. Each 91954
scholarship shall be used only to pay tuition for the child on 91955
whose behalf the scholarship is awarded to attend a special 91956
education program that implements the child's individualized 91957
education program and that is operated by a school district other 91958
than the school district in which the child is entitled to attend 91959
school, by another public entity, or by a registered private 91960
provider. Each scholarship shall be in an amount not to exceed the 91961
lesser of the tuition charged for the child by the special 91962
education program or twenty thousand dollars. The purpose of the 91963
scholarship is to permit the parent of a qualified special 91964
education child the choice to send the child to a special 91965
education program, instead of the one operated by or for the 91966
school district in which the child is entitled to attend school, 91967
to receive the services prescribed in the child's individualized 91968

education program once the individualized education program is 91969
finalized. A scholarship under this section shall not be awarded 91970
to the parent of a child while the child's individualized 91971
education program is being developed by the school district in 91972
which the child is entitled to attend school, or while any 91973
administrative or judicial mediation or proceedings with respect 91974
to the content of the child's individualized education program are 91975
pending. A scholarship under this section shall not be used for a 91976
child to attend a public special education program that operates 91977
under a contract, compact, or other bilateral agreement between 91978
the school district in which the child is entitled to attend 91979
school and another school district or other public provider, or 91980
for a child to attend a community school established under Chapter 91981
3314. of the Revised Code. However, nothing in this section or in 91982
any rule adopted by the State Board of Education shall prohibit a 91983
parent whose child attends a public special education program 91984
under a contract, compact, or other bilateral agreement, or a 91985
parent whose child attends a community school, from applying for 91986
and accepting a scholarship under this section so that the parent 91987
may withdraw the child from that program or community school and 91988
use the scholarship for the child to attend a special education 91989
program for which the parent is required to pay for services for 91990
the child. A child attending a special education program with a 91991
scholarship under this section shall continue to be entitled to 91992
transportation to and from that program in the manner prescribed 91993
by law. 91994

(C)(1) Notwithstanding anything to the contrary in the 91995
Revised Code, a child for whom a scholarship is awarded under this 91996
section shall be counted in the formula ADM and the category six 91997
special education ADM of the district in which the child is 91998
entitled to attend school and not in the formula ADM and the 91999
category six special education ADM of any other school district. 92000

(2) In each fiscal year, the Department shall deduct from the amounts paid to each school district under Chapter 3317. of the Revised Code, and, if necessary, sections 321.24 and 323.156 of the Revised Code, the aggregate amount of scholarships awarded under this section for qualified special education children included in the formula ADM and category six special education ADM of that school district as provided in division (C)(1) of this section. The scholarships deducted shall be considered as an approved special education and related services expense for the purpose of the school district's compliance with division (C)(5) of section 3317.022 of the Revised Code.

(3) From time to time, the Department shall make a payment to the parent of each qualified special education child for whom a scholarship has been awarded under this section. The scholarship amount shall be proportionately reduced in the case of any such child who is not enrolled in the special education program for which a scholarship was awarded under this section for the entire school year. The Department shall make no payments to the parent of a child while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending.

(D) A scholarship shall not be paid to a parent for payment of tuition owed to a nonpublic entity unless that entity is a registered private provider. The Department shall approve entities that meet the standards established by rule of the State Board for the program established under this section.

(E) The State Board shall adopt rules under Chapter 119. of the Revised Code prescribing procedures necessary to implement this section, including, but not limited to, procedures and deadlines for parents to apply for scholarships, standards for registered private providers, and procedures for approval of entities as registered private providers. The Board shall adopt

the rules so that the program established under this section is 92033
operational by January 1, 2004. 92034

Section 206.09.90. INTERVENTION FUNDING 92035

No later than September 30, 2006, each school district shall 92036
report, in a manner defined by the Department of Education, how 92037
state intervention funding provided under division (B)(1) of 92038
section 3317.012 and division (C) of section 3317.029 of the 92039
Revised Code in fiscal year 2006 was deployed. To the degree that 92040
school districts do not meet adequate progress standards as 92041
defined by the Department of Education, the Department shall use 92042
the reported information to intervene at the district and building 92043
levels to make recommendations on how state funding for 92044
intervention should be deployed in a more effective manner. This 92045
information shall also be used by the Department to inform its 92046
recommendations required in the section of this act entitled 92047
"DISTRICT SPENDING REQUIREMENTS." 92048

Section 206.09.93. EARMARK ACCOUNTABILITY 92049

At the request of the Superintendent of Public Instruction, 92050
any entity that receives a budget earmark under the Department of 92051
Education shall submit annually to the chairpersons of the 92052
committees of the House of Representatives and the Senate 92053
primarily concerned with education and to the Department of 92054
Education a report that includes a description of the services 92055
supported by the funds, a description of the results achieved by 92056
those services, an analysis of the effectiveness of the program, 92057
and an opinion as to the program's applicability to other school 92058
districts. For an earmarked entity that received state funds from 92059
an earmark in the prior fiscal year, no funds shall be provided by 92060
the Department of Education to an earmarked entity for a fiscal 92061
year until its report for the prior fiscal year has been 92062

submitted. 92063

Section 206.09.99. The revisions by this act to the 92064
Post-Secondary Enrollment Options Program established under 92065
Chapter 3365. of the Revised Code shall apply as follows: 92066

(A) The amendment to the definition of "tuition base" in 92067
section 3365.01 of the Revised Code, as amended by this act, shall 92068
apply to payments for courses taken beginning in the 2005-2006 92069
school year. 92070

(B) The requirement that a secondary grade student be a 92071
resident of this state in order to participate in the 92072
Post-Secondary Enrollment Options Program as specified in section 92073
3365.02 of the Revised Code, as amended by this act, shall not 92074
apply to students participating in the program during fiscal year 92075
2005. That requirement applies to students participating in the 92076
program after July 1, 2005, regardless of whether they 92077
participated in the program prior to that date. 92078

(C) The statement in section 3365.02 of the Revised Code, as 92079
amended by this act, concerning the purpose of the program applies 92080
to courses taken beginning in the 2005-2006 school year. 92081

(D) The requirement to seek reimbursement for college courses 92082
that a student failed, as specified in section 3365.02 of the 92083
Revised Code, as amended by this act, and section 3365.11 of the 92084
Revised Code, shall apply to courses taken beginning in the 92085
2005-2006 school year. 92086

(E) The opportunity to elect high school credit under Option 92087
A of the program, as specified in sections 3365.04, 3365.041, 92088
3365.05, and 3365.08 of the Revised Code, as amended by this act, 92089
shall apply beginning in the 2005-2006 academic year. 92090

Section 206.10.03. Not later than September 1, 2005, the 92091
Superintendent of Public Instruction shall begin preparations to 92092

implement the Educational Choice Scholarship Pilot Program 92093
established by sections 3310.01 to 3310.17 of the Revised Code. 92094
The Superintendent shall ensure that school districts, chartered 92095
nonpublic schools, students, and parents are informed of the 92096
Educational Choice Scholarship Pilot Program and how the Program 92097
may affect them. The Superintendent shall provide such information 92098
in sufficient time for affected parties to meet all deadlines 92099
imposed for participation in the Educational Choice Scholarship 92100
Pilot Program in the 2006-2007 school year. The State Board of 92101
Education shall adopt the rules required by section 3310.16 of the 92102
Revised Code so that those rules are in effect and the Educational 92103
Choice Scholarship Pilot Program is operational in the school year 92104
that commences July 1, 2006. 92105

The Superintendent shall select not more than 14,000 students 92106
in fiscal year 2007 to be awarded scholarships under the 92107
Educational Choice Scholarship Pilot Program. 92108

Section 206.10.05. There is hereby established a committee to 92109
study the consolidation of school districts. The committee shall 92110
consist of three members of the House of Representatives, 92111
appointed by the Speaker of the House of Representatives, and 92112
three members of the Senate, appointed by the President of the 92113
Senate. From each house, two members shall be of the majority 92114
party and one member shall be of the minority party. The Speaker 92115
of the House of Representatives shall designate the chairman of 92116
the committee. Members shall not receive compensation for their 92117
services. 92118

The committee shall study the feasibility of city, local, and 92119
exempted village school district consolidation and the economic 92120
impact, including possible cost savings, of consolidation for the 92121
state and school districts. If the committee determines school 92122
district consolidation is feasible, the committee shall recommend 92123

legislation to accomplish the consolidation. 92124

The committee shall report its findings to the General 92125
Assembly not later than one year after the effective date of this 92126
section. Copies of the findings shall be provided to the Governor, 92127
the President and Minority Leader of the Senate, the Speaker and 92128
Minority Leader of the House of Representatives, and the 92129
chairpersons, vice-chairpersons, and ranking minority members of 92130
the education committees of the House of Representatives and the 92131
Senate. Following its report of findings, the committee shall 92132
cease to exist. 92133

Section 206.10.09. Within thirty days after the effective 92134
date of this section, the Department of Education shall notify 92135
each entity approved to be a sponsor of community schools pursuant 92136
to division (B)(1) of section 3314.015 of the Revised Code prior 92137
to the effective date of this section and each entity that is not 92138
required to be so approved by section 3314.021 of the Revised Code 92139
or Section 6 of Sub. H.B. 364 of the 124th General Assembly of the 92140
number of schools the entity may sponsor under that division. 92141

Section 206.10.10. (A) Within thirty days after the effective 92142
date of this section, the Department of Education shall do both of 92143
the following: 92144

(1) Conduct a random lottery to determine thirty community 92145
schools sponsored by entities described in division (C)(1)(b) to 92146
(f) of section 3314.02 of the Revised Code that will be permitted 92147
to open for operation in order to reach the limit on such schools 92148
prescribed by division (A)(4) of section 3314.013 of the Revised 92149
Code, as enacted by this act; 92150

(2) Conduct a random lottery to determine thirty community 92151
schools sponsored by the school districts in which the schools are 92152
proposed to be located that will be permitted to open for 92153

operation in order to reach the limit on such schools prescribed 92154
by division (A)(5) of section 3314.013 of the Revised Code, as 92155
enacted by this act. 92156

(B) Sponsors of community schools shall apply to the 92157
Department to include a community school in the lottery conducted 92158
under division (A)(1) or (2) of this section, as applicable. A 92159
sponsor may make application for any community school it sponsors 92160
for which the following conditions are met: 92161

(1) The sponsor has entered into a contract with the 92162
governing authority of the school under section 3314.03 of the 92163
Revised Code. 92164

(2) The school is prepared to open for its initial year of 92165
operation in the 2005-2006 school year. 92166

However, no sponsor may apply to include a community school 92167
in a lottery if the selection of the school would cause the 92168
sponsor to exceed the sponsor's limit on the number of schools it 92169
may sponsor as prescribed by division (B)(1) of section 3314.015 92170
of the Revised Code, as amended by this act. 92171

(C) The Department shall establish the application method and 92172
deadline for sponsors to apply for the lotteries conducted under 92173
this section. The Department shall allow sufficient time between 92174
the date on which sponsors are notified of the number of schools 92175
they may sponsor, as required by Section 206.10.09 of this act, 92176
and the deadline for lottery applications to enable sponsors to 92177
complete the application process. 92178

Section 206.10.11. No community school established under 92179
Chapter 3314. of the Revised Code that was not open for operation 92180
as of May 1, 2005, shall operate from a home, as defined in 92181
section 3313.64 of the Revised Code. 92182

Section 206.10.12. (A) The School Physical Fitness and 92183

Wellness Advisory Council is hereby established. The Council shall 92184
consist of the following members: 92185

(1) A representative of the Ohio Association for Health, 92186
Physical Education, Recreation and Dance, appointed by the 92187
Association; 92188

(2) A school food service director, appointed by the Ohio 92189
School Food Service Association; 92190

(3) A representative of the Ohio School Boards Association, 92191
appointed by the Association; 92192

(4) A registered dietician, appointed by the Ohio Dietetic 92193
Association; 92194

(5) A representative of the Ohio State Medical Association, 92195
appointed by the Association; 92196

(6) A representative of the food industry, appointed by the 92197
Ohio Chamber of Commerce; 92198

(7) A representative of the Ohio Parent Teacher Association, 92199
appointed by the Association; 92200

(8) A representative of the Ohio Soft Drink Association, 92201
appointed by the Association; 92202

(9) A representative of the Department of Education, 92203
appointed by the Superintendent of Public Instruction; 92204

(10) A representative of the Ohio Parks and Recreation 92205
Association, appointed by the Association; 92206

(11) The Director of Health; 92207

(12) A representative of the Ohio Children's Hunger Alliance, 92208
appointed by the Alliance. 92209

(B) Appointments to the Council shall be made within thirty 92210
days after the effective date of this section. The representative 92211

of the Department of Education shall be the chairperson of the 92212
Council. The Council shall meet at least every two months. The 92213
Department of Education shall provide administrative support to 92214
the Council in the performance of its duties. 92215

(C) The Council shall develop guidelines for best practices 92216
regarding nutrition education, physical activity for students, and 92217
school-based activities and school-business partnerships that 92218
promote student wellness. For this purpose, the Council shall 92219
examine research concerning these issues and review existing 92220
guidelines and best practices established by associations or 92221
governmental entities at the national, state, and local levels. 92222
The best practices guidelines developed by the Council shall 92223
provide information that school districts participating in a 92224
school lunch program under the "National School Lunch Act," 60 92225
Stat. 230 (1946), 42 U.S.C. 1751, as amended, may use when 92226
adopting local wellness policies as required by the "Child 92227
Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as amended. 92228
The Council also shall develop strategies for districts to use in 92229
evaluating the implementation of their local wellness policies to 92230
determine if the goals and objectives described in those policies 92231
are being met. 92232

(D) Not later than December 31, 2005, the Council shall 92233
compile a written report containing its best practices guidelines 92234
and evaluation strategies. Copies of the report shall be provided 92235
to each school district participating in a school lunch program as 92236
described in division (C) of this section, the Governor, the 92237
Speaker of the House of Representatives, and the President of the 92238
Senate. Upon submission of its report, the Council shall cease to 92239
exist. 92240

Section 206.10.15. For fiscal years 2006 and 2007, the 92241
Department of Education shall provide funding to the Ohio Wyami 92242

Appalachian Teacher Cohorts Program under the Columbiana County 92243
Educational Service Center to provide teacher professional 92244
development in Ohio's Appalachian counties. The program shall 92245
provide professional development that is based on a review of 92246
scientifically based research and is expected to improve student 92247
academic achievement as required by Title II of the "No Child Left 92248
Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6612 et seq., for 92249
approximately eighty public and charter nonpublic teachers from 92250
Ohio's Appalachian counties each year. The Department of Education 92251
shall provide \$1,500,000 each fiscal year in federal grant funds 92252
from the State Grants For Improving Teacher Quality Program to the 92253
Columbiana County Educational Service Center for this purpose. The 92254
Center shall not expend these funds outside of Ohio. 92255

Section 206.10.21. (A) Notwithstanding section 3313.41 of the 92256
Revised Code, a school district board of education in support of 92257
economic development within the territory of the district may 92258
dispose of real property that it owns in its corporate capacity, 92259
and that exceeds in value ten thousand dollars, by direct sale in 92260
lieu of offering the property for sale at public auction as 92261
provided in division (A) of that section, in lieu of offering the 92262
property for sale to an entity listed in division (C) of that 92263
section, or in lieu of offering the property for sale to a 92264
community school as provided in division (G) of that section, if 92265
all of the following conditions are satisfied: 92266

(1) The real property is encumbered by easements, liens, or 92267
other use restrictions that benefit the person acquiring the 92268
property under this section; 92269

(2) The real property was part of or adjacent to real 92270
property previously disposed of by the board of education; 92271

(3) The real property when sold will be used for commercial 92272

development. 92273

(B) This section expires December 31, 2005. 92274

Section 206.10.24. Regardless of the changes made by this act 92275
regarding the reporting of formula ADM by school districts, not 92276
later than July 1, 2006, the Superintendent of Public Instruction 92277
shall recommend to the General Assembly a plan whereby: 92278

(A) School districts make a second annual certification of 92279
formula ADM in the second half of each fiscal year, prior to the 92280
first day of April; 92281

(B) This second annual certification of formula ADM may be 92282
used to guarantee a minimum level of state funding to each school 92283
district for the next fiscal year, with sufficient notice so that 92284
the districts may prepare in advance of each school year. 92285

The recommended plan shall include methods to accommodate 92286
enrollment growth trends in fast-growing districts. 92287

Section 206.13. ELC OHIO ELECTIONS COMMISSION 92288

General Revenue Fund 92289

GRF 051-321 Operating Expenses \$ 411,623 \$ 411,623 92290

TOTAL GRF General Revenue Fund \$ 411,623 \$ 411,623 92291

General Services Fund Group 92292

4P2 051-601 Ohio Elections 92293

Commission Fund \$ 225,000 \$ 225,000 92294

TOTAL GSF General Services Fund \$ 225,000 \$ 225,000 92295

Group

TOTAL ALL BUDGET FUND GROUPS \$ 636,623 \$ 636,623 92296

Section 206.16. FUN STATE BOARD OF EMBALMERS AND FUNERAL 92298
DIRECTORS 92299

General Services Fund Group 92300

| | | | | | |
|--------------------------------|----|---------|----|---|-------|
| 4K9 881-609 Operating Expenses | \$ | 598,933 | \$ | 0 | 92301 |
| TOTAL GSF General Services | | | | | 92302 |
| Fund Group | \$ | 598,933 | \$ | 0 | 92303 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 598,933 | \$ | 0 | 92304 |

Section 206.19. ERB STATE EMPLOYMENT RELATIONS BOARD 92306

| | | | | | |
|---------------------------------------|----|-----------|----|-----------|-------|
| General Revenue Fund | | | | | 92307 |
| GRF 125-321 Operating Expenses | \$ | 3,265,397 | \$ | 3,363,359 | 92308 |
| TOTAL GRF General Revenue Fund | \$ | 3,265,397 | \$ | 3,363,359 | 92309 |
| General Services Fund Group | | | | | 92310 |
| 572 125-603 Training and Publications | \$ | 75,541 | \$ | 75,541 | 92311 |
| TOTAL GSF General Services | | | | | 92312 |
| Fund Group | \$ | 75,541 | \$ | 75,541 | 92313 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 3,340,938 | \$ | 3,438,900 | 92314 |

Section 206.24. ENG STATE BOARD OF ENGINEERS AND SURVEYORS 92316

| | | | | | |
|--------------------------------|----|-----------|----|-----------|-------|
| General Services Fund Group | | | | | 92317 |
| 4K9 892-609 Operating Expenses | \$ | 1,058,881 | \$ | 1,058,881 | 92318 |
| TOTAL GSF General Services | | | | | 92319 |
| Fund Group | \$ | 1,058,881 | \$ | 1,058,881 | 92320 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 1,058,881 | \$ | 1,058,881 | 92321 |

Section 206.27. EPA ENVIRONMENTAL PROTECTION AGENCY 92323

| | | | | | |
|---|----|-----------|----|---|-------|
| General Revenue Fund | | | | | 92324 |
| GRF 715-403 Clean Ohio | \$ | 92,707 | \$ | 0 | 92325 |
| GRF 715-501 Local Air Pollution Control | \$ | 128,297 | \$ | 0 | 92326 |
| GRF 717-321 Surface Water | \$ | 1,112,342 | \$ | 0 | 92327 |
| GRF 718-321 Groundwater | \$ | 136,719 | \$ | 0 | 92328 |
| GRF 719-321 Air Pollution Control | \$ | 311,494 | \$ | 0 | 92329 |
| GRF 721-321 Drinking Water | \$ | 318,783 | \$ | 0 | 92330 |

| | | | | | | |
|------------------------------------|-----------------------|----|------------|----|------------|-------|
| GRF 723-321 | Hazardous Waste | \$ | 12,606 | \$ | 0 | 92331 |
| GRF 724-321 | Pollution Prevention | \$ | 87,538 | \$ | 0 | 92332 |
| GRF 725-321 | Laboratory | \$ | 152,043 | \$ | 0 | 92333 |
| GRF 726-321 | Corrective Actions | \$ | 147,473 | \$ | 0 | 92334 |
| TOTAL GRF | General Revenue Fund | \$ | 2,500,002 | \$ | 0 | 92335 |
| General Services Fund Group | | | | | | 92336 |
| 199 715-602 | Laboratory Services | \$ | 1,078,348 | \$ | 1,083,574 | 92337 |
| 219 715-604 | Central Support | \$ | 15,804,913 | \$ | 16,345,805 | 92338 |
| Indirect | | | | | | |
| 4A1 715-640 | Operating Expenses | \$ | 3,369,731 | \$ | 3,369,731 | 92339 |
| TOTAL GSF | General Services | | | | | 92340 |
| Fund Group | | \$ | 20,252,992 | \$ | 20,799,110 | 92341 |
| Federal Special Revenue Fund Group | | | | | | 92342 |
| 3F2 715-630 | Revolving Loan Fund - | \$ | 152,021 | \$ | 293,129 | 92343 |
| Operating | | | | | | |
| 3F3 715-632 | Fed Supported Cleanup | \$ | 2,792,648 | \$ | 2,777,648 | 92344 |
| and Response | | | | | | |
| 3F4 715-633 | Water Quality | \$ | 710,000 | \$ | 710,000 | 92345 |
| Management | | | | | | |
| 3F5 715-641 | Nonpoint Source | \$ | 7,815,000 | \$ | 7,810,000 | 92346 |
| Pollution Management | | | | | | |
| 3J1 715-620 | Urban Stormwater | \$ | 706,000 | \$ | 710,000 | 92347 |
| 3K2 715-628 | Clean Water Act 106 | \$ | 4,723,845 | \$ | 5,023,846 | 92348 |
| 3K4 715-634 | DOD Monitoring and | \$ | 1,450,333 | \$ | 1,450,333 | 92349 |
| Oversight | | | | | | |
| 3K6 715-639 | Remedial Action Plan | \$ | 320,000 | \$ | 319,000 | 92350 |
| 3N4 715-657 | DOE Monitoring and | \$ | 3,181,736 | \$ | 3,231,963 | 92351 |
| Oversight | | | | | | |
| 3V7 715-606 | Agencywide Grants | \$ | 458,115 | \$ | 479,115 | 92352 |
| 352 715-611 | Wastewater Pollution | \$ | 525,000 | \$ | 530,000 | 92353 |
| 353 715-612 | Public Water Supply | \$ | 3,384,959 | \$ | 3,388,619 | 92354 |
| 354 715-614 | Hazardous Waste | \$ | 4,203,891 | \$ | 4,203,891 | 92355 |

| | | | | | | | |
|-----------------------|---------|-------------------------|----|------------|----|------------|-------|
| | | Management - Federal | | | | | |
| 357 | 715-619 | Air Pollution Control | \$ | 6,966,337 | \$ | 7,243,950 | 92356 |
| | | - Federal | | | | | |
| 362 | 715-605 | Underground Injection | \$ | 111,874 | \$ | 111,874 | 92357 |
| | | Control - Federal | | | | | |
| TOTAL FED | | Federal Special Revenue | | | | | 92358 |
| Fund Group | | | \$ | 37,501,759 | \$ | 38,283,368 | 92359 |
| State Special Revenue | | Fund Group | | | | | 92360 |
| 3T3 | 715-669 | Drinking Water SRF | \$ | 2,411,614 | \$ | 2,482,910 | 92361 |
| 4J0 | 715-638 | Underground Injection | \$ | 438,285 | \$ | 458,418 | 92362 |
| | | Control | | | | | |
| 4K2 | 715-648 | Clean Air - Non Title | \$ | 3,234,278 | \$ | 3,178,062 | 92363 |
| | | V | | | | | |
| 4K3 | 715-649 | Solid Waste | \$ | 13,800,377 | \$ | 14,282,845 | 92364 |
| 4K4 | 715-650 | Surface Water | \$ | 11,606,000 | \$ | 12,420,000 | 92365 |
| | | Protection | | | | | |
| 4K5 | 715-651 | Drinking Water | \$ | 7,202,901 | \$ | 7,492,035 | 92366 |
| | | Protection | | | | | |
| 4P5 | 715-654 | Cozart Landfill | \$ | 149,728 | \$ | 149,728 | 92367 |
| 4R5 | 715-656 | Scrap Tire Management | \$ | 6,000,000 | \$ | 6,000,000 | 92368 |
| 4R9 | 715-658 | Voluntary Action | \$ | 1,008,765 | \$ | 1,032,098 | 92369 |
| | | Program | | | | | |
| 4T3 | 715-659 | Clean Air - Title V | \$ | 16,960,373 | \$ | 17,180,980 | 92370 |
| | | Permit Program | | | | | |
| 4U7 | 715-660 | Construction & | \$ | 586,797 | \$ | 582,305 | 92371 |
| | | Demolition Debris | | | | | |
| 5BC | 715-617 | Clean Ohio | \$ | 648,939 | \$ | 741,646 | 92372 |
| 5BC | 715-622 | Local Air Pollution | \$ | 898,072 | \$ | 1,026,369 | 92373 |
| | | Control | | | | | |
| 5BC | 715-624 | Surface Water | \$ | 7,685,071 | \$ | 8,797,413 | 92374 |
| 5BC | 715-667 | Groundwater | \$ | 957,022 | \$ | 1,093,741 | 92375 |
| 5BC | 715-672 | Air Pollution Control | \$ | 4,234,681 | \$ | 5,199,290 | 92376 |
| 5BC | 715-673 | Drinking Water | \$ | 2,231,467 | \$ | 2,550,250 | 92377 |

| | | | | | | | |
|-----|---------|---|----|------------|----|------------|-------|
| 5BC | 715-675 | Hazardous Waste | \$ | 88,241 | \$ | 100,847 | 92378 |
| 5BC | 715-676 | Assistance and Prevention | \$ | 612,764 | \$ | 700,302 | 92379 |
| 5BC | 715-677 | Laboratory | \$ | 1,064,290 | \$ | 1,216,333 | 92380 |
| 5BC | 715-678 | Corrective Action | \$ | 1,032,302 | \$ | 1,179,775 | 92381 |
| 5CD | 715-682 | Clean Diesel School Buses | \$ | 650,000 | \$ | 850,000 | 92382 |
| 5H4 | 715-664 | Groundwater Support | \$ | 2,325,922 | \$ | 2,408,871 | 92383 |
| 5N2 | 715-613 | Dredge and Fill | \$ | 30,000 | \$ | 30,000 | 92384 |
| 500 | 715-608 | Immediate Removal Special Account | \$ | 482,000 | \$ | 482,000 | 92385 |
| 503 | 715-621 | Hazardous Waste Facility Management | \$ | 11,270,231 | \$ | 11,711,473 | 92386 |
| 505 | 715-623 | Hazardous Waste Cleanup | \$ | 11,482,988 | \$ | 11,482,988 | 92387 |
| 505 | 715-674 | Clean Ohio Environmental Review | \$ | 104,500 | \$ | 109,725 | 92388 |
| 541 | 715-670 | Site Specific Cleanup | \$ | 33,000 | \$ | 34,650 | 92389 |
| 542 | 715-671 | Risk Management Reporting | \$ | 146,188 | \$ | 146,188 | 92390 |
| 592 | 715-627 | Anti Tampering Settlement | \$ | 17,203 | \$ | 9,707 | 92391 |
| 6A1 | 715-645 | Environmental Education | \$ | 1,500,000 | \$ | 1,500,000 | 92392 |
| 602 | 715-626 | Motor Vehicle Inspection and Maintenance | \$ | 1,190,944 | \$ | 250,000 | 92393 |
| 644 | 715-631 | ER Radiological Safety | \$ | 286,114 | \$ | 286,114 | 92394 |
| 660 | 715-629 | Infectious Waste Management | \$ | 160,000 | \$ | 100,000 | 92395 |
| 676 | 715-642 | Water Pollution Control Loan Administration | \$ | 4,964,625 | \$ | 4,964,625 | 92396 |

| | | | | | | | |
|--|---------------------------|------------------------|----|-------------|----|-------------|-------|
| 678 | 715-635 | Air Toxic Release | \$ | 210,621 | \$ | 210,622 | 92397 |
| 679 | 715-636 | Emergency Planning | \$ | 2,828,647 | \$ | 2,828,647 | 92398 |
| 696 | 715-643 | Air Pollution Control | \$ | 750,000 | \$ | 750,000 | 92399 |
| | | Administration | | | | | |
| 699 | 715-644 | Water Pollution | \$ | 750,000 | \$ | 750,000 | 92400 |
| | | Control Administration | | | | | |
| TOTAL SSR | State Special Revenue | | \$ | 122,034,950 | \$ | 126,770,957 | 92401 |
| Fund Group | | | | | | | |
| Clean Ohio Revitalization Fund Group | | | | | | | 92402 |
| 5S1 | 715-607 | Clean Ohio - Operating | \$ | 208,174 | \$ | 208,174 | 92403 |
| TOTAL CLF | Clean Ohio Revitalization | | \$ | 208,174 | \$ | 208,174 | 92404 |
| Fund Group | | | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 182,497,877 | \$ | 186,061,609 | 92405 |
| AUTOMOBILE EMISSIONS TESTING PROGRAM OPERATION AND OVERSIGHT | | | | | | | 92406 |
| (A) There is hereby created the Auto Emissions Test Fund | | | | | | | 92407 |
| (Fund 5BY). When renewing a contract to continue the E-check | | | | | | | 92408 |
| program after December 31, 2005, the Ohio Environmental Protection | | | | | | | 92409 |
| Agency (EPA) shall use the foregoing appropriation item 715-681, | | | | | | | 92410 |
| Auto Emissions Test in the Auto Emissions Test Fund (Fund 5BY), to | | | | | | | 92411 |
| pay the contracted amount per test for the operation, and Ohio | | | | | | | 92412 |
| EPA's costs for oversight, of the auto emissions testing programs | | | | | | | 92413 |
| in counties still designated as non-attainment or designated by | | | | | | | 92414 |
| the General Assembly to continue such tests under mandate of the | | | | | | | 92415 |
| federal Clean Air Act. These amounts are hereby appropriated. | | | | | | | 92416 |
| (B)(1) Not later than July 1, 2005, the Director of | | | | | | | 92417 |
| Environmental Protection, in conjunction with the Office of Budget | | | | | | | 92418 |
| and Management, shall estimate the amount necessary for operation | | | | | | | 92419 |
| of the Auto Emissions Testing Program for the period beginning | | | | | | | 92420 |
| January 1, 2006, and ending June 30, 2006. Notwithstanding section | | | | | | | 92421 |
| 183.02 of the Revised Code, of the tobacco revenue that is | | | | | | | 92422 |
| credited to the Tobacco Master Settlement Agreement Fund (Fund | | | | | | | 92423 |
| 087) in fiscal year 2005, the Director of Budget and Management | | | | | | | 92424 |

shall withhold from the share that is determined pursuant to 92425
section 183.02 of the Revised Code to be the amount to be 92426
transferred from the Tobacco Master Settlement Agreement Fund 92427
(Fund 086) to the Tobacco Use Prevention and Cessation Trust Fund 92428
(Fund H87) an amount equal to the estimate determined pursuant to 92429
this division. 92430

(2) Not later than December 31, 2005, the Director of 92431
Environmental Protection shall certify to the Director of Budget 92432
and Management the actual amount, not to exceed the estimated 92433
amount, necessary for the Auto Emissions Testing Program for the 92434
period beginning January 1, 2006, and ending June 30, 2006. 92435
Notwithstanding section 183.02 of the Revised Code, on January 1, 92436
2006, or as soon as possible thereafter, the Director of Budget 92437
and Management shall transfer the amount certified pursuant to 92438
this division from the Tobacco Master Settlement Agreement Fund 92439
(Fund 087) to the Auto Emissions Test Fund (Fund 5BY). Amounts 92440
transferred are hereby appropriated to appropriation item 715-681, 92441
Auto Emissions Test, in the Environmental Protection Agency. 92442

(3) On January 1, 2006, or as soon as possible thereafter, 92443
the Director of Budget and Management shall transfer to the 92444
Tobacco Use Prevention and Cessation Trust Fund (Fund H87) any 92445
amount withheld from being transferred to the Tobacco Use 92446
Prevention and Cessation Trust Fund pursuant to division (B)(1) of 92447
this section that is greater than the amount that is transferred 92448
under division (B)(2) of this section. 92449

(C) An amount equal to the remaining balance in appropriation 92450
item 715-681, Auto Emissions Test, from fiscal year 2006 is hereby 92451
appropriated for fiscal year 2007 into appropriation item 715-681, 92452
Auto Emissions Test. 92453

(D) Not later than June 30, 2006, the Director of 92454
Environmental Protection shall certify to the Director of Budget 92455
and Management the amount needed for the Auto Emissions Testing 92456

Program for fiscal year 2007 taking into account the amounts 92457
appropriated for fiscal year 2007 pursuant to division (C) of this 92458
section. 92459

Notwithstanding section 183.02 of the Revised Code, on July 92460
1, 2006, or as soon as possible thereafter, the Director of Budget 92461
and Management shall transfer cash equal to the amount certified 92462
pursuant to this division from the Tobacco Master Settlement 92463
Agreement Fund (Fund 087) to the Auto Emissions Test Fund (Fund 92464
5BY) in the Environmental Protection Agency. Of the tobacco 92465
revenue that is credited to the Tobacco Master Settlement 92466
Agreement Fund (Fund 087) in fiscal year 2006, the share that is 92467
determined pursuant to section 183.02 of the Revised Code to be 92468
the amount transferred by the Director of Budget and Management 92469
from the Tobacco Master Settlement Agreement Fund (Fund 087) to 92470
the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) 92471
shall be reduced by the amount that is transferred from the 92472
Tobacco Master Settlement Agreement Fund (Fund 087) to the Auto 92473
Emissions Test Fund (Fund 5BY) under this division. Amounts 92474
transferred are hereby appropriated to appropriation item 715-681, 92475
Auto Emissions Test, in the Environmental Protection Agency. 92476

(E) Not later than July 31, 2007, the Director of Budget and 92477
Management shall transfer the unencumbered cash balance of the 92478
Auto Emissions Test Fund (Fund 5BY) to the Tobacco Use Prevention 92479
and Cessation Trust Fund (Fund H87). 92480

(F) The funds identified in this section shall not be used to 92481
cover the testing costs of any dealers that are required to 92482
provide passing certificates under section 3704.14 of the Revised 92483
Code or to provide more than two free tests for any vehicle in a 92484
three-hundred-sixty-five-day period. The cost of testing and 92485
retesting for any vehicle shall not exceed the contracted amount 92486
per test. 92487

NPDES TRANSFER TO AGRICULTURE 92488

On or after the date on which the United States Environmental 92489
Protection Agency approves the state program submitted under 92490
division (A)(1) of section 903.08 of the Revised Code, the 92491
Director of Environmental Protection, the Director of Agriculture, 92492
and the Director of Budget and Management shall calculate the 92493
amount of compensation to be made to the Environmental Protection 92494
Agency and to the Department of Agriculture from federal moneys 92495
disbursed and received for purposes of administering the National 92496
Pollutant Discharge Elimination System (NPDES) Program and shall 92497
calculate the amount of state matching funding that is required 92498
for administering that program. The Environmental Protection 92499
Agency and the Department of Agriculture may apply separately to 92500
the United States Environmental Protection Agency for each 92501
agency's respective share of the federal moneys. If the United 92502
States Environmental Protection Agency awards all federal moneys 92503
for administration of the NPDES program to one agency, that agency 92504
shall transfer the appropriate amount of moneys to the other 92505
agency in accordance with the calculations of compensation made 92506
pursuant to these provisions. 92507

CASH TRANSFER FOR ENVIRONMENTAL PROTECTION FUND 92508

On July 1, 2005, or as soon as possible thereafter, the 92509
Director of Budget and Management may transfer \$1,000,000 in cash 92510
from the Central Support Indirect Fund (Fund 219) into the 92511
Environmental Protection Fund (Fund 5BC). 92512

On July 1, 2005, or as soon as possible thereafter, the 92513
Director of Budget and Management may transfer \$6,000,000 in cash 92514
from the Hazardous Waste Facility Management Fund (Fund 503) into 92515
the Environmental Protection Fund (Fund 5BC). 92516

On July 1, 2005, or as soon as possible thereafter, the 92517
Director of Budget and Management may transfer \$3,000,000 in cash 92518
from the Solid Waste Fund (Fund 4K3) into the Environmental 92519
Protection Fund (Fund 5BC). 92520

On July 1, 2005, or as soon as possible thereafter, the 92521
 Director of Budget and Management may transfer \$1,000,000 in cash 92522
 from the Hazardous Waste Cleanup Fund (Fund 505) into the 92523
 Environmental Protection Fund (Fund 5BC). 92524

Section 206.30. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION 92525

General Revenue Fund 92526
 GRF 172-321 Operating Expenses \$ 479,161 \$ 483,859 92527
 TOTAL GRF General Revenue Fund \$ 479,161 \$ 483,859 92528
 TOTAL ALL BUDGET FUND GROUPS \$ 479,161 \$ 483,859 92529

Section 206.31. ETC ETECH OHIO 92531

General Revenue Fund 92532
 GRF 935-321 Operations \$ 7,174,453 \$ 6,830,918 92533
 GRF 935-401 Statehouse News Bureau \$ 244,400 \$ 244,400 92534
 GRF 935-402 Ohio Government \$ 716,417 \$ 716,417 92535
 Telecommunications
 Studio
 GRF 935-403 Technical Operations \$ 1,768,150 \$ 1,768,150 92536
 GRF 935-404 Telecommunications \$ 3,632,413 \$ 3,632,413 92537
 Operating Subsidy
 GRF 935-406 Technical and \$ 6,484,763 \$ 6,607,144 92538
 Instructional
 Professional
 Development
 GRF 935-539 Educational Technology \$ 5,968,791 \$ 5,968,791 92539
 TOTAL GRF General Revenue Fund \$ 25,989,387 \$ 25,768,233 92540
 General Services Fund Group 92541
 4F3 935-603 Affiliate Services \$ 2,000,000 \$ 2,000,000 92542
 4T2 935-605 Government \$ 150,000 \$ 150,000 92543
 Television/Telecommunications
 Operating

| | | | | | |
|--|----|------------|----|------------|-------|
| 5D4 935-640 Conference/Special Purposes | \$ | 1,600,645 | \$ | 1,821,817 | 92544 |
| TOTAL GSF General Services Fund Group | \$ | 3,750,645 | \$ | 3,971,817 | 92545 |
| Federal Special Revenue Fund Group | | | | | 92546 |
| 3S3 935-606 Enhancing Education Technology | \$ | 589,363 | \$ | 589,363 | 92547 |
| TOTAL FED Federal Special Revenue Fund Group | \$ | 589,363 | \$ | 589,363 | 92548 |
| State Special Revenue Fund Group | | | | | 92549 |
| 4W9 935-630 Telecommunity | \$ | 50,000 | \$ | 25,000 | 92550 |
| 4X1 935-634 Distance Learning | \$ | 250,000 | \$ | 100,000 | 92551 |
| 5T3 935-607 Gates Foundation Grants | \$ | 600,000 | \$ | 200,000 | 92552 |
| TOTAL SSR State Special Revenue Fund Group | \$ | 900,000 | \$ | 325,000 | 92553 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 31,229,395 | \$ | 30,654,413 | 92554 |

Section 206.31.03. OPERATIONS 92556

eTech Ohio shall enter into an agreement with the Department of Administrative Services to provide for the maintenance of all of its towers. eTech Ohio and the Department of Administrative Services shall develop a plan to address the best method for transferring ownership and control of all the towers to the Department of Administrative Services. This plan shall be submitted to the Office of Budget and Management by July 1, 2006.

Section 206.31.06. TELECOMMUNICATIONS 92564

STATEHOUSE NEWS BUREAU 92565

The foregoing appropriation item 935-401, Statehouse News Bureau, shall be used solely to support the operations of the Ohio Statehouse News Bureau.

OHIO GOVERNMENT TELECOMMUNICATIONS STUDIO 92569

The foregoing appropriation item 935-402, Ohio Government 92570
Telecommunications Studio, shall be used solely to support the 92571
operations of the Ohio Government Telecommunications Studio. 92572

TECHNICAL OPERATIONS 92573

The foregoing appropriation item 935-403, Technical 92574
Operations, shall be used by eTech Ohio to pay expenses of the 92575
television and radio transmission infrastructure. 92576

TELECOMMUNICATIONS OPERATING SUBSIDY 92577

Of the foregoing appropriation item 935-404, 92578
Telecommunications Operating Subsidy, \$45,000 in each fiscal year 92579
shall be used to contract for dial-up newspaper reading services 92580
for the blind and physically handicapped. The contract shall be 92581
awarded through a competitive bidding process. eTech Ohio shall 92582
not disburse these funds without prior approval of the Controlling 92583
Board. 92584

The remainder of appropriation item 935-404, 92585
Telecommunications Operating Subsidy, shall be distributed by 92586
eTech Ohio to Ohio's qualified public educational television 92587
stations, radio reading services, and educational radio stations 92588
to support their operations. The funds shall be distributed 92589
pursuant to an allocation formula used by the Ohio Educational 92590
Telecommunications Network Commission unless and until a 92591
substitute formula is developed by eTech Ohio in consultation with 92592
Ohio's qualified public educational television stations, radio 92593
reading services, and educational radio stations. 92594

Section 206.31.09. TECHNICAL AND INSTRUCTIONAL PROFESSIONAL 92595
DEVELOPMENT 92596

The foregoing appropriation item 935-406, Technical and 92597
Instructional Professional Development, shall be used by eTech 92598

Ohio to make grants or provide services to qualifying public 92599
schools, including the State School for the Blind and the State 92600
School for the Deaf, and the Ohio Department of Youth Services, 92601
for the provision of hardware, software, telecommunications 92602
services, and staff development to support educational uses of 92603
technology in the classroom. eTech Ohio shall consider the 92604
professional development needs associated with the OhioReads 92605
Program when making funding allocations and program decisions. 92606

Of the foregoing appropriation item 935-406, Technical and 92607
Instructional Professional Development, up to \$200,000 in each 92608
fiscal year shall be used by eTech Ohio to provide competitive 92609
professional development grants to school districts. Grant 92610
proposals shall focus on developing innovative programs that 92611
enhance the abilities of teachers to use innovative methods for 92612
integrating technology to implement state academic content 92613
standards in classroom lessons. Grant requirements and awards 92614
shall be approved by eTech Ohio, with priority given to school 92615
districts designated in academic emergency, academic watch, or 92616
continuous improvement. eTech Ohio shall develop a website to 92617
share information learned through these programs with school 92618
districts statewide. The website shall be linked with the Ohio 92619
Department of Education's Instructional Management System. 92620

Of the foregoing appropriation item 935-406, Technical and 92621
Instructional Professional Development, up to \$1,260,000 in each 92622
fiscal year shall be allocated equally among the 12 Ohio 92623
educational television stations and used with the advice and 92624
approval of eTech Ohio. Funds shall be used for the production of 92625
interactive instructional programming series with priority given 92626
to resources aligned with state academic content standards in 92627
consultation with the Ohio Department of Education and for 92628
teleconferences to support eTech Ohio. The programming shall be 92629
targeted to the needs of the poorest two hundred school districts 92630

as determined by the district's adjusted valuation per pupil as 92631
defined in section 3317.0213 of the Revised Code as that section 92632
existed prior to the effective date of this section. 92633

The remainder of appropriation item 935-406, Technical and 92634
Instructional Professional Development, shall be used by eTech 92635
Ohio for professional development for teachers and administrators 92636
for the use of educational technology. eTech Ohio may make grants 92637
to provide technical assistance and professional development on 92638
the use of educational technology to school districts. 92639

Eligible recipients of grants include regional training 92640
centers, educational service centers, data acquisition sites, 92641
educational technology centers, institutions of higher education, 92642
public television stations, special education resource centers, 92643
area media centers, or other nonprofit educational organizations. 92644
In addition, services provided through these grants may include 92645
use of private entities subcontracting through the grant 92646
recipient. 92647

Grants shall be made to entities on a contractual basis with 92648
eTech Ohio. Contracts shall include provisions that demonstrate 92649
how services will benefit technology use in the public schools, 92650
and in particular how services will support eTech Ohio's efforts 92651
to integrate technology in the public schools. Contracts shall 92652
specify the scope of assistance being offered and the potential 92653
number of professionals who will be served. Contracting entities 92654
may be awarded more than one grant at a time. Grants shall be 92655
awarded in a manner consistent with the goals and priorities of 92656
eTech Ohio. Special emphasis in the award of grants shall be 92657
placed on collaborative efforts among service providers. 92658

Application for grants from appropriation item 935-406, 92659
Technical and Instructional Professional Development, shall be 92660
consistent with a school district's technology plan that shall 92661
meet the minimum specifications for school district technology 92662

plans as prescribed by eTech Ohio. Funds allocated through these 92663
grants may be combined with funds received through other state or 92664
federal grants for technology so long as the school district's 92665
technology plan specifies the use of these funds. 92666

Section 206.31.12. EDUCATION TECHNOLOGY 92667

The foregoing appropriation item 935-539, Education 92668
Technology, shall be used to provide funding to suppliers of 92669
information services to school districts for the provision of 92670
hardware, software, and staff development in support of 92671
educational uses of technology in the classroom as prescribed by 92672
the State Plan for Technology pursuant to section 3301.07 of the 92673
Revised Code, and to support assistive technology for children and 92674
youth with disabilities. 92675

Of the foregoing appropriation item 935-539, Education 92676
Technology, up to \$1,829,240 in each fiscal year shall be used by 92677
eTech Ohio to link all public K-12 classrooms to each other and 92678
the Internet, and to provide access to voice, video, and data 92679
educational resources for students and teachers through the OneNet 92680
Ohio Program. 92681

Up to \$4,139,551 in each fiscal year shall be used by eTech 92682
Ohio to contract with educational television to provide Ohio 92683
public schools with instructional resources and services with 92684
priority given to resources and services aligned with state 92685
academic content standards and such resources and services shall 92686
be based upon the advice and approval of eTech Ohio, based on a 92687
formula used by the Ohio SchoolNet Commission unless and until a 92688
substitute formula is developed by eTech Ohio in consultation with 92689
Ohio's educational technology agencies and noncommercial 92690
educational television stations. 92691

Resources may include, but not be limited to, the following: 92692
prerecorded video materials (including videotape, laser discs, and 92693

CD-ROM discs); computer software for student use or student access 92694
to electronic communication, databases, spreadsheet, and word 92695
processing capability; live student courses or courses delivered 92696
electronically; automated media systems; and instructional and 92697
professional development materials for teachers. eTech Ohio shall 92698
collaborate with public television stations and cooperate with 92699
education technology agencies in the acquisition, development, and 92700
delivery of such educational resources to ensure high-quality and 92701
educational soundness at the lowest possible cost. Delivery of 92702
such resources may utilize a variety of technologies, with a 92703
preference given to a high speed integrated information network 92704
that can transport video, voice, data, and graphics 92705
simultaneously. 92706

Services shall include presentations and technical assistance 92707
that will help students and teachers integrate educational 92708
materials that support curriculum objectives, match specific 92709
learning styles, and are appropriate for individual interests and 92710
ability levels. 92711

Such instructional resources and services shall be made 92712
available for purchase by chartered nonpublic schools or by school 92713
districts for the benefit of pupils attending chartered nonpublic 92714
schools. 92715

eTech Ohio shall monitor the developments of technology, 92716
coordinate with the Office of Information Technology, and assure 92717
the most effective and highest quality operation of eTech Ohio 92718
networks. All efforts may be aligned with the State's ongoing 92719
efforts to coordinate appropriate network operations through the 92720
Office of Information Technology and through the Third Frontier 92721
Network. 92722

Section 206.31.15. TELECOMMUNITY 92723

The foregoing appropriation item 935-630, Telecommunity, 92724

shall be distributed by eTech Ohio on a grant basis to eligible 92725
school districts to establish "distance learning" through 92726
interactive video technologies in the school district. Per 92727
agreements with eight Ohio local telephone companies: ALLTEL Ohio, 92728
CENTURY Telephone of Ohio, Chillicothe Telephone Company, 92729
Cincinnati Bell Telephone Company, Orwell Telephone Company, 92730
Sprint North Central Telephone, VERIZON, and Western Reserve 92731
Telephone Company, school districts are eligible for funds if they 92732
are within one of the listed telephone company service areas. 92733
Funds to administer the program shall be expended by eTech Ohio up 92734
to the amount specified in agreements with the listed telephone 92735
companies. 92736

Within thirty days after the effective date of this section, 92737
the Director of Budget and Management shall transfer to Fund 4W9 92738
in the state special revenue fund group any investment earnings 92739
from moneys paid by any telephone company as part of any 92740
settlement agreement between the listed companies and the Public 92741
Utilities Commission in fiscal years 1996 and beyond. 92742

DISTANCE LEARNING 92743

The foregoing appropriation item 935-634, Distance Learning, 92744
shall be distributed by eTech Ohio on a grant basis to eligible 92745
school districts to establish "distance learning" in the school 92746
district. Per the agreement with Ameritech, school districts are 92747
eligible for funds if they are within an Ameritech service area. 92748
Funds to administer the program shall be expended by eTech Ohio up 92749
to the amount specified in the agreement with Ameritech. 92750

Within thirty days after the effective date of this section, 92751
the Director of Budget and Management shall transfer to fund 4X1 92752
in the State Special Revenue Fund Group any investment earnings 92753
from moneys paid by any telephone company as part of a settlement 92754
agreement between the company and the Public Utilities Commission 92755
in fiscal year 1995. 92756

| | | | | |
|---|----|------------|---------------|-------|
| GATES FOUNDATION GRANTS | | | | 92757 |
| The foregoing appropriation item 935-607, Gates Foundation | | | | 92758 |
| Grants, shall be used by eTech Ohio to provide professional | | | | 92759 |
| development to school district principals, superintendents, and | | | | 92760 |
| other administrative staff for the use of education technology. | | | | 92761 |
| Section 206.33. ETH OHIO ETHICS COMMISSION | | | | 92762 |
| General Revenue Fund | | | | 92763 |
| GRF 146-321 Operating Expenses | \$ | 1,536,213 | \$ 1,536,213 | 92764 |
| TOTAL GRF General Revenue Fund | \$ | 1,536,213 | \$ 1,536,213 | 92765 |
| General Services Fund Group | | | | 92766 |
| 4M6 146-601 Operating Expenses | \$ | 502,543 | \$ 432,543 | 92767 |
| TOTAL GSF General Services | | | | 92768 |
| Fund Group | \$ | 502,543 | \$ 432,543 | 92769 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 2,038,756 | \$ 1,968,756 | 92770 |
| Section 206.36. EXP OHIO EXPOSITIONS COMMISSION | | | | 92772 |
| General Revenue Fund | | | | 92773 |
| GRF 723-403 Junior Fair Subsidy | \$ | 400,000 | \$ 400,000 | 92774 |
| TOTAL GRF General Revenue Fund | \$ | 400,000 | \$ 400,000 | 92775 |
| State Special Revenue Fund Group | | | | 92776 |
| 4N2 723-602 Ohio State Fair | \$ | 520,000 | \$ 520,000 | 92777 |
| Harness Racing | | | | |
| 506 723-601 Operating Expenses | \$ | 13,643,315 | \$ 13,643,315 | 92778 |
| TOTAL SSR State Special Revenue | | | | 92779 |
| Fund Group | \$ | 14,163,315 | \$ 14,163,315 | 92780 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 14,563,315 | \$ 14,563,315 | 92781 |
| Section 206.39. GOV OFFICE OF THE GOVERNOR | | | | 92783 |
| General Revenue Fund | | | | 92784 |
| GRF 040-321 Operating Expenses | \$ | 3,981,582 | \$ 3,981,582 | 92785 |

| | | | | | |
|--|----|-----------|----|-----------|-------|
| GRF 040-403 Federal Relations | \$ | 422,760 | \$ | 422,760 | 92786 |
| GRF 040-408 Office of Veterans' Affairs | \$ | 292,923 | \$ | 267,923 | 92787 |
| TOTAL GRF General Revenue Fund | \$ | 4,697,265 | \$ | 4,672,265 | 92788 |
| General Services Fund Group | | | | | 92789 |
| 5AK 040-607 Federal Relations | \$ | 354,514 | \$ | 354,514 | 92790 |
| TOTAL GSF General Services Fund Group | \$ | 354,514 | \$ | 354,514 | 92791 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 5,051,779 | \$ | 5,026,779 | 92792 |
| APPOINTMENT OF LEGAL COUNSEL FOR THE GOVERNOR | | | | | 92793 |
| The Governor may expend a portion of the foregoing | | | | | 92794 |
| appropriation item 040-321, Operating Expenses, to hire or appoint | | | | | 92795 |
| legal counsel to be used in proceedings involving the Governor in | | | | | 92796 |
| the Governor's official capacity or the Governor's office only, | | | | | 92797 |
| without the approval of the Attorney General, notwithstanding | | | | | 92798 |
| sections 109.02 and 109.07 of the Revised Code. | | | | | 92799 |
| OHIO VETERANS' HALL OF FAME | | | | | 92800 |
| Of the foregoing appropriation item 040-408, Office of | | | | | 92801 |
| Veterans' Affairs, \$25,000 shall be used in fiscal year 2006 to | | | | | 92802 |
| fund Ohio Veterans' Hall of Fame expenses. | | | | | 92803 |
| FEDERAL RELATIONS | | | | | 92804 |
| A portion of the foregoing appropriation items 040-403, | | | | | 92805 |
| Federal Relations, and 040-607, Federal Relations, may be used to | | | | | 92806 |
| support Ohio's membership in national or regional associations. | | | | | 92807 |
| The Office of the Governor may charge any state agency of the | | | | | 92808 |
| executive branch using an intrastate transfer voucher such amounts | | | | | 92809 |
| necessary to defray the costs incurred for the conduct of federal | | | | | 92810 |
| relations associated with issues that can be attributed to the | | | | | 92811 |
| agency. Amounts collected shall be deposited to the Office of the | | | | | 92812 |
| Governor Federal Relations Fund (Fund 5AK). | | | | | 92813 |

| | | | | |
|---|--|---------------|---------------|-------|
| Section 206.42. DOH DEPARTMENT OF HEALTH | | | | 92814 |
| General Revenue Fund | | | | 92815 |
| GRF 440-407 | Animal Borne Disease and Prevention | \$ 2,452,101 | \$ 2,452,101 | 92816 |
| GRF 440-412 | Cancer Incidence Surveillance System | \$ 1,002,619 | \$ 1,002,619 | 92817 |
| GRF 440-413 | Local Health Department Support | \$ 3,786,794 | \$ 3,786,794 | 92818 |
| GRF 440-416 | Child and Family Health Services | \$ 9,682,874 | \$ 9,582,874 | 92819 |
| GRF 440-418 | Immunizations | \$ 8,600,615 | \$ 9,400,615 | 92820 |
| GRF 440-431 | Free Clinic Liability Insurance | \$ 275,000 | \$ 325,000 | 92821 |
| GRF 440-444 | AIDS Prevention and Treatment | \$ 7,158,127 | \$ 7,158,127 | 92822 |
| GRF 440-446 | Infectious Disease Prevention | \$ 200,000 | \$ 200,000 | 92823 |
| GRF 440-451 | Lab and Public Health Prevention Programs | \$ 6,085,250 | \$ 6,085,250 | 92824 |
| GRF 440-452 | Child and Family Health Services Match | \$ 1,024,017 | \$ 1,024,017 | 92825 |
| GRF 440-453 | Health Care Quality Assurance | \$ 10,253,728 | \$ 10,253,728 | 92826 |
| GRF 440-454 | Local Environmental Health | \$ 889,752 | \$ 889,752 | 92827 |
| GRF 440-459 | Help Me Grow | \$ 9,323,797 | \$ 9,323,797 | 92828 |
| GRF 440-461 | Center for Vital and Health Stats | \$ 3,629,535 | \$ 3,629,535 | 92829 |
| GRF 440-505 | Medically Handicapped Children | \$ 9,591,784 | \$ 8,791,784 | 92830 |
| GRF 440-507 | Targeted Health Care Services Over 21 | \$ 1,631,023 | \$ 1,631,023 | 92831 |

| | | | | | |
|------------------------------------|----|-------------|----|-------------|-------|
| TOTAL GRF General Revenue Fund | \$ | 75,587,016 | \$ | 75,537,016 | 92832 |
| General Services Fund Group | | | | | 92833 |
| 142 440-618 Agency Health Services | \$ | 2,461,915 | \$ | 2,561,915 | 92834 |
| 211 440-613 Central Support | \$ | 26,584,707 | \$ | 26,584,707 | 92835 |
| Indirect Costs | | | | | |
| 473 440-622 Lab Operating Expenses | \$ | 4,154,045 | \$ | 4,154,045 | 92836 |
| 683 440-633 Employee Assistance | \$ | 1,208,214 | \$ | 1,208,214 | 92837 |
| Program | | | | | |
| 698 440-634 Nurse Aide Training | \$ | 170,000 | \$ | 170,000 | 92838 |
| TOTAL GSF General Services | | | | | 92839 |
| Fund Group | \$ | 34,578,881 | \$ | 34,678,881 | 92840 |
| Federal Special Revenue Fund Group | | | | | 92841 |
| 320 440-601 Maternal Child Health | \$ | 28,779,322 | \$ | 29,025,635 | 92842 |
| Block Grant | | | | | |
| 387 440-602 Preventive Health | \$ | 7,755,005 | \$ | 7,826,659 | 92843 |
| Block Grant | | | | | |
| 389 440-604 Women, Infants, and | \$ | 219,920,083 | \$ | 230,077,451 | 92844 |
| Children | | | | | |
| 391 440-606 Medicaid/Medicare | \$ | 24,211,198 | \$ | 24,850,959 | 92845 |
| 392 440-618 Federal Public Health | \$ | 126,678,202 | \$ | 127,677,458 | 92846 |
| Programs | | | | | |
| TOTAL FED Federal Special Revenue | | | | | 92847 |
| Fund Group | \$ | 407,343,810 | \$ | 419,458,162 | 92848 |
| State Special Revenue Fund Group | | | | | 92849 |
| 4D6 440-608 Genetics Services | \$ | 2,617,000 | \$ | 2,617,000 | 92850 |
| 4F9 440-610 Sickle Cell Disease | \$ | 1,035,344 | \$ | 1,035,344 | 92851 |
| Control | | | | | |
| 4G0 440-636 Heirloom Birth | \$ | 5,000 | \$ | 5,000 | 92852 |
| Certificate | | | | | |
| 4G0 440-637 Birth Certificate | \$ | 5,000 | \$ | 5,000 | 92853 |
| Surcharge | | | | | |
| 4L3 440-609 Non-Governmental | \$ | 144,119 | \$ | 144,119 | 92854 |

| | | | | | |
|---|---------|---|----------------|----------------|-------|
| Grants and Awards | | | | | |
| 4T4 | 440-603 | Child Highway Safety | \$ 233,894 | \$ 233,894 | 92855 |
| 4V6 | 440-641 | Save Our Sight | \$ 1,767,994 | \$ 1,767,994 | 92856 |
| 470 | 440-618 | Fee Supported Programs | \$ 16,025,194 | \$ 16,025,194 | 92857 |
| 471 | 440-619 | Certificate of Need | \$ 581,572 | \$ 594,572 | 92858 |
| 477 | 440-627 | Medically Handicapped | \$ 3,800,000 | \$ 3,693,016 | 92859 |
| Children Audit | | | | | |
| 5BL | 440-638 | Healthy Ohioans | \$ 5,000,000 | \$ 0 | 92860 |
| 5B5 | 440-616 | Quality, Monitoring, and Inspection | \$ 838,479 | \$ 838,479 | 92861 |
| 5CB | 440-640 | Poison Control Centers | \$ 200,000 | \$ 200,000 | 92862 |
| 5C0 | 440-615 | Alcohol Testing and Permit | \$ 1,455,405 | \$ 1,455,405 | 92863 |
| 5D6 | 440-620 | Second Chance Trust | \$ 1,054,951 | \$ 1,054,951 | 92864 |
| 5G4 | 440-639 | Adoption Services | \$ 20,000 | \$ 20,000 | 92865 |
| 5L1 | 440-623 | Nursing Facility | \$ 617,517 | \$ 617,517 | 92866 |
| Technical Assistance Program | | | | | |
| 610 | 440-626 | Radiation Emergency Response | \$ 850,000 | \$ 850,000 | 92867 |
| 666 | 440-607 | Medically Handicapped Children - County Assessments | \$ 14,320,687 | \$ 14,320,687 | 92868 |
| TOTAL SSR State Special Revenue | | | | | 92869 |
| Fund Group | | | \$ 50,572,156 | \$ 45,478,172 | 92870 |
| Holding Account Redistribution Fund Group | | | | | 92871 |
| R14 | 440-631 | Vital Statistics | \$ 70,000 | \$ 70,000 | 92872 |
| R48 | 440-625 | Refunds, Grants Reconciliation, and Audit Settlements | \$ 20,000 | \$ 20,000 | 92873 |
| TOTAL 090 Holding Account | | | | | 92874 |
| Redistribution Fund Group | | | \$ 90,000 | \$ 90,000 | 92875 |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ 568,171,863 | \$ 575,242,231 | 92876 |

Section 206.42.03. CHILD AND FAMILY HEALTH SERVICES 92878

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$1,700,000 in each fiscal year shall be used for women's health services. 92879
92880
92881

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$270,000 shall be used in each fiscal year for the OPTIONS dental care access program. 92882
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Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$900,000 in each fiscal year shall be used by federally qualified health centers and federally designated look-alikes to provide services to uninsured low-income persons. 92885
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Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$500,000 in each fiscal year shall be used for abstinence-only education. The Director of Health shall develop guidelines for the establishment of abstinence programs for teenagers with the purpose of decreasing unplanned pregnancies and abortion. The guidelines shall be developed pursuant to Title V of the "Social Security Act," 42 U.S.C. 510, and shall include, but are not limited to, advertising campaigns and direct training in schools and other locations. 92890
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Of the foregoing appropriation item 440-416, Child and Family Health Services, \$10,000 in each fiscal year shall be allocated to the Jewish Family Services in Cleveland, \$10,000 in each fiscal year shall be allocated to the Jewish Family Services in Cincinnati, \$10,000 shall be allocated in each fiscal year to the Jewish Family Services in Columbus, and \$10,000 in each fiscal year shall be allocated to the Wexner Heritage Village in Columbus for interpreters for health care. 92899
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Of the foregoing appropriation item 440-416, Child and Family 92907

Health Services, \$10,000 in each fiscal year shall be provided to 92908
the Jewish Family Services in Dayton, \$5,000 in each fiscal year 92909
shall be provided to the Jewish Community Center in Akron, \$5,000 92910
in each fiscal year shall be provided to the Jewish Community 92911
Center in Sylvania, \$2,500 in each fiscal year shall be provided 92912
to the Jewish Community Center in Youngstown, and \$2,500 in each 92913
fiscal year shall be provided to the Jewish Community Center in 92914
Canton. 92915

Of the foregoing appropriation item 440-416, Child and Family 92916
Health Services, \$450,000 in each fiscal year shall be allocated 92917
to the Visiting Nurse Association. 92918

Of the foregoing appropriation item 440-416, Child and Family 92919
Health Services, \$16,667 in each fiscal year shall be allocated to 92920
the Yassenoff Jewish Community Center, \$16,667 in each fiscal year 92921
shall be allocated to the Jewish Community Center in Cincinnati, 92922
and \$16,666 in each fiscal year shall be allocated to the Jewish 92923
Community Center in Cleveland for children's health and nutrition 92924
camp programs. 92925

Of the foregoing appropriation item 440-416, Child and Family 92926
Health Services, \$25,000 in each fiscal year shall be allocated to 92927
Clermont County's Comprehensive Community Suicide Prevention 92928
Program. 92929

Of the foregoing appropriation item 440-416, Child and Family 92930
Health Services, \$100,000 in fiscal year 2006 shall be allocated 92931
to People Working Cooperatively in Cincinnati. 92932

Of the foregoing appropriation item 440-416, Child and Family 92933
Health Services, \$50,000 in each fiscal year shall be allocated to 92934
the Mayerson Inclusion Project. 92935

Section 206.42.06. WOMEN'S HEALTH SERVICES 92936

None of the funds received through grants for women's health 92937

services under this section from the foregoing appropriation item 92938
440-416, Child and Family Health Services, shall be used to 92939
provide abortion services. None of the funds received through 92940
these grants shall be used for counseling for or referrals for 92941
abortion, except in the case of a medical emergency. These funds 92942
shall be distributed by the Director of Health to programs that 92943
the Department of Health determines will provide services that are 92944
physically and financially separate from abortion-providing and 92945
abortion-promoting activities, and that do not include counseling 92946
for or referrals for abortion, other than in the case of medical 92947
emergency. 92948

These women's health services include and are limited to the 92949
following: pelvic examinations and laboratory testing; breast 92950
examinations and patient education on breast cancer; screening for 92951
cervical cancer; screening and treatment for Sexually Transmitted 92952
Diseases (STDs) and HIV screening; voluntary choice of 92953
contraception, including abstinence and natural family planning; 92954
patient education and pre-pregnancy counseling on the dangers of 92955
smoking, alcohol, and drug use during pregnancy; education on 92956
sexual coercion and violence in relationships; and prenatal care 92957
or referral for prenatal care. These health care services shall be 92958
provided by licensed doctors, licensed nurses, licensed medical 92959
assistants, licensed counselors, and licensed social workers in a 92960
medical clinic setting. 92961

The Director of Health shall adopt rules under Chapter 119. 92962
of the Revised Code specifying reasonable eligibility standards 92963
that must be met to receive the state funding and provide 92964
reasonable methods by which a grantee wishing to be eligible for 92965
federal funding may comply with these requirements for state 92966
funding without losing its eligibility for federal funding. 92967

Each applicant for these funds shall provide sufficient 92968
assurance to the Director of Health of all of the following: 92969

(A) The program shall not discriminate in the provision of 92970
services based on an individual's religion, race, national origin, 92971
handicapping condition, age, sex, number of pregnancies, or 92972
marital status; 92973

(B) The program shall provide services without subjecting 92974
individuals to any coercion to accept services or to employ any 92975
particular methods of family planning; 92976

(C) Acceptance of services shall be solely on a voluntary 92977
basis and may not be made a prerequisite to eligibility for, or 92978
receipt of, any other service, assistance from, or participation 92979
in, any other program of the service provider; 92980

(D) The costs for services provided by the program, if any 92981
are charged, shall be based on the patient's ability to pay and 92982
priority in the provision of services shall be given to persons 92983
from low-income families. 92984

In distributing these grant funds, the Director of Health 92985
shall give priority to grant requests from local departments of 92986
health for women's health services to be provided directly by 92987
personnel of the local department of health. The Director of 92988
Health shall issue a single request for proposals for all grants 92989
under this set-aside. The Director of Health shall send a 92990
notification of this request for proposals to every local 92991
department of health in this state and shall place a notification 92992
on the department's web site. The Director shall allow at least 30 92993
days after issuing this notification before closing the period to 92994
receive applications. 92995

After the closing date for receiving grant applications, the 92996
Director of Health shall first consider grant applications from 92997
local departments of health that apply for grants for women's 92998
health services to be provided directly by personnel of the local 92999
department of health. Local departments of health that apply for 93000

grants for women's health services to be provided directly by 93001
personnel of the local department of health need not provide all 93002
the listed women's health services in order to qualify for a 93003
grant. However, in prioritizing awards among local departments of 93004
health that qualify for funding under this paragraph, the Director 93005
of Health may consider, among other reasonable factors, the 93006
comprehensiveness of the women's health services to be offered, 93007
provided that no local department of health shall be discriminated 93008
against in the process of awarding these grant funds because the 93009
applicant does not provide contraception. 93010

If funds remain after awarding grants to all local 93011
departments of health that qualify for the priority, the Director 93012
of Health may make grants to other applicants. Awards to other 93013
applicants may be made to those applicants that will offer all 93014
eight of the listed women's health services or that will offer all 93015
of the services except contraception. No applicant shall be 93016
discriminated against in the process of awarding these grant funds 93017
because the applicant does not provide contraception. 93018

Section 206.42.09. IMMUNIZATIONS 93019

Of the foregoing appropriation item 440-418, Immunizations, 93020
\$800,000 in fiscal year 2007 shall be used for the purchase of 93021
varicella vaccines. 93022

FREE CLINIC LIABILITY INSURANCE 93023

Of the foregoing appropriation item 440-431, Free Clinic 93024
Liability Insurance, up to \$20,000 in each fiscal year may be used 93025
by the Department of Health for administrative expenses related to 93026
the Medical Liability Insurance Reimbursement Program. The 93027
remainder in each fiscal year shall be used to pay for medical 93028
liability insurance for free clinics, including the clinics' staff 93029
and volunteer health care professionals and volunteer health care 93030
workers. The necessity and feasibility of the program shall be 93031

| | |
|---|-------|
| reviewed as part of the next biennial budget. | 93032 |
| HIV/AIDS PREVENTION/TREATMENT | 93033 |
| Of the foregoing appropriation item 440-444, AIDS Prevention | 93034 |
| and Treatment, not more than \$6.7 million per fiscal year shall be | 93035 |
| used to assist persons with HIV/AIDS in acquiring HIV-related | 93036 |
| medications. | 93037 |
| INFECTIOUS DISEASE PREVENTION | 93038 |
| The foregoing appropriation item 440-446, Infectious Disease | 93039 |
| Prevention, shall be used for the purchase of drugs for sexually | 93040 |
| transmitted diseases. | 93041 |
| HELP ME GROW | 93042 |
| The foregoing appropriation item 440-459, Help Me Grow, shall | 93043 |
| be used by the Department of Health to distribute subsidies to | 93044 |
| counties to implement the Help Me Grow Program. Appropriation item | 93045 |
| 440-459, Help Me Grow, may be used in conjunction with Temporary | 93046 |
| Assistance for Needy Families from the Department of Job and | 93047 |
| Family Services, Early Intervention funding from the Department of | 93048 |
| Mental Retardation and Developmental Disabilities, and in | 93049 |
| conjunction with other early childhood funds and services to | 93050 |
| promote the optimal development of young children. Local contracts | 93051 |
| shall be developed between local departments of job and family | 93052 |
| services and family and children first councils for the | 93053 |
| administration of TANF funding for the Help Me Grow Program. The | 93054 |
| Department of Health shall enter into an interagency agreement | 93055 |
| with the Department of Education, Department of Mental Retardation | 93056 |
| and Developmental Disabilities, Department of Job and Family | 93057 |
| Services, and Department of Mental Health to ensure that all early | 93058 |
| childhood programs and initiatives are coordinated and school | 93059 |
| linked. | 93060 |
| TARGETED HEALTH CARE SERVICES OVER 21 | 93061 |

In each fiscal year, of the foregoing appropriation item 93062
440-507, Targeted Health Care Services Over 21, \$731,023 shall be 93063
used to administer the cystic fibrosis program and implement the 93064
Hemophilia Insurance Premium Payment Program. 93065

Of the foregoing appropriation item 440-507, Targeted Health 93066
Care Services Over 21, \$900,000 in each fiscal year shall be used 93067
to provide essential medications for the cystic fibrosis program. 93068

MATERNAL CHILD HEALTH BLOCK GRANT 93069

Of the foregoing appropriation item 440-601, Maternal Child 93070
Health Block Grant (Fund 320), \$2,091,299 shall be used in each 93071
fiscal year for the purposes of abstinence-only education. The 93072
Director of Health shall develop guidelines for the establishment 93073
of abstinence programs for teenagers with the purpose of 93074
decreasing unplanned pregnancies and abortion. The guidelines 93075
shall be developed under Title V of the "Social Security Act," 42 93076
U.S.C. 510, and shall include, but are not limited to, advertising 93077
campaigns and direct training in schools and other locations. 93078

GENETICS SERVICES 93079

The foregoing appropriation item 440-608, Genetics Services 93080
(Fund 4D6), shall be used by the Department of Health to 93081
administer programs authorized by sections 3701.501 and 3701.502 93082
of the Revised Code. None of these funds shall be used to counsel 93083
or refer for abortion, except in the case of a medical emergency. 93084

SAFETY AND QUALITY OF CARE STANDARDS 93085

The Department of Health may use Fund 471, Certificate of 93086
Need, for administering sections 3702.11 to 3702.20 and 3702.30 of 93087
the Revised Code in each fiscal year. 93088

MEDICALLY HANDICAPPED CHILDREN AUDIT 93089

The Medically Handicapped Children Audit Fund (Fund 477) 93090
shall receive revenue from audits of hospitals and recoveries from 93091

third-party payers. Moneys may be expended for payment of audit 93092
settlements and for costs directly related to obtaining recoveries 93093
from third-party payers and for encouraging Medically Handicapped 93094
Children's Program recipients to apply for third-party benefits. 93095
Moneys also may be expended for payments for diagnostic and 93096
treatment services on behalf of medically handicapped children, as 93097
defined in division (A) of section 3701.022 of the Revised Code, 93098
and Ohio residents who are twenty-one or more years of age and who 93099
are suffering from cystic fibrosis or hemophilia. Moneys may also 93100
be expended for administrative expenses incurred in operating the 93101
Medically Handicapped Children's Program. 93102

CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND 93103
PERMIT FUND 93104

The Director of Budget and Management, pursuant to a plan 93105
submitted by the Department of Health, or as otherwise determined 93106
by the Director of Budget and Management, shall set a schedule to 93107
transfer cash from the Liquor Control Fund (Fund 043) to the 93108
Alcohol Testing and Permit Fund (Fund 5C0) to meet the operating 93109
needs of the Alcohol Testing and Permit program. 93110

The Director of Budget and Management shall transfer to the 93111
Alcohol Testing and Permit Fund (Fund 5C0) from the Liquor Control 93112
Fund (Fund 043) created in section 4301.12 of the Revised Code 93113
such amounts at such times as determined by the transfer schedule. 93114

MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS 93115

The foregoing appropriation item 440-607, Medically 93116
Handicapped Children - County Assessments (Fund 666), shall be 93117
used to make payments under division (E) of section 3701.023 of 93118
the Revised Code. 93119

Section 206.42.12. MEDICALLY HANDICAPPED CHILDREN - FUTURE 93120
FUNDING 93121

(A) There is hereby created the Legislative Committee on the 93122
Future Funding of the Bureau for Children with Medical Handicaps. 93123
The Speaker of the House of Representatives shall appoint three 93124
members of the House of Representatives, not more than two of whom 93125
shall belong to the same political party as the Speaker. The 93126
President of the Senate shall appoint three members of the Senate, 93127
not more than two of whom shall belong to the same political party 93128
as the President. The Speaker of the House of Representatives and 93129
the President of the Senate shall each appoint three members of 93130
the general public who each suffer from a different disease or 93131
disorder covered by the Program for Medically Handicapped Children 93132
(otherwise known as the Bureau for Children with Medical 93133
Handicaps) in the Ohio Department of Health, or family members of 93134
such individuals. The following also shall serve on the Committee: 93135

(1) The Director of Health, or the Director's designee; 93136

(2) The Superintendent of Insurance, or the Superintendent's 93137
designee; 93138

(3) The Director of Job and Family Services, or the 93139
Director's designee; 93140

(4) One person designated by the County Commissioners 93141
Association of Ohio; 93142

(5) One person designated by the Ohio Children's Hospital 93143
Association; 93144

(6) One person designated by the Ohio Association of Health 93145
Plans; 93146

(7) One person designated by the American Academy of 93147
Pediatrics; 93148

(8) One person designated by the Ohio hospital association; 93149

(9) One person designated by the Ohio association of health 93150
commissioners; 93151

(10) One person designated by the Ohio nurses association. 93152

Members of the Committee shall elect a chairperson. A 93153
majority of the members of the Committee constitutes a quorum for 93154
the conduct of Committee meetings. 93155

(B) Members of the Committee shall receive no compensation. 93156

(C) The Committee shall do all of the following: 93157

(1) Examine the current status of the Program and recommend 93158
best practices to be used in assisting working parents who have 93159
children with special health needs; 93160

(2) Review all existing statutes and rules in Ohio pertaining 93161
to the Program; 93162

(3) Review payment strategies in other states that facilitate 93163
adequate care for children with chronic conditions and support 93164
their families; 93165

(4) Review all funding sources for the Program, including 93166
funding received from county levies, the General Revenue Fund and 93167
other state-based sources, and the Maternal and Child Health Block 93168
Grant of Title V of the "Social Security Act," 40 Stat. 620 93169
(1935), 42 U.S.C. 301; 93170

(5) Request testimony from parents of children with special 93171
health needs and the children themselves and from health care 93172
professionals and other individuals who provide services to Bureau 93173
patients; 93174

(D) Not later than December 31, 2006, the Committee shall 93175
make recommendations and submit a report to the Governor, the 93176
President and Minority Leader of the Senate, and the Speaker and 93177
Minority Leader of the House of Representatives. The report shall 93178
include an analysis of the current system of services covered by 93179
the Program and may include determinations and recommendations 93180
regarding how the state can best address the current and future 93181

needs of patients served by the Program. On submission of the 93182
report, the Committee shall cease to exist. 93183

Section 206.42.13. REVISION OF RULES GOVERNING PROGRAM FOR 93184
MEDICALLY HANDICAPPED CHILDREN 93185

Not later than December 1, 2005, the Public Health Council 93186
shall revise rule 3701-43-16 of the Administrative Code regarding 93187
financial eligibility for payment for treatment under the Program 93188
for Medically Handicapped Children. As part of the revision, the 93189
Public Health Council shall return the financial eligibility 93190
levels for fiscal years 2006 and 2007 to the levels in effect 93191
prior to October 13, 2003. 93192

Beginning July 1, 2005, the Department of Health shall 93193
contact all persons who lost eligibility for the Program for 93194
Medically Handicapped Children or their parents or guardians to 93195
inform them of revisions made to the Program's eligibility rules. 93196

Section 206.42.16. NURSING FACILITY TECHNICAL ASSISTANCE 93197
PROGRAM 93198

The Director of Budget and Management shall transfer, by 93199
intrastate transfer voucher, each fiscal year, cash from Fund 4E3, 93200
Resident Protection Fund, in the Ohio Department of Job and Family 93201
Services, to Fund 5L1, Nursing Facility Technical Assistance 93202
Program Fund, in the Ohio Department of Health, to be used under 93203
section 3721.026 of the Revised Code. The transfers shall equal 93204
\$183,843 in fiscal year 2006 and \$617,517 in fiscal year 2007. 93205

Section 206.42.19. TRANSFER FROM STATE FIRE MARSHAL'S FUND 93206
(FUND 546) TO THE POISON CONTROL FUND (FUND 5CB) IN THE DEPARTMENT 93207
OF HEALTH 93208

Notwithstanding section 3737.71 of the Revised Code, on July 93209
1, 2005, or as soon as possible thereafter, the Director of Budget 93210

and Management shall transfer \$200,000 cash from the State Fire 93211
Marshal's Fund (Fund 546) in the Department of Commerce to the 93212
Poison Control Fund (Fund 5CB) in the Department of Health, which 93213
is hereby created. Notwithstanding section 3737.71 of the Revised 93214
Code, on July 1, 2006, or as soon as possible thereafter, the 93215
Director of Budget and Management shall transfer \$200,000 cash 93216
from the State Fire Marshal's Fund (Fund 546) in the Department of 93217
Commerce to the Poison Control Fund (Fund 5CB) in the Department 93218
of Health. 93219

POISON CONTROL CENTERS 93220

Of the foregoing appropriation item 440-640, Poison Control 93221
Centers, in each fiscal year, the poison control centers in the 93222
municipal corporations of Cleveland, Cincinnati, and Columbus 93223
shall each receive an allocation of \$50,000, and the Greater 93224
Dayton Area Hospital Association shall also receive an allocation 93225
of \$50,000 for poison control purposes. 93226

Section 206.45. HEF HIGHER EDUCATIONAL FACILITY COMMISSION 93227

Agency Fund Group 93228

| | | | | | |
|--------------------------------|----|--------|----|--------|-------|
| 461 372-601 Operating Expenses | \$ | 16,819 | \$ | 16,819 | 93229 |
| TOTAL AGY Agency Fund Group | \$ | 16,819 | \$ | 16,819 | 93230 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 16,819 | \$ | 16,819 | 93231 |

Section 206.48. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS 93233

General Revenue Fund 93234

| | | | | | |
|--------------------------------|----|---------|----|---------|-------|
| GRF 148-100 Personal Services | \$ | 145,880 | \$ | 145,880 | 93235 |
| GRF 148-200 Maintenance | \$ | 35,901 | \$ | 35,901 | 93236 |
| TOTAL GRF General Revenue Fund | \$ | 181,781 | \$ | 181,781 | 93237 |

General Services Fund Group 93238

| | | | | | |
|-----------------------|----|--------|----|--------|-------|
| 601 148-602 Gifts and | \$ | 20,000 | \$ | 20,000 | 93239 |
|-----------------------|----|--------|----|--------|-------|

Miscellaneous

| | | | | |
|------------------------------|----|---------|------------|-------|
| TOTAL GSF General Services | | | | 93240 |
| Fund Group | \$ | 20,000 | \$ 20,000 | 93241 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 201,781 | \$ 201,781 | 93242 |

Section 206.51. OHS OHIO HISTORICAL SOCIETY 93244

| | | | | |
|----------------------------------|----|------------|---------------|-------|
| General Revenue Fund | | | | 93245 |
| GRF 360-501 Operating Subsidy | \$ | 3,288,274 | \$ 3,288,274 | 93246 |
| GRF 360-502 Site Operations | \$ | 8,388,725 | \$ 8,388,725 | 93247 |
| GRF 360-504 Ohio Preservation | \$ | 281,041 | \$ 281,041 | 93248 |
| Office | | | | |
| GRF 360-505 Afro-American Museum | \$ | 754,884 | \$ 754,884 | 93249 |
| GRF 360-506 Hayes Presidential | \$ | 509,231 | \$ 509,231 | 93250 |
| Center | | | | |
| GRF 360-508 Historical Grants | \$ | 1,097,500 | \$ 1,072,500 | 93251 |
| TOTAL GRF General Revenue Fund | \$ | 14,319,655 | \$ 14,294,655 | 93252 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 14,319,655 | \$ 14,294,655 | 93253 |

SUBSIDY APPROPRIATION 93254

Upon approval by the Director of Budget and Management, the 93255
foregoing appropriation items shall be released to the Ohio 93256
Historical Society in quarterly amounts that in total do not 93257
exceed the annual appropriations. The funds and fiscal records of 93258
the society for fiscal years 2006 and 2007 shall be examined by 93259
independent certified public accountants approved by the Auditor 93260
of State, and a copy of the audited financial statements shall be 93261
filed with the Office of Budget and Management. The society shall 93262
prepare and submit to the Office of Budget and Management the 93263
following: 93264

(A) An estimated operating budget for each fiscal year of the 93265
biennium. The operating budget shall be submitted at or near the 93266
beginning of each calendar year. 93267

(B) Financial reports, indicating actual receipts and 93268
expenditures for the fiscal year to date. These reports shall be 93269

filed at least semiannually during the fiscal biennium. 93270

The foregoing appropriations shall be considered to be the 93271
contractual consideration provided by the state to support the 93272
state's offer to contract with the Ohio Historical Society under 93273
section 149.30 of the Revised Code. 93274

HAYES PRESIDENTIAL CENTER 93275

If a United States government agency, including, but not 93276
limited to, the National Park Service, chooses to take over the 93277
operations or maintenance of the Hayes Presidential Center, in 93278
whole or in part, the Ohio Historical Society shall make 93279
arrangements with the National Park Service or other United States 93280
government agency for the efficient transfer of operations or 93281
maintenance. 93282

HISTORICAL GRANTS 93283

Of the foregoing appropriation item 360-508, Historical 93284
Grants, \$250,000 in each fiscal year shall be distributed to the 93285
Western Reserve Historical Society in Cleveland. 93286

Of the foregoing appropriation item 360-508, Historical 93287
Grants, \$225,000 in each fiscal year shall be distributed to the 93288
Great Lakes Historical Society in Vermilion. 93289

Of the foregoing appropriation item 360-508, Historical 93290
Grants, \$75,000 in each fiscal year shall be distributed to the 93291
Hebrew Union College in Cincinnati for the Center for Holocaust 93292
and Humanity Education, \$100,000 in each fiscal year shall be 93293
distributed to Art Academy of Cincinnati, and \$250,000 in each 93294
fiscal year shall be distributed to the Cincinnati Museum Center. 93295

Of the foregoing appropriation item 360-508, Historical 93296
Grants, \$12,500 in each fiscal year shall be distributed to the 93297
Roseville Historical Society. 93298

Of the foregoing appropriation item 360-508, Historical 93299

Grants, \$125,000 in each fiscal year shall be distributed to the 93300
Harbor Heritage Society Steamship Mather in Cleveland. 93301

Of the foregoing appropriation item 360-508, Historical 93302
Grants, \$35,000 in each fiscal year shall be distributed to the 93303
Castle Farm project in the City of Mason. 93304

PROCESSING FEES 93305

The Ohio Historical Society shall not charge or retain an 93306
administrative, service, or processing fee for distributing money 93307
that the General Assembly appropriates to the Society for grants 93308
or subsidies that the Society provides to other entities for their 93309
site-related programs. 93310

Of the foregoing appropriation item 360-508, Historical 93311
Grants, \$25,000 in fiscal year 2006 shall be distributed to the 93312
Springboro Historical Society Heritage Triangle. 93313

Section 206.54. REP OHIO HOUSE OF REPRESENTATIVES 93314

General Revenue Fund 93315

| | | | | | |
|--------------------------------|----|------------|----|------------|-------|
| GRF 025-321 Operating Expenses | \$ | 20,169,168 | \$ | 20,370,859 | 93316 |
| TOTAL GRF General Revenue Fund | \$ | 20,169,168 | \$ | 20,370,859 | 93317 |

General Services Fund Group 93318

| | | | | | |
|---------------------------------|----|-----------|----|-----------|-------|
| 103 025-601 House Reimbursement | \$ | 1,419,469 | \$ | 1,419,469 | 93319 |
| 4A4 025-602 Miscellaneous Sales | \$ | 37,474 | \$ | 37,474 | 93320 |

TOTAL GSF General Services 93321

Fund Group \$ 1,456,943 \$ 1,456,943 93322

TOTAL ALL BUDGET FUND GROUPS \$ 21,626,111 \$ 21,827,802 93323

OPERATING EXPENSES 93324

On July 1, 2005, or as soon as possible thereafter, the Chief 93325
Administrative Officer of the House of Representatives shall 93326
certify to the Director of Budget and Management the total fiscal 93327
year 2005 unencumbered appropriations in appropriation item 93328
025-321, Operating Expenses. The Chief Administrative Officer may 93329

direct the Director of Budget and Management to transfer an amount 93330
not to exceed the total fiscal year 2005 unencumbered 93331
appropriations to fiscal year 2006 for use within appropriation 93332
item 025-321, Operating Expenses. Additional appropriation 93333
authority equal to the amount certified by the Chief 93334
Administrative Officer is hereby appropriated to appropriation 93335
item 025-321, Operating Expenses, in fiscal year 2006. 93336

On July 1, 2006, or as soon as possible thereafter, the Chief 93337
Administrative Officer of the House of Representatives shall 93338
certify to the Director of Budget and Management the total fiscal 93339
year 2006 unencumbered appropriations in appropriation item 93340
025-321, Operating Expenses. The Chief Administrative Officer may 93341
direct the Director of Budget and Management to transfer an amount 93342
not to exceed the total fiscal year 2006 unencumbered 93343
appropriations to fiscal year 2007 for use within appropriation 93344
item 025-321, Operating Expenses. Additional appropriation 93345
authority equal to the amount certified by the Chief 93346
Administrative Officer is hereby appropriated to appropriation 93347
item 025-321, Operating Expenses, in fiscal year 2007. 93348

Section 206.57. HFA OHIO HOUSING FINANCE AGENCY 93349

General Services Fund Group 93350

5AZ 997-601 Housing Finance Agency \$ 8,100,000 \$ 8,100,000 93351

Personal Services

TOTAL GSF General Services Fund \$ 8,100,000 \$ 8,100,000 93352

Group

TOTAL ALL BUDGET FUND GROUPS \$ 8,100,000 \$ 8,100,000 93353

Section 206.60. IGO OFFICE OF THE INSPECTOR GENERAL 93355

General Revenue Fund 93356

GRF 965-321 Operating Expenses \$ 1,700,868 \$ 979,085 93357

TOTAL GRF General Revenue Fund \$ 1,700,868 \$ 979,085 93358

| | | | | |
|---|----|------------|---------------|-------|
| General Services Fund Group | | | | 93359 |
| 4Z3 965-602 Special Investigations | \$ | 100,000 | \$ 100,000 | 93360 |
| TOTAL GSF General Services Fund | \$ | 100,000 | \$ 100,000 | 93361 |
| Group | | | | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 1,800,868 | \$ 1,079,085 | 93362 |
| BUREAU OF WORKERS' COMPENSATION FIDUCIARY REVIEW | | | | 93363 |
| Of the foregoing appropriation item 965-321, Operating | | | | 93364 |
| Expenses, up to \$750,000 in fiscal year 2006 shall be used to | | | | 93365 |
| contract with an independent firm to conduct a fiduciary review of | | | | 93366 |
| assets invested pursuant to the Administrator of Workers' | | | | 93367 |
| Compensation's authority under Chapters 4121., 4123., 4127., and | | | | 93368 |
| 4131. of the Revised Code. | | | | 93369 |
| SPECIAL INVESTIGATIONS | | | | 93370 |
| Of the foregoing appropriation item 965-602, Special | | | | 93371 |
| Investigations, up to \$100,000 in each fiscal year may be used for | | | | 93372 |
| investigative costs, pursuant to section 121.481 of the Revised | | | | 93373 |
| Code. | | | | 93374 |
| Section 206.63. INS DEPARTMENT OF INSURANCE | | | | 93375 |
| Federal Special Revenue Fund Group | | | | 93376 |
| 3U5 820-602 OSHIIP Operating Grant | \$ | 1,080,000 | \$ 1,080,000 | 93377 |
| 3AV 820-604 Federal Grant - | \$ | 55,000 | \$ 0 | 93378 |
| Special Project | | | | |
| TOTAL FED Federal Special | | | | 93379 |
| Revenue Fund Group | \$ | 1,135,000 | \$ 1,080,000 | 93380 |
| State Special Revenue Fund Group | | | | 93381 |
| 554 820-601 Operating Expenses - | \$ | 564,754 | \$ 571,772 | 93382 |
| OSHIIP | | | | |
| 554 820-606 Operating Expenses | \$ | 22,654,232 | \$ 22,832,214 | 93383 |
| 555 820-605 Examination | \$ | 7,639,581 | \$ 7,639,581 | 93384 |
| TOTAL SSR State Special Revenue | | | | 93385 |

| | | | | | |
|------------------------------|----|------------|----|------------|-------|
| Fund Group | \$ | 30,858,567 | \$ | 31,043,567 | 93386 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 31,993,567 | \$ | 32,123,567 | 93387 |

MARKET CONDUCT EXAMINATION 93388

When conducting a market conduct examination of any insurer 93389
doing business in this state, the Superintendent of Insurance may 93390
assess the costs of the examination against the insurer. The 93391
superintendent may enter into consent agreements to impose 93392
administrative assessments or fines for conduct discovered that 93393
may be violations of statutes or rules administered by the 93394
superintendent. All costs, assessments, or fines collected shall 93395
be deposited to the credit of the Department of Insurance 93396
Operating Fund (Fund 554). 93397

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES 93398

The Director of Budget and Management, at the request of the 93399
Superintendent of Insurance, may transfer funds from the 93400
Department of Insurance Operating Fund (Fund 554), created by 93401
section 3901.021 of the Revised Code, to the Superintendent's 93402
Examination Fund (Fund 555), created by section 3901.071 of the 93403
Revised Code, only for expenses incurred in examining domestic 93404
fraternal benefit societies as required by section 3921.28 of the 93405
Revised Code. 93406

Section 206.66. JFS DEPARTMENT OF JOB AND FAMILY SERVICES 93407

General Revenue Fund 93408

GRF 600-321 Support Services 93409

State \$ 63,797,907 \$ 60,565,397 93410

Federal \$ 8,114,493 \$ 8,454,541 93411

Support Services Total \$ 71,912,400 \$ 69,019,938 93412

GRF 600-410 TANF State \$ 272,619,061 \$ 272,619,061 93413

GRF 600-413 Child Care \$ 84,120,596 \$ 84,120,596 93414

Match/Maintenance of

| | | | | | |
|-------------|------------------------|----|---------------|----|---------------|
| | Effort | | | | |
| GRF 600-416 | Computer Projects | | | | 93415 |
| | State | \$ | 114,516,710 | \$ | 117,226,021 |
| | Federal | \$ | 37,579,198 | \$ | 34,255,465 |
| | Computer Projects | \$ | 152,095,908 | \$ | 151,481,486 |
| | Total | | | | |
| GRF 600-420 | Child Support | \$ | 5,091,446 | \$ | 5,091,446 |
| | Administration | | | | |
| GRF 600-421 | Office of Family | \$ | 4,864,932 | \$ | 4,864,932 |
| | Stability | | | | |
| GRF 600-423 | Office of Children and | \$ | 5,408,020 | \$ | 5,431,690 |
| | Families | | | | |
| GRF 600-425 | Office of Ohio Health | | | | 93422 |
| | Plans | | | | |
| | State | \$ | 24,803,631 | \$ | 24,054,873 |
| | Federal | \$ | 26,539,544 | \$ | 25,810,409 |
| | Office of Ohio Health | \$ | 51,343,175 | \$ | 49,865,282 |
| | Plans Total | | | | |
| GRF 600-502 | Child Support Match | \$ | 16,814,103 | \$ | 16,814,103 |
| GRF 600-511 | Disability Financial | \$ | 22,839,371 | \$ | 22,839,371 |
| | Assistance | | | | |
| GRF 600-512 | Non-TANF Disaster | \$ | 1,000,000 | \$ | 1,000,000 |
| | Assistance | | | | |
| GRF 600-513 | Disability Medical | \$ | 19,500,000 | \$ | 25,500,000 |
| | Assistance | | | | |
| GRF 600-521 | Entitlement | \$ | 151,206,401 | \$ | 151,206,401 |
| | Administration - Local | | | | |
| GRF 600-523 | Children and Families | \$ | 69,438,543 | \$ | 69,438,543 |
| | Subsidy | | | | |
| GRF 600-525 | Health Care/Medicaid | | | | 93432 |
| | State | \$ | 3,751,848,959 | \$ | 3,795,940,675 |
| | Federal | \$ | 5,612,109,788 | \$ | 5,731,692,576 |
| | Health Care Total | \$ | 9,363,958,747 | \$ | 9,527,633,251 |

| | | | | | | |
|-------------------------|------------------------|----|----------------|----|----------------|-------|
| GRF 600-526 | Medicare Part D | \$ | 155,349,266 | \$ | 339,578,325 | 93436 |
| GRF 600-528 | Adoption Services | | | | | 93437 |
| | State | \$ | 33,698,298 | \$ | 35,516,130 | 93438 |
| | Federal | \$ | 40,331,807 | \$ | 43,022,485 | 93439 |
| | Adoption Services | \$ | 74,030,105 | \$ | 78,538,615 | 93440 |
| | Total | | | | | |
| TOTAL GRF | General Revenue Fund | | | | | 93441 |
| | State | \$ | 4,777,417,244 | \$ | 5,006,307,564 | 93442 |
| | Federal | \$ | 5,744,174,880 | \$ | 5,868,735,476 | 93443 |
| | GRF Total | \$ | 10,521,592,074 | \$ | 10,875,043,040 | 93444 |
| General Services | Fund Group | | | | | 93445 |
| 4A8 600-658 | Child Support | \$ | 26,680,794 | \$ | 26,680,794 | 93446 |
| | Collections | | | | | |
| 4R4 600-665 | BCII Services/Fees | \$ | 36,974 | \$ | 36,974 | 93447 |
| 5C9 600-671 | Medicaid Program | \$ | 73,015,021 | \$ | 63,947,536 | 93448 |
| | Support | | | | | |
| 5N1 600-677 | County Technologies | \$ | 1,000,000 | \$ | 1,000,000 | 93449 |
| 613 600-645 | Training Activities | \$ | 135,000 | \$ | 135,000 | 93450 |
| TOTAL GSF | General Services | | | | | 93451 |
| Fund Group | | \$ | 100,867,789 | \$ | 91,800,304 | 93452 |
| Federal Special Revenue | Fund Group | | | | | 93453 |
| 3AW 600-675 | Faith Based | \$ | 750,000 | \$ | 750,000 | 93454 |
| | Initiatives | | | | | |
| 3A2 600-641 | Emergency Food | \$ | 2,600,000 | \$ | 2,800,000 | 93455 |
| | Distribution | | | | | |
| 3BB 600-635 | Children's Hospitals - | \$ | 9,000,000 | \$ | 9,000,000 | 93456 |
| | Federal | | | | | |
| 3D3 600-648 | Children's Trust Fund | \$ | 2,040,524 | \$ | 2,040,524 | 93457 |
| | Federal | | | | | |
| 3F0 600-623 | Health Care Federal | \$ | 616,011,784 | \$ | 771,889,193 | 93458 |
| 3F0 600-650 | Hospital Care | \$ | 343,239,047 | \$ | 343,239,047 | 93459 |
| | Assurance Match | | | | | |

| | | | | | |
|-----------------------------------|---------|---|------------------|------------------|-------|
| 3G5 | 600-655 | Interagency Reimbursement | \$ 1,364,802,369 | \$ 1,426,954,440 | 93460 |
| 3H7 | 600-617 | Child Care Federal | \$ 208,000,000 | \$ 208,000,000 | 93461 |
| 3N0 | 600-628 | IV-E Foster Care Maintenance | \$ 153,963,142 | \$ 153,963,142 | 93462 |
| 3S5 | 600-622 | Child Support Projects | \$ 534,050 | \$ 534,050 | 93463 |
| 3V0 | 600-688 | Workforce Investment Act | \$ 208,322,037 | \$ 208,097,948 | 93464 |
| 3V4 | 600-678 | Federal Unemployment Programs | \$ 153,435,545 | \$ 157,202,750 | 93465 |
| 3V4 | 600-679 | Unemployment Compensation Review Commission - Federal | \$ 3,829,430 | \$ 3,800,573 | 93466 |
| 3V6 | 600-689 | TANF Block Grant | \$ 767,104,142 | \$ 792,483,200 | 93467 |
| 3W3 | 600-659 | TANF/Title XX Transfer | \$ 8,000,000 | \$ 5,400,000 | 93468 |
| 327 | 600-606 | Child Welfare | \$ 33,160,190 | \$ 33,090,786 | 93469 |
| 331 | 600-686 | Federal Operating | \$ 43,966,134 | \$ 44,929,546 | 93470 |
| 384 | 600-610 | Food Stamps and State Administration | \$ 188,238,706 | \$ 181,250,799 | 93471 |
| 385 | 600-614 | Refugee Services | \$ 6,083,829 | \$ 6,542,439 | 93472 |
| 395 | 600-616 | Special Activities/Child and Family Services | \$ 4,567,112 | \$ 4,564,877 | 93473 |
| 396 | 600-620 | Social Services Block Grant | \$ 120,993,012 | \$ 121,004,222 | 93474 |
| 397 | 600-626 | Child Support | \$ 287,468,576 | \$ 287,468,576 | 93475 |
| 398 | 600-627 | Adoption Maintenance/ Administration | \$ 314,639,519 | \$ 314,639,519 | 93476 |
| TOTAL FED Federal Special Revenue | | | | | 93477 |
| Fund Group | | | \$ 4,840,749,148 | \$ 5,079,645,631 | 93478 |
| State Special Revenue Fund Group | | | | | 93479 |
| 198 | 600-647 | Children's Trust Fund | \$ 6,788,522 | \$ 6,788,522 | 93480 |
| 4A9 | 600-607 | Unemployment | \$ 10,811,527 | \$ 10,811,527 | 93481 |

| | | | | | | | |
|-----|---------|-------------------------------------|----|-------------|----|-------------|-------|
| | | Compensation Administration Fund | | | | | |
| 4A9 | 600-694 | Unemployment | \$ | 3,188,473 | \$ | 3,188,473 | 93482 |
| | | Compensation Review Commission | | | | | |
| 4E3 | 600-605 | Nursing Home | \$ | 4,759,914 | \$ | 4,759,914 | 93483 |
| | | Assessments | | | | | |
| 4E7 | 600-604 | Child and Family | \$ | 1,237,500 | \$ | 300,000 | 93484 |
| | | Services Collections | | | | | |
| 4F1 | 600-609 | Foundation | \$ | 61,420 | \$ | 61,420 | 93485 |
| | | Grants/Child and Family Services | | | | | |
| 4J5 | 600-613 | Nursing Facility Bed | \$ | 34,613,984 | \$ | 34,613,984 | 93486 |
| | | Assessments | | | | | |
| 4J5 | 600-618 | Residential State | \$ | 15,700,000 | \$ | 15,700,000 | 93487 |
| | | Supplement Payments | | | | | |
| 4K1 | 600-621 | ICF/MR Bed Assessments | \$ | 20,074,255 | \$ | 20,064,131 | 93488 |
| 4R3 | 600-687 | Banking Fees | \$ | 800,000 | \$ | 800,000 | 93489 |
| 4Z1 | 600-625 | HealthCare Compliance | \$ | 10,000,000 | \$ | 10,000,000 | 93490 |
| 5AA | 600-673 | Ohio's Best Rx | \$ | 5,000,000 | \$ | 5,000,000 | 93491 |
| | | Administration | | | | | |
| 5AX | 600-697 | Public Assistance | \$ | 60,000,000 | \$ | 0 | 93492 |
| | | Reconciliation | | | | | |
| 5BE | 600-693 | Child Support | \$ | 5,000,000 | \$ | 5,000,000 | 93493 |
| | | Operating | | | | | |
| 5BG | 600-653 | Managed Care | \$ | 18,795,483 | \$ | 99,410,121 | 93494 |
| | | Assessment | | | | | |
| 5CR | 600-636 | Children's Hospitals - | \$ | 6,000,000 | \$ | 6,000,000 | 93495 |
| | | State | | | | | |
| 5F2 | 600-667 | Building Consolidation | \$ | 250,000 | \$ | 250,000 | 93496 |
| 5F3 | 600-668 | Building Consolidation | \$ | 1,000,000 | \$ | 1,000,000 | 93497 |
| 5P5 | 600-692 | Health Care Services | \$ | 828,587,776 | \$ | 538,301,761 | 93498 |
| 5Q9 | 600-619 | Supplemental Inpatient | \$ | 56,125,998 | \$ | 56,125,998 | 93499 |

| | | | | | | | |
|--|---------|------------------------|----|----------------|----|----------------|-------|
| | | Hospital Payments | | | | | |
| 5R2 | 600-608 | Medicaid-Nursing | \$ | 160,192,055 | \$ | 176,632,090 | 93500 |
| | | Facilities | | | | | |
| 5S3 | 600-629 | MR/DD Medicaid | \$ | 1,620,960 | \$ | 1,620,960 | 93501 |
| | | Administration and | | | | | |
| | | Oversight | | | | | |
| 5U3 | 600-654 | Health Care Services | \$ | 10,115,870 | \$ | 15,474,709 | 93502 |
| | | Administration | | | | | |
| 5U6 | 600-663 | Children and Family | \$ | 4,929,717 | \$ | 4,929,717 | 93503 |
| | | Support | | | | | |
| 5Z9 | 600-672 | TANF Quality Control | \$ | 647,409 | \$ | 688,421 | 93504 |
| | | Reinvestments | | | | | |
| 651 | 600-649 | Hospital Care | \$ | 231,893,404 | \$ | 231,893,404 | 93505 |
| | | Assurance Program Fund | | | | | |
| TOTAL SSR State Special Revenue | | | | | | | 93506 |
| Fund Group | | | \$ | 1,498,194,267 | \$ | 1,249,415,152 | 93507 |
| Agency Fund Group | | | | | | | 93508 |
| 192 | 600-646 | Support Intercept - | \$ | 110,000,000 | \$ | 110,000,000 | 93509 |
| | | Federal | | | | | |
| 5B6 | 600-601 | Food Stamp Intercept | \$ | 2,000,000 | \$ | 2,000,000 | 93510 |
| 583 | 600-642 | Support Intercept - | \$ | 16,000,000 | \$ | 16,000,000 | 93511 |
| | | State | | | | | |
| TOTAL AGY Agency Fund Group | | | \$ | 128,000,000 | \$ | 128,000,000 | 93512 |
| Holding Account Redistribution Fund Group | | | | | | | 93513 |
| R12 | 600-643 | Refunds and Audit | \$ | 3,600,000 | \$ | 3,600,000 | 93514 |
| | | Settlements | | | | | |
| R13 | 600-644 | Forgery Collections | \$ | 10,000 | \$ | 10,000 | 93515 |
| TOTAL 090 Holding Account | | | \$ | 3,610,000 | \$ | 3,610,000 | 93516 |
| Redistribution Fund Group | | | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 17,093,013,278 | \$ | 17,427,514,127 | 93517 |
| Section 206.66.03. APPROPRIATION ITEM RESTRUCTURING | | | | | | | 93519 |

(A) If the Directors of Job and Family Services and Budget and Management agree, the Director of Budget and Management may, in fiscal years 2006 and 2007, reduce appropriations in appropriation items 600-321, Support Services, and 600-416, Computer Projects, by amounts equal to the federal share in each appropriation item. The total amount by which these appropriation items are reduced in accordance with this division is hereby appropriated to appropriation item 600-651, Federal General Operating (Fund 3AX).

(B) The Department of Job and Family Services may submit to the Office of Budget and Management a plan to realign appropriation items 600-321, Support Services, and 600-416, Computer Projects. The plan may include a request for the Director of Budget and Management to transfer appropriations from appropriation items 600-321, Support Services, and 600-416, Computer Projects, to any other General Revenue Fund appropriation items in Section 312.03 of this act. If the plan is approved by the Office of Budget and Management, the Director of Budget and Management shall transfer appropriations as requested in the plan. Dollars spent pursuant to appropriations transferred in accordance with this division shall be for the same purposes for which the original appropriations were made.

(C) In fiscal year 2007, the Department of Job and Family Services, with the approval of the Office of Budget and Management, shall utilize a method for determining the payments from applicable appropriation items into the Support Services State Operating Fund (Fund 230). The method shall contain characteristics of administrative ease and uniform application. Payments to the Support Services State Operating Fund (Fund 230) shall be made by intrastate transfer voucher. Amounts transferred in accordance with this division are hereby appropriated to appropriation item 600-661, Support Services State Operating (Fund

230). 93552

Section 206.66.06. GOVERNOR'S OFFICE OF FAITH-BASED AND 93553
COMMUNITY INITIATIVES 93554

Of the foregoing appropriation item 600-321, Support 93555
Services, up to \$312,500 per fiscal year may be used to support 93556
the activities of the Governor's Office of Faith-Based and 93557
Community Initiatives. 93558

MEDICAID ADMINISTRATIVE STUDY COUNCIL FUNDING 93559

Of the foregoing appropriation item 600-321, Support 93560
Services, \$1,000,000 in fiscal year 2006 and \$500,000 in fiscal 93561
year 2007 shall be provided to the Medicaid Administrative Study 93562
Council to carry out the duties of the Council as specified under 93563
the section of this act entitled "MEDICAID ADMINISTRATIVE STUDY 93564
COUNCIL." 93565

Section 206.66.09. TANF OHIO WORKS FIRST CASH ASSISTANCE 93566
PAYMENTS 93567

The Department of Job and Family Services shall use a portion 93568
of the moneys appropriated for the TANF program in appropriation 93569
items 600-410, TANF State; 600-658, Child Support Collections; and 93570
600-689, TANF Block Grant, to increase the cash assistance 93571
provided to recipients of benefits under the TANF Ohio Works First 93572
program by up to 10 per cent as compared to the cash assistance 93573
provided prior to July 1, 2005. The increased TANF cash assistance 93574
benefit shall be effective October 1, 2005. 93575

Section 206.66.10. MEDICAID DATA SYSTEM 93576

The Department of Job and Family Services shall fund the cost 93577
of the assessment specified in division (A) of section 5111.915 of 93578
the Revised Code and upon receipt of federal approval and assured 93579
ninety per cent reimbursement for the project fund the development 93580

or enhancement of a data collection or data warehouse system 93581
specified in division (B) of section 5111.915 of the Revised Code. 93582

Section 206.66.12. OHIO'S BEST RX START-UP COSTS 93583

An amount equal to the remaining unencumbered balance in 93584
appropriation item 600-440, Ohio's Best Rx Start-Up Costs, from 93585
fiscal year 2005 is hereby appropriated for fiscal year 2006 into 93586
appropriation item 600-440, Ohio's Best Rx Start-Up Costs. An 93587
amount equal to the remaining unencumbered balance in 93588
appropriation item 600-440, Ohio's Best Rx Start-Up Costs, from 93589
fiscal year 2006 is hereby appropriated for fiscal year 2007 into 93590
appropriation item 600-440, Ohio's Best Rx Start-up Costs. The 93591
appropriation item 600-440, Ohio's Best Rx Start-Up Costs, shall 93592
be used by the Department of Job and Family Services to pay for 93593
the administrative and operational expenses for the Ohio's Best Rx 93594
Program in accordance with Chapter 5110. of the Revised Code, 93595
including costs associated with the duties assigned by the 93596
Department to the Ohio's Best Rx Program Administrator and for 93597
making payments to participating terminal distributors until 93598
sufficient cash exists to make payments from the accounts created 93599
in sections 5110.32 and 5110.33 of the Revised Code. Of 93600
appropriation item 600-440, Ohio's Best Rx Start-Up Costs, not 93601
more than \$750,000 per fiscal year may be used by the department 93602
for administrative and operational costs, excluding outreach, that 93603
are not associated with the Ohio's Best Rx Program Administrator 93604
or the payments to participating terminal distributors. 93605

If the Director of Job and Family Services estimates that the 93606
appropriation is insufficient to fully cover start-up costs, the 93607
Director shall, in consultation with the Director of Budget and 93608
Management, submit a letter to the Governor, President of the 93609
Senate, Speaker of the House of Representatives, and the minority 93610
leaders of the Senate and House of Representatives. The letter 93611

shall declare the additional appropriation estimated to be needed 93612
and shall show a breakdown of how the additional appropriation 93613
will be used. The Director of Job and Family Services shall obtain 93614
the approval of the Controlling Board for any supplemental 93615
appropriation, if required. The amount approved by the Controlling 93616
Board is hereby appropriated. The use of state funds for program 93617
costs as provided in this section shall in no way obligate the 93618
state to fund further program costs, as the program is a discount 93619
program, not an entitlement program. 93620

OHIO'S BEST RX ADMINISTRATION 93621

The foregoing appropriation item 600-673, Ohio's Best Rx 93622
Administration, shall be used on an ongoing basis to cover 93623
expenses associated with the Ohio's Best Rx Program defined in 93624
section 5110.33 of the Revised Code. If receipts to the fund 93625
exceed the appropriated amount, the Director of Job and Family 93626
Services may request that the Director of Budget and Management 93627
increase the appropriation of this fund. Upon approval from the 93628
Director of Budget and Management, the additional amounts are 93629
hereby appropriated. 93630

Section 206.66.21. TANF TRANSFERS 93631

(A) Notwithstanding any provision of law to the contrary, 93632
through June 30, 2007, if the Director of Budget and Management 93633
determines that the estimated ending fund balance of the General 93634
Revenue Fund will be greater than the amounts assumed in this act 93635
for either fiscal year, the director may transfer the excess 93636
balance, up to a total of \$96,000,000 to Fund 5AX, Public 93637
Assistance Reconciliation Fund, to pay the state's outstanding 93638
TANF liability to the federal government. Upon transfer, these 93639
amounts are hereby appropriated. This division does not apply to 93640
division (A) of Section 312.09, Budget Stabilization Fund 93641
Transfers, of this act. 93642

(B) In executing division (A) of this section and division 93643
(A) of Section 312.09, Budget Stabilization Fund Transfers, it is 93644
intended that these divisions be applied and construed so that 93645
both of the transfers authorized under these divisions may be made 93646
through June 30, 2007. 93647

Section 206.66.22. FISCAL YEAR 2006 MEDICAID REIMBURSEMENT 93648
SYSTEM FOR NURSING FACILITIES 93649

(A) As used in this section: 93650

"2003 cost report" means a complete and adequate Medicaid 93651
cost report covering calendar year 2003 filed with the Department 93652
of Job and Family Services under section 5111.26 of the Revised 93653
Code. 93654

"Change of operator," "entering operator," and "exiting 93655
operator" have the same meanings as in section 5111.65 of the 93656
Revised Code. 93657

"Franchise permit fee" means the fee imposed by sections 93658
3721.50 to 3721.58 of the Revised Code. 93659

"Nursing facility" and "provider" have the same meaning as in 93660
section 5111.20 of the Revised Code. 93661

"Nursing facility services" means nursing facility services 93662
covered by the Medicaid program that a nursing facility provides 93663
to a resident of the nursing facility who is a Medicaid recipient 93664
eligible for Medicaid-covered nursing facility services. 93665

"Reviewable activity" has the same meaning as in section 93666
3702.51 of the Revised Code. 93667

(B) Except as otherwise provided in this section, the 93668
provider of a nursing facility that has a valid Medicaid provider 93669
agreement on June 30, 2005, and a valid Medicaid provider 93670
agreement for fiscal year 2006 shall be paid, for nursing facility 93671
services the nursing facility provides during fiscal year 2006, 93672

the sum of the following: 93673

(1) The rate the provider is paid for nursing facility 93674
services the nursing facility provides on June 30, 2005; 93675

(2) Unless the nursing facility is exempt from paying the 93676
franchise permit fee, one dollar and ninety-five cents. 93677

(C) If a nursing facility undergoes a change of operator on 93678
July 1, 2005, the entering operator shall be paid, for nursing 93679
facility services the nursing facility provides during fiscal year 93680
2006, the rate paid to the exiting operator for nursing facility 93681
services that the nursing facility provided on June 30, 2005, 93682
plus, if the entering operator pays the franchise permit fee, one 93683
dollar and ninety-five cents. If a nursing facility undergoes a 93684
change of operator during the period beginning July 2, 2005, and 93685
ending June 30, 2006, the entering operator shall be paid, for 93686
nursing facility services the nursing facility provides during the 93687
period beginning on the effective date of the change of operator 93688
and ending June 30, 2006, the rate paid to the exiting operator 93689
for nursing facility services that the nursing facility provided 93690
on the day immediately before the effective date of the change of 93691
operator. 93692

(D) If, during fiscal year 2006, a nursing facility obtains 93693
certification as a nursing facility from the Director of Health 93694
and begins participation in the Medicaid program, the provider of 93695
the nursing facility shall be paid, for nursing facility services 93696
the nursing facility provides during the period beginning on the 93697
date the nursing facility begins participation in the Medicaid 93698
program and ending June 30, 2006, a rate that is the median of all 93699
rates paid to providers of nursing facilities on July 1, 2005. 93700

(E) If, during fiscal year 2007, one or more Medicaid 93701
certified beds are added to a nursing facility with a valid 93702
Medicaid provider agreement for fiscal year 2006, the provider of 93703

the nursing facility shall be paid a rate for the new beds that is 93704
the same as the nursing facility's rate for the Medicaid certified 93705
beds that are in the nursing facility on the day before the new 93706
beds are added. 93707

(F) If the United States Centers for Medicare and Medicaid 93708
Services requires that the franchise permit fee be reduced or 93709
eliminated, the Department of Job and Family Services shall reduce 93710
the amount it pays providers of nursing facilities under this 93711
section as necessary to reflect the loss to the state of the 93712
revenue and federal financial participation generated from the 93713
franchise permit fee. 93714

(G)(1) A nursing facility's rate established under this 93715
section shall not be subject to any adjustments except as follows: 93716

(a) An adjustment resulting from an audit of the nursing 93717
facility's 2003 cost report may be applied to a rate established 93718
under this section for the nursing facility not later than three 93719
years after the first day of the fiscal year for which the rate is 93720
established. 93721

(b) Subject to division (G)(2) of this section, the nursing 93722
facility's rate established under this section may be adjusted 93723
pursuant to a process established in rules adopted under section 93724
5111.02 of the Revised Code to reflect a change in the nursing 93725
facility's capital costs due to any of the following: 93726

(i) A change of provider agreement that goes into effect 93727
before July 1, 2005, and for which a rate adjustment is not 93728
implemented before June 30, 2005; 93729

(ii) A reviewable activity for which a certificate of need 93730
application is filed with the Director of Health before July 1, 93731
2005, costs are incurred before June 30, 2005, and a rate 93732
adjustment is not implemented before June 30, 2005; 93733

(iii) An activity that the Director of Health, before July 1, 93734

2005, rules is not a reviewable activity and for which costs are 93735
incurred before June 30, 2005, and a rate adjustment is not 93736
implemented before June 30, 2005. 93737

(2) A nursing facility's rate established under this section 93738
may be adjusted pursuant to division (G)(1)(b)(ii) or (iii) of 93739
this section only if, after all other Medicaid obligations have 93740
been met, there are appropriations in appropriation item 600-525, 93741
Health Care/Medicaid, that would otherwise lapse to the General 93742
Revenue Fund. The Department of Job and Family Services may make 93743
adjustments pursuant to division (G)(1)(b)(ii) and (iii) of this 93744
section to the extent possible using the remaining appropriations 93745
that would otherwise lapse. 93746

(H) The Department of Job and Family Services shall follow 93747
this section in determining the rate to be paid to the provider of 93748
a nursing facility under the Medicaid program for nursing facility 93749
services provided during fiscal year 2006 notwithstanding anything 93750
to the contrary in sections 5111.20 to 5111.33 of the Revised 93751
Code. 93752

Section 206.66.23. FISCAL YEAR 2007 MEDICAID REIMBURSEMENT 93753
SYSTEM FOR NURSING FACILITIES 93754

(A) As used in this section: 93755

"Franchise permit fee" means the fee imposed by sections 93756
3721.50 to 3721.58 of the Revised Code. 93757

"Nursing facility" and "provider" have the same meanings as 93758
in section 5111.20 of the Revised Code. 93759

"Nursing facility services" means nursing facility services 93760
covered by the Medicaid program that a nursing facility provides 93761
to a resident of the nursing facility who is a Medicaid recipient 93762
eligible for Medicaid-covered nursing facility services. 93763

(B) Except as provided in division (C) of this section, the 93764

provider of a nursing facility that has a valid Medicaid provider 93765
agreement on June 30, 2006, and a valid Medicaid provider 93766
agreement for fiscal year 2007 shall be paid, for nursing facility 93767
services the nursing facility provides during fiscal year 2007, 93768
the rate determined for the nursing facility under sections 93769
5111.20 to 5111.33 of the Revised Code. 93770

(C) If the rate determined for a nursing facility under 93771
sections 5111.20 to 5111.33 of the Revised Code for nursing 93772
facility services provided during fiscal year 2007 is more than 93773
one hundred two per cent of the rate the provider is paid for 93774
nursing facility services the nursing facility provides on June 93775
30, 2006, the Department of Job and Family Services shall reduce 93776
the nursing facility's fiscal year 2007 rate so that the rate is 93777
no more than one hundred two per cent of the nursing facility's 93778
rate for June 30, 2006. If the rate determined for a nursing 93779
facility under sections 5111.20 to 5111.33 of the Revised Code for 93780
nursing facility services provided during fiscal year 2007 is less 93781
than ninety-eight per cent of the rate the provider was paid for 93782
nursing facility services the nursing facility provides on June 93783
30, 2006, the Department shall increase the nursing facility's 93784
fiscal year 2007 rate so that the rate is no less than 93785
ninety-eight per cent of the nursing facility's rate for June 30, 93786
2006. 93787

(D) If the United States Centers for Medicare and Medicaid 93788
Services requires that the franchise permit fee be reduced or 93789
eliminated, the Department of Job and Family Services shall reduce 93790
the amount it pays providers of nursing facilities under this 93791
section as necessary to reflect the loss to the state of the 93792
revenue and federal financial participation generated from the 93793
franchise permit fee. 93794

(E) The Department of Job and Family Services shall follow 93795
this section in determining the rate to be paid to the provider of 93796

a nursing facility that has a valid Medicaid provider agreement on 93797
June 30, 2006, and a valid Medicaid provider agreement for fiscal 93798
year 2007 notwithstanding anything to the contrary in sections 93799
5111.20 to 5111.33 of the Revised Code. 93800

Section 206.66.24. TRANSITION METHODOLOGY FOR MEDICAID 93801
REIMBURSEMENT FOR NURSING FACILITIES 93802

(A) There is hereby created the Nursing Facility Rate 93803
Transition Advisory Council. The Council shall consist of all of 93804
the following: 93805

(1) The Director of Job and Family Services or the Director's 93806
designee; 93807

(2) The Deputy Director of the Office of Ohio Health Plans of 93808
the Department of Job and Family Services or the Deputy Director's 93809
designee; 93810

(3) The Director of Health or the Director's designee; 93811

(4) One representative of Medicaid recipients residing in 93812
nursing facilities appointed by the Governor; 93813

(5) One representative of each of the following organizations 93814
appointed by the organization: 93815

(a) The Ohio Academy of Nursing Homes; 93816

(b) The Association of Ohio Philanthropic Homes and Housing 93817
for the Aging; 93818

(c) The Ohio Health Care Association. 93819

(B) Members of the Nursing Facility Rate Transition Advisory 93820
Council shall receive no compensation for serving on the Council. 93821

(C) The Director of Job and Family Services shall serve as 93822
chair of the Nursing Facility Rate Transition Advisory Council. 93823

(D) The Nursing Facility Rate Transition Advisory Council 93824

shall develop recommendations on the methodology to be used to 93825
phase in the nursing facility reimbursement formula established 93826
under sections 5111.20 to 5111.33 of the Revised Code. The Council 93827
shall prepare quarterly progress reports and, not later than nine 93828
months after the effective date of this section, a final report. 93829
The Council shall submit copies of the report to the Governor, the 93830
President and Minority Leader of the Senate, and the Speaker and 93831
Minority Leader of the House of Representatives. The Council shall 93832
cease to exist on the issuance of the final report. 93833

Section 206.66.25. FISCAL YEAR 2006 AND FISCAL YEAR 2007 93834
MEDICAID REIMBURSEMENT SYSTEM FOR ICFs/MR 93835

(A) As used in this section: 93836

"2003 cost report" means a complete and adequate Medicaid 93837
cost report covering calendar year 2003 filed with the Department 93838
of Job and Family Services under section 5111.26 of the Revised 93839
Code. 93840

"Change of operator," "entering operator," and "exiting 93841
operator" have the same meanings as in section 5111.65 of the 93842
Revised Code. 93843

"Intermediate care facility for the mentally retarded" and 93844
"provider" home have the same meanings as in section 5111.20 of 93845
the Revised Code. 93846

"ICF/MR services" means intermediate care facility for the 93847
mentally retarded services covered by the Medicaid program that an 93848
intermediate care facility for the mentally retarded provides to a 93849
resident of the facility who is a Medicaid recipient eligible for 93850
Medicaid-covered intermediate care facility for the mentally 93851
retarded services. 93852

(B) Except as otherwise provided in this section, the 93853
provider of an intermediate care facility for the mentally 93854

retarded that has a valid Medicaid provider agreement on June 30, 2005, and a valid Medicaid provider agreement for fiscal years 2006 and 2007 shall be paid, for ICF/MR services the facility provides during fiscal years 2006 and 2007, the rate the provider is paid for ICF/MR services the facility provides on June 30, 2005.

(C) If an intermediate care facility for the mentally retarded undergoes a change of operator during fiscal year 2006 or 2007, the entering operator shall be paid, for ICF/MR services the facility provides during the period beginning on the effective date of the change of provider and ending June 30, 2007, the rate paid to the exiting operator for ICF/MR services that the facility provided on the day immediately before the effective date of the change of operator.

(D) If, during fiscal year 2006 or 2007, an intermediate care facility for the mentally retarded obtains certification as an intermediate care facility for the mentally retarded from the Director of Health and begins participation in the Medicaid program, the provider of the facility shall be paid, for ICF/MR services the facility provides during the period beginning on the date the facility begins participation in the Medicaid program and ending June 30, 2007, a rate that is the median of all rates paid to intermediate care facilities for the mentally retarded on July 1, 2005.

(E) If, during fiscal year 2006 or 2007, one or more Medicaid certified beds are added to an intermediate care facility for the mentally retarded with a valid Medicaid provider agreement for the time that the beds are added, the provider of the facility shall be paid a rate for the new beds that is the same as the facility's rate for the Medicaid certified beds that are in the facility on the day before the new beds are added.

(F) An adjustment necessitated by an audit of an intermediate

care facility for the mentally retarded's 2003 cost report may be 93887
applied to a rate established under this section for the facility. 93888

(G) The Department of Job and Family Services shall follow 93889
this section in determining the rate to be paid to the provider of 93890
an intermediate care facility for the mentally retarded under the 93891
Medicaid program for ICF/MR services provided during fiscal years 93892
2006 and 2007 notwithstanding anything to the contrary in sections 93893
5111.20 to 5111.33 of the Revised Code. 93894

Section 206.66.27. FISCAL YEARS 2006 AND 2007 INCREASED 93895
PAYMENT TO ICFs/MR 93896

(A) As used in this section: 93897

"Active treatment" has the same meaning as in section 5126.12 93898
of the Revised Code. 93899

"Community alternative funding system" means the former 93900
system under which habilitation center services were reimbursed 93901
under the Medicaid program pursuant to former section 5111.041 of 93902
the Revised Code and former rules adopted under that section. 93903

(B) The Director of Job and Family Services may increase the 93904
rate paid to intermediate care facilities for the mentally 93905
retarded for fiscal years 2006 and 2007 under the section of this 93906
act entitled "FISCAL YEAR 2006 AND FISCAL YEAR 2007 MEDICAID 93907
REIMBURSEMENT SYSTEM FOR ICFs/MR" by an amount specified in rules 93908
adopted under section 5111.02 of the Revised Code to reimburse the 93909
facilities for active treatment day programming because of the 93910
termination of the community alternative funding system. 93911

***Section 206.66.36. ASSISTED LIVING MEDICAID WAIVER PROGRAM** 93912

(A) As used in this section, "Assisted Living Program" has 93913
the same meaning as in section 5111.89 of the Revised Code. 93914

(B) After the Department of Job and Family Services enters 93915

into a contract with the Department of Aging under section 5111.91 93916
of the Revised Code for the Department of Aging to administer the 93917
Assisted Living Program, the Director of Job and Family Services 93918
shall quarterly certify to the Director of Budget and Management 93919
the estimated costs of the Assisted Living Program for the 93920
upcoming quarter. The estimate shall include the state and federal 93921
share of the costs. On receipt of the certified estimated costs 93922
for an upcoming quarter, the Director of Budget and Management 93923
shall do all of the following: 93924

(1) Transfer the state share of the amount of the estimated 93925
costs from GRF appropriation item 600-525, Health Care/Medicaid, 93926
to GRF appropriation item 490-422, Assisted Living; 93927

(2) Transfer the federal share of the amount of the estimated 93928
costs from GRF appropriation item 600-525, Health Care/Medicaid, 93929
to Fund 3C4, appropriation item 490-622, Assisted Living - 93930
Federal; 93931

(3) Increase the appropriation in JFS Fund 3G5, appropriation 93932
item 600-655, Interagency Reimbursement, by the federal share of 93933
the amount of the estimated costs. 93934

(C) The funds that the Director of Budget and Management 93935
transfers and increases under this section are hereby 93936
appropriated. 93937

***Section 206.66.37.** Section 206.66.36 of this act takes 93938
effect October 1, 2005. 93939

Section 206.66.38. MEDICAID PILOT PROGRAM 93940

Each quarter, the Department of Aging shall certify to the 93941
Director of Budget and Management the estimated costs of the 93942
Medicaid pilot program created under section 5111.971 of the 93943
Revised Code. 93944

On a quarterly basis, on receipt of the certified costs, the 93945
Director of Budget and Management shall do all of the following: 93946

(1) Transfer the state share of the amount of the estimated 93947
costs from the GRF appropriation item 600-525, Health 93948
Care/Medicaid, to GRF appropriation item 490-403, PASSPORT, for 93949
the remainder of the biennium; 93950

(2) Increase the appropriation in Department of Aging Fund 93951
3C4, appropriation item 490-607, PASSPORT, by the federal share of 93952
the amount of the estimated costs; 93953

(3) Reduce the federal share of GRF appropriation item 93954
600-525, Health Care/Medicaid, by the federal share of the amount 93955
of the estimated costs; 93956

(4) Increase the appropriation in Department of Job and 93957
Family Services Fund 3G5, appropriation item 600-655, Interagency 93958
Reimbursement, by the federal share of the amount of the estimated 93959
costs. 93960

The funds that the Director of Budget and Management 93961
transfers and increases under this section are hereby 93962
appropriated. 93963

Section 206.66.39. MEDICAID ELIGIBILITY REDUCTIONS 93964

The Director of Job and Family Services shall, not later than 93965
ninety days after the effective date of this section, submit to 93966
the United States Secretary of Health and Human Services an 93967
amendment to the state Medicaid plan to reduce to ninety per cent 93968
of the federal poverty guidelines the amount specified in division 93969
(A)(2) of section 5111.019 of the Revised Code as it existed 93970
immediately prior to the amendment made by this act. The reduction 93971
shall be implemented not earlier than ninety days after the 93972
effective date of this section and not later than the effective 93973
date of federal approval. 93974

Section 206.66.41. MEDICAID MANAGED CARE COVERAGE OF 93975
RESPIRATORY ANTI-VIRAL DRUGS FOR FY 2006 AND 2007 93976

For fiscal years 2006 and 2007, the Department of Job and 93977
Family Services shall require a health insuring corporation with 93978
which the Department contracts under section 5111.17 of the 93979
Revised Code to provide coverage of prescription drugs that 93980
protect against respiratory syncytial virus for Medicaid 93981
recipients enrolled in the health insuring corporation who, as an 93982
infant born premature or other pediatric patient, are at risk for 93983
respiratory syncytial virus. In covering the drugs for these 93984
Medicaid recipients, the health insuring corporation shall do both 93985
of the following: 93986

(A) Cover the drugs in at least the same amount, duration, 93987
and scope as the Medicaid program's coverage of the drugs for 93988
Medicaid recipients who receive state Medicaid plan services under 93989
the fee-for-service system; 93990

(B) Establish access requirements for the drugs that are less 93991
or no more restrictive than the access requirements for the drugs 93992
under the fee-for-service system. 93993

Section 206.66.42. DISABILITY MEDICAL ASSISTANCE PROGRAM 93994

(A) The foregoing appropriation item 600-513, Disability 93995
Medical Assistance, shall be used by the Department of Job and 93996
Family Services to operate a Disability Medical Assistance Program 93997
before or after October 1, 2005, to replace the Disability Medical 93998
Assistance program established in Chapter 5115. of the Revised 93999
Code. The Department of Job and Family Services shall terminate 94000
the Disability Medical Assistance Program effective October 1, 94001
2005. All rules, standards, guidelines, or orders adopted or 94002
issued by the Director of Job and Family Services to govern the 94003
Disability Medical Assistance Program before its termination shall 94004

remain in effect on and after October 1, 2005, for the following 94005
purposes: 94006

(1) To establish the legal obligations of the Department for 94007
claims arising from the Program; 94008

(2) To determine an individual's previous eligibility for the 94009
Program; 94010

(3) To determine the validity of a claim for services under 94011
the Program; 94012

(4) To recover erroneous payments, as defined in section 94013
5115.23 of the Revised Code, made before October 1, 2005. 94014

(B) The Department may use funds appropriated to it to 94015
satisfy Program claims or contingent claims existing before 94016
October 1, 2005. The Department shall not pay claims for services 94017
rendered on or after October 1, 2005. 94018

(C) The Department shall pay a claim for services rendered by 94019
a medical provider to a Disability Medical Assistance Program 94020
recipient before October 1, 2005, only if the claim is received by 94021
the Department not later than April 1, 2006. 94022

(D) A judge or other person designated to make a decision in 94023
a state hearing, administrative appeal, or judicial proceeding 94024
initiated under section 5101.35 of the Revised Code may adjudicate 94025
an appeal of a determination made by the Department under the 94026
Program before October 1, 2005. No person may adjudicate an appeal 94027
of a determination made by the Department under the Program on or 94028
after October 1, 2005. 94029

(E) Notwithstanding the termination of the Disability Medical 94030
Assistance Program, the following remain effective on and after 94031
October 1, 2005: 94032

(1) As described in section 5101.58 of the Revised Code, the 94033
Department's and a county's right of recovery against the 94034

liability of a third party for the cost of medical services and 94035
care; 94036

(2) As described in section 5101.59 of the Revised Code, the 94037
assignment of a Program recipient's right to medical support made 94038
by court or administrative order or payments from a third party. 94039

(F) The Department may take reasonable steps to inform 94040
Program recipients about the termination of the Program. A county 94041
department of job and family services shall take action with 94042
respect to these activities when requested by the Department. 94043

(G) An action taken under division (F) of this section shall 94044
not be the basis for requiring the Department to extend the 94045
Program or to approve or extend a person's eligibility for the 94046
Program on or after October 1, 2005. 94047

(H) The Director may adopt rules in accordance with section 94048
111.15 of the Revised Code to implement this section. 94049

Section 206.66.43. DISABILITY MEDICAL ASSISTANCE COUNCIL 94050

(A) There is hereby established the Disability Medical 94051
Assistance Council, composed of the following individuals: 94052

(1) The Director of Job and Family Services or the Director's 94053
designee; 94054

(2) The Director of the Rehabilitative Services Commission or 94055
the Director's designee; 94056

(3) The Director of Rehabilitation and Correction or the 94057
Director's designee; 94058

(4) The Director of Mental Health or the Director's designee; 94059

(5) The Director of Alcohol and Drug Addiction Services or 94060
the Director's designee; 94061

(6) Two individuals appointed by the Director of Job and 94062
Family Services to represent health care and behavioral health 94063

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| care trade associations, one of whom shall represent county | 94064 |
| behavioral health boards; | 94065 |
| (7) Three members of the Medicaid Care Advisory Committee in | 94066 |
| the Department of Job and Family Services; | 94067 |
| (8) Three individuals appointed by the Director of Job and | 94068 |
| Family Services to represent low-income disabled individuals; | 94069 |
| (9) An individual appointed by the Director of Job and Family | 94070 |
| Services to represent county boards of job and family services; | 94071 |
| (10) An individual appointed by the Director of Job and | 94072 |
| Family Services to represent hospitals; | 94073 |
| (11) Two individuals appointed by the Director of Job and | 94074 |
| Family Services to represent the pharmaceutical industry. | 94075 |
| (B) By not later than September 1, 2005, the Council shall | 94076 |
| submit to the Governor, the Speaker of the House of | 94077 |
| Representatives, and the President of the Senate a written report | 94078 |
| to propose a program to replace the Disability Medical Assistance | 94079 |
| Program when that program terminates. The report shall include | 94080 |
| recommendations for the program regarding all of the following: | 94081 |
| (1) The type, scope, and duration of services to be covered; | 94082 |
| (2) Delivery system options; | 94083 |
| (3) Eligibility criteria; | 94084 |
| (4) Measures that can be taken to assist individuals who | 94085 |
| received benefits from the Disability Medical Assistance Program | 94086 |
| but do not meet the eligibility criteria of the new program to | 94087 |
| transition to other government or private medical assistance | 94088 |
| programs; | 94089 |
| (5) A disability advocacy program to assist applicants for | 94090 |
| and recipients of assistance under the new program in the same | 94091 |
| manner as the disability advocacy program established under | 94092 |
| section 5115.20 of the Revised Code assisted Disability Medical | 94093 |

Assistance Program applicants and recipients prior to October 1, 94094
2005; 94095

(6) Any other recommendations the Council considers necessary 94096
and appropriate. 94097

(C) The program proposed by the Council in the report 94098
described in division (B) of this section shall be implemented by 94099
not later than October 1, 2005. 94100

Section 206.66.44. MEDICAID COVERAGE OF DENTAL SERVICES 94101

For fiscal years 2006 and 2007, the Medicaid program shall do 94102
the following: 94103

(A) For Medicaid recipients under twenty-one years of age, 94104
the Medicaid program shall cover dental services. This section 94105
does not limit the ability of the Department of Job and Family 94106
Services to adopt, amend, or rescind rules applicable to dental 94107
services, including rules that limit or reduce covered services, 94108
reduce reimbursement levels, or subject covered services to 94109
co-payments. 94110

(B) For Medicaid recipients twenty-one years of age or older, 94111
the Medicaid program shall cover dental services in an amount, 94112
duration, and scope specified in rules that the Director of Job 94113
and Family Services shall adopt under section 5111.02 of the 94114
Revised Code but shall be less in amount, duration, and scope than 94115
the Medicaid program covered those services immediately before the 94116
effective date of this amendment. 94117

Section 206.66.45. MEDICAID COVERAGE OF VISION SERVICES 94118

For fiscal years 2006 and 2007, the Medicaid program shall 94119
cover vision services. This section does not limit the ability of 94120
the Department of Job and Family Services to adopt, amend, or 94121
rescind rules applicable to vision services, including rules that 94122

limit or reduce covered services, reduce reimbursement levels, or 94123
subject covered services to copayments. 94124

Section 206.66.46. DISABILITY DETERMINATIONS 94125

(A) A study shall be conducted by the state and local 94126
government entities actively engaged in providing programs or 94127
services for which disability is an eligibility requirement, 94128
including the Department of Job and Family Services, county 94129
departments of job and family services, and Rehabilitation 94130
Services Commission. The study shall consider all of the 94131
following: 94132

(1) The feasibility of an interagency agreement among the 94133
state and local government entities actively engaged in providing 94134
programs or services for which disability is an eligibility 94135
requirement, including the Department of Job and Family Services, 94136
county departments of job and family services, and the 94137
Rehabilitation Services Commission whereby one of these state or 94138
local government entities would perform disability determinations 94139
for all programs and services provided by a state or local 94140
government entity in which disability is an eligibility 94141
requirement; 94142

(2) Which of the state and local government entities engaged 94143
in providing programs or services for which disability is an 94144
eligibility requirement should perform disability determinations 94145
under an interagency agreement described in division (A)(1) of 94146
this section. 94147

(3) Potential cost-savings and other advantages, as well as 94148
any potential disadvantages, that might result from the 94149
interagency agreement; 94150

(4) Processes by which the interagency agreement could be 94151
implemented, including an estimate of the approximate time needed 94152

to implement it. 94153

(B) Not later than six months after the effective date of 94154
this section, a written report of the results of the study shall 94155
be prepared and submitted to the Speaker of the House of 94156
Representatives, President of the Senate, the Minority Leader of 94157
the House of Representatives, and the Minority Leader of the 94158
Senate. 94159

Section 206.66.47. HEALTH CARE/MEDICAID 94160

The foregoing appropriation item 600-525, Health 94161
Care/Medicaid, shall not be limited by section 131.33 of the 94162
Revised Code. 94163

The Director of Job and Family Services may request that the 94164
Director of Budget and Management increase the appropriation in 94165
appropriation item 600-525, Health Care/Medicaid, by up to 94166
\$107,272,266 state share in fiscal year 2007. If the Director of 94167
Budget and Management approves the request, the Director of Budget 94168
and Management shall also increase the appropriation in 94169
appropriation item 600-525, Health Care/Medicaid, by the 94170
appropriate corresponding federal share. The increased amounts are 94171
hereby appropriated. The Department of Job and Family Services 94172
shall use this appropriation to pay for Medicaid services. 94173

The Director of Budget and Management may consider the 94174
appropriation authorized in this section for the purposes of the 94175
calculations required in section 131.44 of the Revised Code. 94176

Section 206.66.48. STATE MEDICAID PLAN AMENDMENT REGARDING 94177
ESTATE RECOVERY 94178

The Director of Job and Family Services shall submit a state 94179
Medicaid plan amendment to the United States Secretary of Health 94180
and Human Services as necessary for the implementation of the 94181
amendments by this act to sections 5111.11 and 5111.111 of the 94182

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| Revised Code. | 94183 |
| Section 206.66.49. SINGLE AUDIT OF MEDICAID DURING FY 2006 | 94184 |
| AND 2007 | 94185 |
| The Auditor of State may, during fiscal years 2006 and 2007, | 94186 |
| conduct a single performance audit of the Medicaid program, as | 94187 |
| defined in section 5111.01 of the Revised Code, to determine ways | 94188 |
| of reducing or eliminating fraud, waste, and abuse in the program, | 94189 |
| making the program more efficient, and enhancing the program's | 94190 |
| results. An audit conducted under this section shall be conducted | 94191 |
| in accordance with generally accepted government auditing | 94192 |
| standards. Expenses incurred by the Auditor of State to conduct | 94193 |
| the performance audit shall be reimbursed by the Department of Job | 94194 |
| and Family Services. | 94195 |
| Section 206.66.51. MEDICAID PAYMENT FOR GRADUATE MEDICAL | 94196 |
| EDUCATION COSTS | 94197 |
| The Director of Job and Family Service may submit to the | 94198 |
| United States Secretary of Health and Human Services an amendment | 94199 |
| to the state Medicaid plan to implement section 5111.191 of the | 94200 |
| Revised Code. The Department may implement that section upon the | 94201 |
| Secretary's approval of the amendment. | 94202 |
| MEDICARE PART D | 94203 |
| The foregoing appropriation item 600-526, Medicare Part D, | 94204 |
| may be used by the Department of Job and Family Services for the | 94205 |
| implementation and operation of the Medicare Part D requirements | 94206 |
| contained in the "Medicare Prescription Drug, Improvement, and | 94207 |
| Modernization Act of 2003," Pub. L. No. 108-173, as amended. Upon | 94208 |
| the request of the Department of Job and Family Services, the | 94209 |
| Director of Budget and Management may increase the state share of | 94210 |
| appropriations in either appropriation item 600-525, Health | 94211 |
| Care/Medicaid, or appropriation item 600-526, Medicare Part D, | 94212 |

with a corresponding decrease in the state share of the other 94213
appropriation item to allow the Department of Job and Family 94214
Services to implement and operate the new Medicare Part D 94215
requirements. If the state share of appropriation item 600-525, 94216
Health Care/Medicaid, is adjusted, the Director of Budget and 94217
Management shall adjust the federal share accordingly. 94218

Section 206.66.52. LEGISLATIVE INTENT TO CREATE NEW MEDICAID 94219
DEPARTMENT 94220

It is the intent of the General Assembly that a new cabinet 94221
level department to administer the Medicaid program is to be 94222
established by July 1, 2007. 94223

Section 206.66.53. MEDICAID ADMINISTRATIVE STUDY COUNCIL 94224

(A) There is hereby created the Medicaid Administrative Study 94225
Council composed of the following: 94226

(1) One member of the Ohio Commission to Reform Medicaid, 94227
appointed by the Governor; 94228

(2) One member of the staff of the Governor's office, 94229
appointed by the Governor; 94230

(3) One individual with expertise in health-care finance, 94231
appointed by the Governor; 94232

(4) One individual with expertise in health-care management, 94233
appointed by the Governor; 94234

(5) One individual with expertise in health-care information 94235
technology, appointed by the Governor; 94236

(6) One individual with expertise in health insurance, 94237
appointed by the Governor; 94238

(7) One individual with expertise in health care quality 94239
assurance, appointed by the Governor; 94240

| | |
|--|--|
| (8) Two individuals with expertise in organizational change representing the business community, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives; | 94241 94242 94243 94244 |
| (9) The Director of Budget and Management or the Director's designee; | 94245 94246 |
| (10) The State Chief Information Officer or the Officer's designee; | 94247 94248 |
| (11) The Administrator of Workers' Compensation or the Administrator's designee; | 94249 94250 |
| (12) The following non-voting members: | 94251 |
| (a) The Director of Job and Family Services or the Director's designee; | 94252 94253 |
| (b) The Director of Aging or the Director's designee; | 94254 |
| (c) The Director of Drug and Alcohol Addiction Services or the Director's designee; | 94255 94256 |
| (d) The Director of Health or the Director's designee; | 94257 |
| (e) The Director of Mental Health or the Director's designee; | 94258 |
| (f) The Director of Mental Retardation and Developmental Disabilities or the Director's designee. | 94259 94260 |
| (B) The Governor shall appoint a member of the Council to serve as the chairperson of the Council. | 94261 94262 |
| (C) The Council shall study the administration of the Medicaid program. In conducting the study, the Council shall operate under the assumption that the General Assembly will enact by July 1, 2007, a law establishing a new cabinet level department to administer the program. The Council shall examine and consider all of the following as part of the study: | 94263 94264 94265 94266 94267 94268 |
| (1) Structuring the program's administration in a manner that | 94269 |

| | |
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| optimizes the program's fiscal and operational objectives; | 94270 |
| (2) Centralizing financing and information technology | 94271 |
| functions to coordinate the new department's activities with other | 94272 |
| state agencies, if any, that assist in the program's | 94273 |
| administration; | 94274 |
| (3) Creating a unified budget for Medicaid-funded long-term | 94275 |
| care services; | 94276 |
| (4) The fiscal and operating impact that a new administrative | 94277 |
| structure for the program would have on the Department of Job and | 94278 |
| Family Services and other state agencies that currently assist in | 94279 |
| the program's administration; | 94280 |
| (5) The role of government entities that administer the | 94281 |
| Medicaid program on the local level and the fiscal and operating | 94282 |
| impact that a new administrative structure for the program would | 94283 |
| have on those entities; | 94284 |
| (6) The recommendations of the Ohio Commission to Reform | 94285 |
| Medicaid. | 94286 |
| (D) Beginning ninety days after the effective date of this | 94287 |
| section, the Council shall submit written, quarterly reports on | 94288 |
| the Council's progress to the Governor, the President of the | 94289 |
| Senate, and the Speaker of the House of Representatives. The | 94290 |
| Council shall submit a final written report of its study to the | 94291 |
| Governor, the President of the Senate, and the Speaker of the | 94292 |
| House of Representatives not later than December 31, 2006. The | 94293 |
| final report shall include all of the following: | 94294 |
| (1) Recommendations regarding the scope and structure of the | 94295 |
| new department; | 94296 |
| (2) A business plan that directs the transition of the | 94297 |
| Medicaid program's administration from the Department of Job and | 94298 |
| Family Services and the other state agencies that assist the | 94299 |

| | |
|--|-------|
| Department to the new department and addresses the transition's | 94300 |
| fiscal and operational impact; | 94301 |
| (3) Identification of the resources needed to implement the | 94302 |
| business plan. | 94303 |
| (E) The Council may hire staff, enter into contracts, and | 94304 |
| take other actions the Council deems necessary to fulfill its | 94305 |
| duties. | 94306 |
| | |
| Section 206.66.57. ODJFS FUNDS | 94307 |
| | |
| AGENCY FUND GROUP | 94308 |
| | |
| The Agency Fund Group and Holding Account Redistribution Fund | 94309 |
| Group shall be used to hold revenues until the appropriate fund is | 94310 |
| determined or until the revenues are directed to the appropriate | 94311 |
| governmental agency other than the Department of Job and Family | 94312 |
| Services. If it is determined that additional appropriation | 94313 |
| authority is necessary, such amounts are hereby appropriated. | 94314 |
| | |
| Section 206.66.60. EMPLOYER SURCHARGE | 94315 |
| | |
| The surcharge and the interest on the surcharge amounts due | 94316 |
| for calendar years 1988, 1989, and 1990 as required by Am. Sub. | 94317 |
| H.B. 171 of the 117th General Assembly, Am. Sub. H.B. 111 of the | 94318 |
| 118th General Assembly, and section 4141.251 of the Revised Code | 94319 |
| as it existed prior to its repeal by Sub. H.B. 478 of the 122nd | 94320 |
| General Assembly, again shall be assessed and collected by, | 94321 |
| accounted for, and made available to the Department of Job and | 94322 |
| Family Services in the same manner as set forth in section | 94323 |
| 4141.251 of the Revised Code as it existed prior to its repeal by | 94324 |
| Sub. H.B. 478 of the 122nd General Assembly, notwithstanding the | 94325 |
| repeal of the surcharge for calendar years after 1990, pursuant to | 94326 |
| Sub. H.B. 478 of the 122nd General Assembly, except that amounts | 94327 |
| received by the Director on or after July 1, 2001, shall be | 94328 |
| deposited into the Unemployment Compensation Special | 94329 |

Administrative Fund (Fund 4A9) established pursuant to section 94330
4141.11 of the Revised Code. 94331

Section 206.66.63. TRANSFER OF FUNDS TO THE DEPARTMENT OF 94332
AGING 94333

The Department of Job and Family Services shall transfer, 94334
through intrastate transfer vouchers, cash from Fund 4J5, Home and 94335
Community-Based Services for the Aged, to Fund 4J4, PASSPORT, in 94336
the Department of Aging. The sum of the transfers shall be 94337
\$33,268,052 in fiscal year 2006 and \$33,263,984 in fiscal year 94338
2007. The transfer may occur on a quarterly basis or on a schedule 94339
developed and agreed to by both departments. 94340

Section 206.66.64. INDIVIDUALS MOVED FROM NURSING FACILITIES 94341
TO PASSPORT 94342

(A) As used in this section: 94343

(1) "Area agency on aging" has the same meaning as in section 94344
173.14 of the Revised Code. 94345

(2) "Long-Term Care Consultation Program" means the program 94346
the Department of Aging is required to develop under section 94347
173.42 of the Revised Code. 94348

(3) "Long-Term Care Consultation Program administrator" or 94349
"administrator" means the Department of Aging or, if the 94350
Department contracts with an area agency on aging or other entity 94351
to administer the Long-Term Care Consultation Program for a 94352
particular area, that agency or entity. 94353

(4) "Nursing facility" has the same meaning as in section 94354
5111.20 of the Revised Code. 94355

(5) "PASSPORT program" means the program created under 94356
section 173.40 of the Revised Code. 94357

(B) Each month during fiscal years 2006 and 2007, each area 94358

agency on aging shall determine whether individuals who reside in 94359
the area that the area agency on aging serves and are on a waiting 94360
list for the PASSPORT program have been admitted to a nursing 94361
facility. If an area agency on aging determines that such an 94362
individual has been admitted to a nursing facility, the agency 94363
shall notify the Long-Term Care Consultation Program administrator 94364
serving the area in which the individual resides about the 94365
determination. The administrator shall determine whether the 94366
PASSPORT program is appropriate for the individual and whether the 94367
individual would rather participate in the PASSPORT program than 94368
continue residing in the nursing facility. If the administrator 94369
determines that the PASSPORT program is appropriate for the 94370
individual and the individual would rather participate in the 94371
PASSPORT program than continue residing in the nursing facility, 94372
the administrator shall so notify the Department of Aging. On 94373
receipt of the notice from the administrator, the Department of 94374
Aging shall approve the enrollment of the individual in the 94375
PASSPORT program regardless of whether other individuals who are 94376
not in a nursing facility are ahead of the individual on the 94377
PASSPORT program's waiting list. Each quarter, the Department of 94378
Aging shall certify to the Director of Budget and Management the 94379
estimated increase in costs of the PASSPORT program for the 94380
individuals enrolled in the PASSPORT program pursuant to this 94381
section. 94382

(C) On a quarterly basis, on receipt of the certified costs, 94383
the Director of Budget and Management shall do all of the 94384
following: 94385

(1) Transfer the state share of the amount of the estimated 94386
costs from GRF appropriation item 600-525, Health Care/Medicaid, 94387
to GRF appropriation item 490-403, PASSPORT, for the remainder of 94388
the biennium; 94389

(2) Increase the appropriation in Ohio Department of Aging 94390

Fund 3C4, appropriation item 490-607, PASSPORT, by the federal 94391
share of the amount of the estimated costs; 94392

(3) Increase the appropriation in JFS Fund 3G5, appropriation 94393
item 600-655, Interagency Reimbursement, by the federal share of 94394
the amount of the estimated costs. 94395

The funds that the Director of Budget and Management 94396
transfers and increases under this division are hereby 94397
appropriated. 94398

(D) The individuals placed in the PASSPORT program pursuant 94399
to this section shall be in addition to the individuals placed in 94400
the PASSPORT program during fiscal years 2006 and 2007 based on 94401
the amount of money that is in GRF appropriation item 490-403, 94402
PASSPORT; Fund 4J4, appropriation item 490-610, 94403
PASSPORT/Residential State Supplement; Fund 4U9, appropriation 94404
item 490-602, PASSPORT Fund; and Fund 3C4, appropriation item 94405
490-607, PASSPORT, before any transfers to GRF appropriation item 94406
490-403, PASSPORT, and Fund 3C4, appropriation item 490-607, 94407
PASSPORT, are made under this section. 94408

(E) The Director of Job and Family Services shall do both of 94409
the following: 94410

(1) Submit to the United States Secretary of Health and Human 94411
Services an amendment to the Medicaid waiver authorizing the 94412
PASSPORT program as necessary for the implementation of this 94413
section; 94414

(2) By not later than December 31, 2006, submit to the 94415
General Assembly a report regarding the number of individuals 94416
placed in the PASSPORT program pursuant to this section and the 94417
costs incurred and savings achieved as a result of the individuals 94418
being placed in the PASSPORT program. 94419

Section 206.66.66. OHIO ACCESS SUCCESS PROJECT 94420

Notwithstanding any limitations in sections 3721.51 and 94421
3721.56 of the Revised Code, in each fiscal year, cash from Fund 94422
4J5, Home and Community-Based Services for the Aged, in excess of 94423
the amounts needed for the transfers may be used by the Department 94424
of Job and Family Services for the following purposes: (A) up to 94425
\$1.0 million in each fiscal year to fund the state share of audits 94426
of Medicaid cost reports filed with the Department of Job and 94427
Family Services by nursing facilities and intermediate care 94428
facilities for the mentally retarded; and (B) up to \$350,000 in 94429
fiscal year 2006 and up to \$350,000 in fiscal year 2007 to provide 94430
one-time transitional benefits under the Ohio Access Success 94431
Project that the Director of Job and Family Services may establish 94432
under section 5111.88 of the Revised Code. 94433

Section 206.66.69. OHIO ASSOCIATION OF SECOND HARVEST FOOD 94434
BANKS 94435

As used in this section, "federal poverty guidelines" has the 94436
same meaning as in section 5101.46 of the Revised Code. 94437

Notwithstanding section 5101.46 of the Revised Code, and 94438
prior to making any allocation to county departments of job and 94439
family services, the Department of Job and Family Services shall 94440
provide \$5,500,000 in each fiscal year from the foregoing 94441
appropriation item 600-620, Social Services Block Grant, for use 94442
in funding a grant agreement with the Ohio Association of Second 94443
Harvest Food Banks. The Department shall enter into a grant 94444
agreement with the Ohio Association of Second Harvest Food Banks 94445
to reimburse it for costs incurred in the purchase of food 94446
products and the distribution of those food products to agencies 94447
participating in the emergency food distribution program. 94448
Notwithstanding section 5101.46 of the Revised Code, the grant may 94449
permit the Ohio Association of Second Harvest Food Banks to use up 94450
to 5 per cent of the annual funding for administrative costs. The 94451

Department may advance funds to the grantee under section 5101.10 94452
of the Revised Code. 94453

Prior to entering into the grant agreement, the Ohio 94454
Association of Second Harvest Food Banks shall submit to the 94455
Department for approval a plan for the distribution of the food 94456
products to local food distribution agencies. If the plan meets 94457
the requirements and conditions established by the Department, the 94458
plan shall be incorporated into the grant agreement. The grant 94459
agreement shall also require the Ohio Association of Second 94460
Harvest Food Banks to ensure that local agencies will limit 94461
participation of individuals and families who receive any of the 94462
food products purchased with these funds to those who have an 94463
income at or below 200 per cent of the federal poverty guidelines. 94464
The Department and the Ohio Association of Second Harvest Food 94465
Banks shall agree on reporting requirements to be incorporated 94466
into the grant agreement, including a statement of expected 94467
performance outcomes from the Ohio Association of Second Harvest 94468
Food Banks and a requirement for their evaluation of their success 94469
in achieving those outcomes. 94470

Section 206.66.72. TRANSFER OF FUNDS TO THE DEPARTMENT OF 94471
MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES 94472

The Department of Job and Family Services shall transfer, 94473
through intrastate transfer vouchers, cash from Fund 4K1, ICF/MR 94474
Bed Assessments, to Fund 4K8, Home and Community-Based Services, 94475
in the Department of Mental Retardation and Developmental 94476
Disabilities. The amount transferred shall equal \$12,000,000 in 94477
fiscal year 2006 and \$12,000,000 in fiscal year 2007. The transfer 94478
may occur on a quarterly basis or on a schedule developed and 94479
agreed to by both departments. 94480

Section 206.66.75. FUNDING FOR HABILITATIVE SERVICES 94481

Notwithstanding any limitations contained in sections 5112.31 94482
and 5112.37 of the Revised Code, in each fiscal year, cash from 94483
Fund 4K1, ICF/MR Bed Assessments, in excess of the amounts needed 94484
for transfers to Fund 4K8, Home and Community-Based Services, in 94485
the Department of Mental Retardation and Developmental 94486
Disabilities, may be used by the Department of Job and Family 94487
Services to cover costs of care provided to participants in a 94488
waiver with an ICF/MR level of care requirement administered by 94489
the Department of Job and Family Services. 94490

Section 206.66.78. COMMUNITY ALTERNATIVE FUNDING SYSTEM 94491

(A) As used in this section, "habilitation center services" 94492
has the same meaning as in former section 5111.041 of the Revised 94493
Code as that section existed on June 30, 2005. 94494

(B) The Director of Job and Family Services may adopt rules 94495
under section 111.15 of the Revised Code as necessary to terminate 94496
the community alternative funding system on July 1, 2005. 94497

(C) The Department of Job and Family Services may inform 94498
individuals who received habilitation center services under the 94499
community alternative funding system on June 30, 2005, and such 94500
individuals' representatives about alternative services that may 94501
be available for the individuals. The Department may require 94502
county departments of job and family services to provide such 94503
information to the individuals and their representatives. 94504

(D) Habilitation center services provided before July 1, 94505
2005, are subject to the laws, rules, standards, guidelines, and 94506
orders regarding habilitation center services that were in effect 94507
at the time the services were provided. This includes such laws, 94508
rules, standards, guidelines, and orders regarding the 94509
responsibility for the nonfederal share of the services, the fee 94510
assessed under division (D) of section 5123.041 of the Revised 94511
Code as that section existed on the day the services were 94512

provided, cost reports, audits, and the recovery of erroneous 94513
payments. 94514

(E) The Department of Job and Family Services may use funds 94515
appropriated to the Department for the purpose of habilitation 94516
center services to satisfy a claim or contingent claim for 94517
habilitation center services provided before July 1, 2005, if the 94518
Department receives the claim or contingent claim before July 1, 94519
2006. The Department has no liability to satisfy either of the 94520
following: 94521

(1) A claim for habilitation center services provided before 94522
July 1, 2005, if the Department receives the claim on or after 94523
July 1, 2006. 94524

(2) A claim for habilitation center services provided on or 94525
after July 1, 2005. 94526

(F) To the extent authorized by section 5101.35 of the 94527
Revised Code, an individual may initiate or continue a state 94528
hearing, administrative appeal, or appeal to a court of common 94529
pleas regarding a decision or order concerning habilitation center 94530
services that were available before July 1, 2005. A decision 94531
resulting from a state hearing, administrative appeal, or appeal 94532
to a court of common pleas may not extend an individual's 94533
eligibility for habilitation center services beyond June 30, 2005. 94534
No individual may utilize section 5101.35 of the Revised Code to 94535
contest the July 1, 2005, termination of the community alternative 94536
funding system. 94537

(G) Neither of the following are abrogated by the termination 94538
of the community alternative funding system: 94539

(1) The right of recovery given to the Department of Job and 94540
Family Services or a county department of job and family services 94541
under section 5101.58 of the Revised Code for habilitation center 94542
services provided before July 1, 2005. 94543

(2) The right to medical support or payments from a third party that is assigned to the Department under section 5101.59 of the Revised Code for habilitation center services provided before July 1, 2005.

Section 206.66.79. CHILDREN'S HOSPITALS

The foregoing appropriation items 600-635, Children's Hospitals - Federal, and 600-636, Children's Hospitals - State, shall be used by the Department of Job and Family Services to create a program under which it makes supplemental Medicaid payments to children's hospitals for inpatient services based on federal upper payment limits for children's hospitals. The Department shall submit to the United States Secretary of Health and Human Services an amendment to the State Medicaid Plan for the purpose of requesting federal approval to implement the program. On receipt of federal approval, the Department shall implement the program. Under the program, the Department shall pay children's hospitals the federally allowable supplemental payment for hospital discharges qualifying for the program and occurring in fiscal year 2006 and fiscal year 2007, except that the amount used for the program shall not exceed \$6 million (state share) in each fiscal year plus the corresponding federal match, if available, for the qualifying discharges in fiscal year 2006 and fiscal year 2007.

Section 206.66.84. CHILDREN'S TRUST FUND

Notwithstanding sections 3109.13 to 3109.18 of the Revised Code, in fiscal year 2006, the Director of Budget and Management shall transfer \$1,500,000 cash from the Children's Trust Fund (Fund 198 in the Department of Job and Family Services) to the Partnerships for Success Fund (Fund 5BH in the Department of Youth Services). On or before January 1, 2007, the Director of Budget

and Management shall transfer to the Children's Trust Fund (Fund 198) any amount of cash that remains unspent in the Partnerships for Success Fund (Fund 5BH). 94574
94575
94576

Section 206.66.85. HOSPITAL CARE ASSURANCE MATCH FUND 94577

Appropriation item 600-650, Hospital Care Assurance Match, 94578
shall be used by the Department of Job and Family Services in 94579
accordance with division (B) of section 5112.18 of the Revised 94580
Code. 94581

Section 206.66.87. HEALTH CARE SERVICES ADMINISTRATION 94582

The foregoing appropriation item 600-654, Health Care 94583
Services Administration, shall be used by the Department of Job 94584
and Family Services for costs associated with the administration 94585
of the Medicaid program. 94586

Section 206.66.90. HEALTH CARE SERVICES ADMINISTRATION FUND 94587

Of the amount received by the Department of Job and Family 94588
Services during fiscal year 2006 and fiscal year 2007 from the 94589
first installment of assessments paid under section 5112.06 of the 94590
Revised Code and intergovernmental transfers made under section 94591
5112.07 of the Revised Code, the Director of Job and Family 94592
Services shall deposit \$350,000 in each fiscal year into the state 94593
treasury to the credit of the Health Care Services Administration 94594
Fund (Fund 5U3). 94595

Section 206.66.91. The Department of Job and Family Services 94596
shall retain \$1,500,000 of the federal incentives that are 94597
described in division (A) of section 3125.19 of the Revised Code 94598
and authorized by 42 U.S.C. 658a that the Department of Job and 94599
Family Services receives from the United States Department of 94600
Human Services to reimburse the Department of Job and Family 94601

Services for the state share of payments made by the Department of 94602
Job and Family Services for mandatory contracts utilized by county 94603
child support enforcement agencies in the program of child support 94604
enforcement authorized by sections 3125.03 and 3125.11 of the 94605
Revised Code. This revenue shall be deposited in the Child Support 94606
Operating Fund (Fund 5BE in the Department of Job and Family 94607
Services). 94608

Section 206.66.92. Based on the actual usage of optional 94609
contracts by each county, the Department of Job and Family 94610
Services shall retain a portion of the federal incentives 94611
described in division (A) of section 3125.19 of the Revised Code 94612
and authorized by 42 U.S.C. 658a that the Department of Job and 94613
Family Services receives from the United States Department of 94614
Human Services that are paid to the county child support 94615
enforcement agencies each month based on the Department's estimate 94616
of what the county child support enforcement agency will earn in 94617
federal incentives. The portion retained by the Department of Job 94618
and Family Services shall reimburse the Department for the state 94619
share of the contractual obligation for the monthly utilization of 94620
optional contracts by each county child support enforcement agency 94621
in the program of child support enforcement authorized by sections 94622
3125.03 and 3125.11 of the Revised Code. This revenue shall be 94623
deposited in the Child Support Operating Fund (Fund 5BE in the 94624
Department of Job and Family Services). 94625

Section 206.66.93. CHILD SUPPORT COLLECTIONS/TANF MOE 94626

The foregoing appropriation item 600-658, Child Support 94627
Collections, shall be used by the Department of Job and Family 94628
Services to meet the TANF maintenance of effort requirements of 94629
Pub. L. No. 104-193. Once the state is assured that it will meet 94630
the maintenance of effort requirement, the Department of Job and 94631

Family Services may use funds from appropriation item 600-658, 94632
Child Support Collections, to support public assistance 94633
activities. 94634

Section 206.66.96. MEDICAID PROGRAM SUPPORT FUND - STATE 94635

The foregoing appropriation item 600-671, Medicaid Program 94636
Support, shall be used by the Department of Job and Family 94637
Services to pay for Medicaid services and contracts. The 94638
Department may also deposit to Fund 5C9 revenues received from 94639
other state agencies for Medicaid services under the terms of 94640
interagency agreements between the Department and other state 94641
agencies, and all funds the Department recovers because the 94642
benefits a person received under the disability medical assistance 94643
program established in section 5115.10 of the Revised Code were 94644
determined to be covered by the medical assistance program 94645
established under Chapter 5111. of the Revised Code. 94646

Section 206.66.99. TRANSFERS OF IMD/DSH CASH TO THE 94647
DEPARTMENT OF MENTAL HEALTH 94648

The Department of Job and Family Services shall transfer, 94649
through intrastate transfer voucher, cash from Fund 5C9, Medicaid 94650
Program Support, to the Department of Mental Health's Fund 4X5, 94651
OhioCare, in accordance with an interagency agreement that 94652
delegates authority from the Department of Job and Family Services 94653
to the Department of Mental Health to administer specified 94654
Medicaid services. 94655

Section 206.67.03. FEDERAL UNEMPLOYMENT PROGRAMS 94656

All unexpended funds remaining at the end of fiscal year 2005 94657
that were appropriated and made available to the state under 94658
section 903(d) of the Social Security Act, as amended, in the 94659
foregoing appropriation item 600-678, Federal Unemployment 94660

Programs (Fund 3V4), are hereby appropriated to the Department of 94661
Job and Family Services. Upon the request of the Director of Job 94662
and Family Services, the Director of Budget and Management shall 94663
increase the appropriation for fiscal year 2006 by the amount 94664
remaining unspent from the fiscal year 2005 appropriation and 94665
shall increase the appropriation for fiscal year 2007 by the 94666
amount remaining unspent from the fiscal year 2006 appropriation. 94667
The appropriation shall be used under the direction of the 94668
Department of Job and Family Services to pay for administrative 94669
activities for the Unemployment Insurance Program, employment 94670
services, and other allowable expenditures under section 903(d) of 94671
the Social Security Act, as amended. 94672

The amounts obligated pursuant to this section shall not 94673
exceed at any time the amount by which the aggregate of the 94674
amounts transferred to the account of the state under section 94675
903(d) of the Social Security Act, as amended, exceeds the 94676
aggregate of the amounts obligated for administration and paid out 94677
for benefits and required by law to be charged against the amounts 94678
transferred to the account of the state. 94679

Section 206.67.06. WORKFORCE DEVELOPMENT GRANT AGREEMENT 94680

The Department of Job and Family Services may use 94681
appropriations from appropriation item 600-688, Workforce 94682
Investment Act, to provide financial assistance for workforce 94683
development activities included in a grant agreement entered into 94684
by the department in accordance with section 5101.20 of the 94685
Revised Code. 94686

Section 206.67.07. ACCOUNTABILITY AND CREDIBILITY TOGETHER 94687

Of the foregoing appropriation item 600-689, TANF Block 94688
Grant, up to \$1 million in each fiscal year shall be reimbursed to 94689
Accountability and Credibility Together (ACT) to continue its 94690

welfare diversion program for TANF eligible individuals pursuant 94691
to section 5101.801 of the Revised Code. 94692

Section 206.67.08. KINSHIP PERMANENCY INCENTIVE PROGRAM 94693

Of the foregoing appropriation item 600-689, TANF Block Grant 94694
(Fund 3V6), \$10 million per fiscal year shall be used to support 94695
the activities of the Kinship Permanency Incentive Program created 94696
under section 5101.802 of the Revised Code. 94697

The Department of Job and Family Services shall prepare 94698
reports concerning both of the following: 94699

(A) Stability and permanency outcomes for children for whom 94700
incentive payments are made under the Kinship Permanency Incentive 94701
Program; 94702

(B) The total amount of payments made under the Program, 94703
patterns of expenditures made per child under the Program, and 94704
cost savings realized through the Program from placement with 94705
kinship caregivers rather than other out-of-home placements. 94706

The Department shall submit a report to the Governor, the 94707
Speaker and Minority Leader of the House of Representatives, and 94708
the President and Minority Leader of the Senate not later than 94709
December 31, 2008, and December 31, 2010. 94710

Section 206.67.09. OHIO ALLIANCE OF BOYS AND GIRLS CLUBS 94711

Of the foregoing appropriation item 600-689, TANF Block Grant 94712
(Fund 3V6), the Department of Job and Family Services shall use up 94713
to \$600,000 in each fiscal year to support expenditures of the 94714
Ohio Alliance of Boys and Girls Clubs pursuant to section 5101.801 94715
of the Revised Code to provide after-school programs that protect 94716
at-risk children and enable youth to become responsible adults. 94717
The Ohio Alliance of Boys and Girls Clubs shall provide 94718
nutritional meals, snacks, and educational, youth development, and 94719

career development services to TANF eligible children 94720
participating in programs and activities operated by eligible Boys 94721
and Girls Clubs. 94722

The Department shall provide an annual grant of \$600,000 in 94723
each fiscal year to the Ohio Alliance of Boys and Girls Clubs. The 94724
Department of Job and Family Services and the Ohio Alliance of 94725
Boys and Girls Clubs shall agree on reporting requirements to be 94726
incorporated into the grant agreement. 94727

CHILD WELFARE TRAINING INITIATIVE 94728

In each fiscal year, the Department of Job and Family 94729
Services shall grant \$50,000 from appropriation item 600-528, 94730
Adoption Services, and \$150,000 from appropriation item 600-606, 94731
Child Welfare (Fund 327), to the National Center for Adoption Law 94732
and Policy to fund a multi-disciplinary child welfare training 94733
initiative. The Department of Job and Family Services shall 94734
coordinate with the National Center for Adoption Law and Policy to 94735
determine the focus of the training provided each year. 94736

TALBERT HOUSE 94737

Of the foregoing appropriation item 600-689, TANF Block Grant 94738
(Fund 3V6), up to \$75,000 in each fiscal year shall be reimbursed 94739
to the Talbert House pursuant to section 5101.801 of the Revised 94740
Code to provide TANF eligible non-medical substance or alcohol 94741
abuse services. 94742

CHILDREN'S HUNGER ALLIANCE 94743

Of the foregoing appropriation item 600-689, TANF Block Grant 94744
(Fund 3V6), up to \$500,000 in each fiscal year shall be reimbursed 94745
to the Children's Hunger Alliance pursuant to section 5101.801 of 94746
the Revised Code for Child Nutrition Program outreach efforts. 94747

PROJECT GRAD 94748

Of the foregoing appropriation item 600-689, TANF Block Grant 94749

(Fund 3V6), up to \$185,000 in each fiscal year shall be reimbursed 94750
for TANF eligible activities pursuant to section 5101.801 of the 94751
Revised Code to reduce the dropout rate by addressing the academic 94752
and social problems of inner-city students through Project GRAD. 94753

***Section 206.67.10.** EMPLOYMENT RETENTION INCENTIVE PROGRAM 94754

(A) As used in this section: 94755

(1) "Assistance group" has the same meaning as in section 94756
5107.02 of the Revised Code. 94757

(2) "Ohio Works First" means the program established under 94758
Chapter 5107. of the Revised Code. 94759

(B) Subject to section 5101.801 of the Revised Code, in 94760
fiscal year 2007 the Department of Job and Family Services may 94761
establish and administer the Employment Retention Incentive 94762
Program under which the Department provides cash payments to 94763
eligible assistance groups. The Department shall use the foregoing 94764
appropriation item 600-689, TANF Block Grant, to fund the program. 94765

To be eligible for the Employment Retention Incentive 94766
Program, an assistance group must meet all of the following 94767
requirements: 94768

(1) The assistance group must apply using an application that 94769
contains all of the information that rules specified in this 94770
section require in accordance with the application process 94771
established in those rules; 94772

(2) The assistance group must have ceased to participate in 94773
Ohio Works First in accordance with rules specified in this 94774
section; 94775

(3) The assistance group must include a member who was 94776
employed during the last month the assistance group participated 94777
in Ohio Works First in accordance with rules specified in this 94778
section; 94779

(4) That member of the assistance group must remain employed 94780
in accordance with rules specified in this section; 94781

(5) The assistance group must meet all other eligibility 94782
requirements established in rules specified in this section. 94783

(C) If the Department establishes the Employment Retention 94784
Incentive Program, the Department shall provide cash payments 94785
under the program in a manner that enables the cash payments to be 94786
excluded from the definition of "assistance" in 45 C.F.R. 94787
260.31(a) and instead be benefits that 45 C.F.R. 260.31(b) 94788
excludes from the definition of assistance. Each county Department 94789
of Job and Family Services shall make eligibility determinations 94790
for the program and perform other administrative duties for the 94791
program in accordance with rules specified in this section. 94792

(D) If the Department establishes the Employment Retention 94793
Incentive Program, the Department shall adopt rules under division 94794
(C) of section 5101.801 of the Revised Code to establish all of 94795
the following for the program: 94796

(1) The information that an application for the program must 94797
contain; 94798

(2) The application process for the program, including the 94799
process to verify eligibility for the program; 94800

(3) The manner in which an assistance group must have ceased 94801
to participate in Ohio Works First for the assistance group to 94802
qualify for the program; 94803

(4) The manner in which an assistance group member must have 94804
been employed during the last month the assistance group 94805
participated in Ohio Works First for the assistance group to 94806
qualify for the program; 94807

(5) The manner in which an assistance group member must 94808
remain employed for the assistance group to qualify for the 94809

| | |
|--|---|
| program; | 94810 |
| (6) Other eligibility requirements for the program; | 94811 |
| (7) The amounts that eligible assistance groups are to receive as cash payments under the program; | 94812 94813 |
| (8) The frequency and duration that eligible assistance groups are to receive cash payments under the program; | 94814 94815 |
| (9) Requirements governing county departments' administrative duties regarding the program. | 94816 94817 |
| (E) In adopting rules under division (D)(2) of this section establishing the application process for the Employment Retention Incentive Program, the director may not require that application be submitted to county departments of job and family services. | 94818 94819 94820 94821 |
| *Section 206.67.11. Section 206.67.10 of this act takes effect July 1, 2006. | 94822 94823 |
| Section 206.67.12. EARLY LEARNING INITIATIVE | 94824 |
| (A) As used in this section: | 94825 |
| (1) "Title IV-A services" means benefits and services that are allowable under Title IV-A of the "Social Security Act," as specified in 42 U.S.C. 604(a), except that they shall not be benefits and services included in the term "assistance" as defined in 45 C.F.R. 260.31(a) and shall be benefits and services that are excluded from the definition of the term "assistance" under 45 C.F.R. 260.31(b). | 94826 94827 94828 94829 94830 94831 94832 |
| (2) "Title IV-A funds" means funds provided under the temporary assistance for needy families block grant established by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. | 94833 94834 94835 94836 |
| (3) "Child care" has the same meaning as in section 5104.01 | 94837 |

of the Revised Code. 94838

(4) "Eligible child" means a child who is at least three 94839
years of age but not of compulsory school age or enrolled in 94840
kindergarten, is eligible for Title IV-A services, and whose 94841
family income does not exceed one hundred eighty-five per cent of 94842
the federal poverty line at application. If the family income of a 94843
child receiving early learning services under this section exceeds 94844
one hundred ninety-five per cent of the federal poverty line, the 94845
child ceases to be eligible for an early learning program. 94846

(5) "Early learning program" means a program for eligible 94847
children that is funded with Title IV-A funds and provides Title 94848
IV-A services that are both of the following: 94849

(a) Early learning services, as defined by the Department of 94850
Education pursuant to division (C)(1) of Section 206.09.54 of this 94851
act; 94852

(b) Child care. 94853

(6) "Early learning provider" means an entity that is 94854
receiving Title IV-A funds to operate an early learning program. 94855

(7) "Early learning agency" means an early learning provider 94856
or an entity that has entered into an agreement with an early 94857
learning provider requiring the early learning provider to operate 94858
an early learning program on behalf of the entity. 94859

(8) "Federal poverty line" has the same meaning as in section 94860
5104.01 of the Revised Code. 94861

(9) "Of compulsory school age" has the same meaning as in 94862
section 3321.01 of the Revised Code. 94863

(B) The Department of Job and Family Services and the 94864
Department of Education shall administer the Early Learning 94865
Initiative, established under Section 206.09.54 of this act, in 94866
accordance with sections 5101.80 and 5101.801 of the Revised Code. 94867

The Initiative shall provide early learning programs and child care to eligible children. Early learning programs may provide early learning services on a full-day basis, a part-day basis, or both a full-day and part-day basis.

(C) The Department of Job and Family Services shall do all of the following:

(1) Enter into a contract with each early learning agency in accordance with Section 206.09.54 of this act;

(2) Reimburse early learning agencies for Title IV-A services provided to eligible children according to the terms of the contract and the rules adopted under division (C)(3) of this section;

(3) In consultation with the Department of Education, adopt rules in accordance with Chapter 119. of the Revised Code to implement the Early Learning Initiative. The rules shall include all of the following:

(a) Provisions regarding the establishment of co-payments for families of eligible children whose family income is more than one hundred sixty-five per cent of the federal poverty line but equal to or less than one hundred ninety-five per cent of the federal poverty line;

(b) An exemption from co-payment requirements for families whose family income is equal to or less than one hundred sixty-five per cent of the federal poverty line;

(c) A definition of "weekly attendance rate" for the purpose of reimbursing early learning agencies;

(d) Provisions that establish the following reimbursement rates for early learning agencies based on the attendance of eligible children:

(i) If an eligible child attends twenty-five or more hours in

a given week, the weekly reimbursement shall not be less than two hundred dollars and seventy-three cents;

(ii) If an eligible child attends fifteen or more hours but less than twenty-five hours in a given week, the weekly reimbursement rate shall not be less than one hundred sixty dollars and fifty-eight cents;

(iii) If an eligible child attends less than fifteen hours in a given week, the hourly reimbursement rate shall not be less than eight dollars and three cents.

(4) If, on the effective date of this section and Section 206.09.54 of this act, no early learning agencies have been approved for a given county, the Department of Job and Family Services, in consultation with the Department of Education, shall establish a deadline for the submission of applications to be an early learning agency that occurs after the effective date of this section.

(5)(a) Subject to division (C)(6)(b) of this Section and in consultation with the Department of Education, establish a caretaker employment eligibility requirement for participation in the Early Learning Initiative that specifies the minimum number of hours that the caretaker of the eligible child must be employed and the time period over which the minimum number of hours is to be measured. These minimum hours may, but are not required to, overlap the period during the day or week in which the child participates in the early learning program. This caretaker employment eligibility requirement shall permit the child to be determined to be, and to remain, an eligible child for up to thirty days if the county department of job and family services determines that the caretaker is expected to begin engaging in an approved activity within that thirty-day period. The county department of job and family services shall inform both the early learning provider and the Department of Job and Family Services of

this determination. The Department of Job and Family Services 94930
shall designate by rule the activities that constitute approved 94931
activities for purposes of this requirement. 94932

(b) The Department shall periodically review the requirement 94933
described in division (C)(6)(a) of this Section to ensure that it 94934
complies with federal law and regulations. 94935

(D) Each county department of job and family services shall 94936
determine eligibility for Title IV-A services for children seeking 94937
to enroll in an early learning program within fifteen days after 94938
receipt of a completed application and establish co-payment 94939
requirements in accordance with the rules adopted under division 94940
(C)(3) of this section. 94941

(E)(1) The Department of Job and Family Services shall ensure 94942
that all reimbursements paid to an early learning agency under 94943
this section are only for Title IV-A services provided to eligible 94944
children. 94945

(2) In calculating reimbursements, the Department shall 94946
reimburse the early learning agency for up to twenty-five days per 94947
year in which an eligible child is absent from the early learning 94948
program on a day the child is scheduled to attend the program. 94949

(F) The provision of early learning services in an early 94950
learning program shall not prohibit or otherwise prevent an 94951
individual from obtaining certificates for payment under division 94952
(C) of section 5104.32 of the Revised Code that the individual may 94953
use to purchase services from any provider qualified to provide 94954
publicly funded child care under section 5104.31 of the Revised 94955
Code. 94956

(G) Upon the transfer of appropriation from Department of 94957
Education appropriation line 200-663, Early Learning Initiative 94958
(Fund 5W2), to Department of Job and Family Services appropriation 94959
item 600-689, TANF Block Grant (Fund 3V6), up to \$104,380,000 in 94960

fiscal year 2006 and up to \$125,256,000 in fiscal year 2007 shall 94961
be used to reimburse early learning agencies under this section. 94962
The Department of Job and Family Services shall provide up to 94963
10,000 slots of services for eligible children in fiscal year 2006 94964
and up to 12,000 slots of services for eligible children in fiscal 94965
year 2007 through the Early Learning Initiative. In each fiscal 94966
year, the Department shall allocate at least seventeen slots of 94967
services to each county in the state. 94968

If, on or after the thirty-first day of December of each 94969
fiscal year, the Director of Budget and Management, in 94970
consultation with the Director of Job and Family Services and the 94971
Superintendent of Public Instruction, determines that there is a 94972
balance of funds in the Early Learning Initiative in either fiscal 94973
year 2006 or fiscal year 2007, the Director of Budget and 94974
Management may approve the use of the funds by the Department of 94975
Job and Family Services to provide publicly funded child care, as 94976
defined in section 5104.01 of the Revised Code. 94977

Of the foregoing appropriation item 600-689, TANF Block Grant 94978
(Fund 3V6), up to \$800,000 in each fiscal year may be used by the 94979
Department of Job and Family Services for administration of the 94980
Early Learning Initiative. 94981

The Director of Budget and Management, at the request of the 94982
Director of Job and Family Services, may transfer in each fiscal 94983
year up to \$2,200,000 cash from the Temporary Assistance for Needy 94984
Families Federal Fund (Fund 3V6) to the Early Learning Initiative 94985
(Fund 5W2) for administration of the Early Learning Initiative by 94986
the Department of Education. 94987

(H) Any contract executed prior to July 1, 2005, between an 94988
early learning agency, the Department of Job and Family Services, 94989
and the Department of Education shall be deemed to be effective as 94990
of July 1, 2005, upon issuance of a state purchase order even if 94991
such purchase order is approved at some later date, unless the 94992

executed contract expressly provides for a start date after July 1, 2005. 94993
94994

Section 206.67.13. PUBLICLY FUNDED CHILD CARE 94995

(A) The Department of Job and Family Services shall increase, 94996
for fiscal years 2006 and 2007, the reimbursement ceilings for 94997
providers of publicly funded child care to sixty-five per cent of 94998
the market's usual and customary cost to the public based on the 94999
most recently conducted market rate survey required by 45 C.F.R. 95000
98.16. 95001

(B) The Department shall estimate the monthly average of 95002
children the Department expects to enroll in publicly funded child 95003
care from December 2005 through March 2006. The Department shall 95004
then determine the actual monthly average of children enrolled in 95005
publicly funded child care for that period. If the monthly average 95006
of children expected to enroll exceeds the monthly average of 95007
children actually enrolled by at least two thousand children, the 95008
Department may increase, for fiscal year 2007, the reimbursement 95009
ceilings for providers of publicly funded child care to not more 95010
than seventy per cent of the market's usual and customary cost to 95011
the public based on the most recently conducted market rate survey 95012
required by 45 C.F.R. 98.16. 95013

(C) The Department of Job and Family Services shall conduct a 95014
study of the market rates for the provision of child care to 95015
establish new rates for the funding of publicly funded child care. 95016
The Department shall complete this study and establish new rates 95017
for reimbursement not later than July 1, 2006. 95018

Each child care provider shall cooperate with the Department 95019
on this study. 95020

Section 206.67.15. PRESCRIPTION DRUG REBATE FUND 95021

The foregoing appropriation item 600-692, Health Care 95022

Services, shall be used by the Department of Job and Family 95023
Services in accordance with section 5111.081 of the Revised Code. 95024
Moneys recovered by the Department for either hospital settlements 95025
or pursuant to the Department's rights of recovery under section 95026
5101.58 of the Revised Code, that are not directed to the Health 95027
Care Services Administration Fund (Fund 5U3) under section 5111.94 95028
of the Revised Code, shall also be deposited into Fund 5P5. 95029

Section 206.67.18. COMMUNITY BEHAVIORAL HEALTH MEDICAID 95030
BUSINESS PLAN 95031

(A) As used in this section, "State of Ohio Community 95032
Behavioral Health Medicaid Business Plan" means the plan of that 95033
title finalized in August 2004, by the Departments of Job and 95034
Family Services, Mental Health, and Alcohol and Drug Addiction 95035
Services and the Ohio Association of Behavioral Health 95036
Authorities. 95037

(B) As soon as practicable, the Departments of Job and Family 95038
Services, Mental Health, and Alcohol and Drug Addiction Services, 95039
in conjunction with behavioral health providers and boards of 95040
alcohol, drug addiction, and mental health services, shall specify 95041
procedures that are consistent with federal law for implementation 95042
of the State of Ohio Community Behavioral Health Medicaid Business 95043
Plan. If it is determined that any portion of the Plan does not 95044
comply with federal law, the Departments, in conjunction with the 95045
providers and boards, shall specify procedures to work toward 95046
implementation of that portion of the Plan. 95047

A report on the progress being made in implementing the Plan 95048
shall be submitted to the Speaker of the House of Representatives, 95049
the President of the Senate, the Minority Leader of the House of 95050
Representatives, and the Minority Leader of the Senate not later 95051
than the first day of March and first day of October of each year 95052
until all components of the Plan have been fully implemented. 95053

Section 206.67.21. TRANSFER OF TOBACCO MASTER SETTLEMENT 95054
AGREEMENT FUNDS TO SUPPORT THE AGED, BLIND, AND DISABLED MANAGED 95055
CARE PROGRAM 95056

(A) Not later than June 30, 2006, the Director of Job and 95057
Family Services, in conjunction with the Office of Budget and 95058
Management, shall determine the amount necessary to implement the 95059
Aged, Blind, and Disabled Managed Care Program established under 95060
section 5111.16 of the Revised Code. 95061

(B) Notwithstanding section 183.02 of the Revised Code, on 95062
July 1, 2006, or as soon as possible thereafter, the Director of 95063
Budget and Management shall transfer cash equal to the state share 95064
of the amount determined pursuant to division (A) of this section 95065
from the Tobacco Master Settlement Agreement Fund (Fund 087) to 95066
the ABD Managed Care Program - State Fund (Fund 5BZ in the 95067
Department of Job and Family Services), which is hereby created. 95068
Of the tobacco revenue that is credited to the Tobacco Master 95069
Settlement Agreement Fund (Fund 087) in fiscal year 2006, the 95070
share that is determined pursuant to section 183.02 of the Revised 95071
Code to be the amount transferred by the Director of Budget and 95072
Management from the Tobacco Master Settlement Agreement Fund (Fund 95073
087) to the Tobacco Use Prevention and Cessation Trust Fund (Fund 95074
H87) shall be reduced by the amount that is transferred from the 95075
Tobacco Master Settlement Agreement Fund (Fund 087) to the ABD 95076
Managed Care Program - State Fund (Fund 5BZ) in accordance with 95077
this section. The amount transferred under this division is hereby 95078
appropriated to appropriation item 600-698, ABD Managed Care 95079
Program - State. 95080

(C) The Department of Job and Family Services shall deposit 95081
federal reimbursement received for the Aged, Blind, and Disabled 95082
Managed Care Program into the ABD Managed Care Program - Federal 95083
Fund (Fund 3AZ), which is hereby created. Amounts deposited into 95084

Fund 3AZ are hereby appropriated to appropriation item 600-699, 95085
ABD Managed Care Program - Federal. 95086

Section 206.67.24. WAIVER OF FOOD STAMP WORK REQUIREMENTS 95087

Pursuant to 7 U.S.C. 2015(o)(4)(A)(i), the Department of Job 95088
and Family Services shall request that the United States Secretary 95089
of Agriculture waive the applicability of the work requirement of 95090
7 U.S.C. 2015(o)(2) during fiscal years 2006 and 2007 to food 95091
stamp benefit recipients who reside in a county of this state that 95092
the Department determines has an unemployment rate of over 10 per 95093
cent or does not have a sufficient number of jobs to provide 95094
employment for the recipients. The Department shall make monthly 95095
determinations of which counties the waiver shall be in effect in. 95096
No individual may be exempted from the work requirements for more 95097
than a total of twelve months beginning July 1, 2005, and ending 95098
June 30, 2007. 95099

The Department shall report to the Speaker and Minority 95100
Leader of the House of Representatives and President and Minority 95101
Leader of the Senate on receipt or rejection of the waiver sought 95102
under this section. 95103

Section 206.72. JCO JUDICIAL CONFERENCE OF OHIO 95104

General Revenue Fund 95105

GRF 018-321 Operating Expenses \$ 957,000 \$ 957,000 95106

TOTAL GRF General Revenue Fund \$ 957,000 \$ 957,000 95107

General Services Fund Group 95108

403 018-601 Ohio Jury Instructions \$ 225,000 \$ 225,000 95109

TOTAL GSF General Services Fund \$ 225,000 \$ 225,000 95110

Group

TOTAL ALL BUDGET FUND GROUPS \$ 1,182,000 \$ 1,182,000 95111

STATE COUNCIL OF UNIFORM STATE LAWS 95112

Notwithstanding section 105.26 of the Revised Code, of the 95113
foregoing appropriation item 018-321, Operating Expenses, up to 95114
\$66,000 in fiscal year 2006 and up to \$68,000 in fiscal year 2007 95115
may be used to pay the expenses of the State Council of Uniform 95116
State Laws, including membership dues to the National Conference 95117
of Commissioners on Uniform State Laws. 95118

OHIO JURY INSTRUCTIONS FUND 95119

The Ohio Jury Instructions Fund (Fund 403) shall consist of 95120
grants, royalties, dues, conference fees, bequests, devises, and 95121
other gifts received for the purpose of supporting costs incurred 95122
by the Judicial Conference of Ohio in dispensing educational and 95123
informational data to the state's judicial system. Fund 403 shall 95124
be used by the Judicial Conference of Ohio to pay expenses 95125
incurred in dispensing educational and informational data to the 95126
state's judicial system. All moneys accruing to Fund 403 in excess 95127
of \$225,000 in fiscal year 2006 and in excess of \$225,000 in 95128
fiscal year 2007 are hereby appropriated for the purposes 95129
authorized. 95130

No money in the Ohio Jury Instructions Fund shall be 95131
transferred to any other fund by the Director of Budget and 95132
Management or the Controlling Board. 95133

Section 206.75. JSC THE JUDICIARY/SUPREME COURT 95134

General Revenue Fund 95135

GRF 005-321 Operating Expenses - \$ 118,855,655 \$ 121,441,259 95136

Judiciary/Supreme
Court

GRF 005-401 State Criminal \$ 328,676 \$ 343,730 95137

Sentencing Council

GRF 005-406 Law-Related Education \$ 216,131 \$ 222,615 95138

GRF 005-502 Commission for Legal \$ 435,000 \$ 875,000 95139

| | | | |
|---|----|-------------|----------------------|
| Education Opportunity | | | |
| TOTAL GRF General Revenue Fund | \$ | 119,835,462 | \$ 122,882,604 95140 |
| General Services Fund Group | | | 95141 |
| 672 005-601 Continuing Judicial | \$ | 130,000 | \$ 130,000 95142 |
| Education | | | |
| TOTAL GSF General Services Fund | \$ | 130,000 | \$ 130,000 95143 |
| Group | | | |
| Federal Special Revenue Fund Group | | | 95144 |
| 3J0 005-603 Federal Grants | \$ | 848,070 | \$ 861,382 95145 |
| TOTAL FED Federal Special Revenue | \$ | 848,070 | \$ 861,382 95146 |
| Fund Group | | | |
| State Special Revenue Fund Group | | | 95147 |
| 4C8 005-605 Attorney Registration | \$ | 3,169,774 | \$ 3,264,867 95148 |
| 5T8 005-609 Grants and Awards | \$ | 10,000 | \$ 10,000 95149 |
| 6A8 005-606 Supreme Court | \$ | 1,410,718 | \$ 1,453,042 95150 |
| Admissions | | | |
| 643 005-607 Commission on | \$ | 569,203 | \$ 586,261 95151 |
| Continuing Legal | | | |
| Education | | | |
| TOTAL SSR State Special Revenue | \$ | 5,159,695 | \$ 5,314,170 95152 |
| Fund Group | | | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 125,973,227 | \$ 129,188,156 95153 |
| LAW-RELATED EDUCATION | | | |
| The foregoing appropriation item 005-406, Law-Related | | | 95155 |
| Education, shall be distributed directly to the Ohio Center for | | | 95156 |
| Law-Related Education for the purposes of providing continuing | | | 95157 |
| citizenship education activities to primary and secondary | | | 95158 |
| students, expanding delinquency prevention programs, increasing | | | 95159 |
| activities for at-risk youth, and accessing additional public and | | | 95160 |
| private money for new programs. | | | 95161 |
| COMMISSION FOR LEGAL EDUCATION OPPORTUNITY | | | |
| | | | 95162 |

The foregoing appropriation item 005-502, Commission for Legal Education Opportunity, shall be used to fund activities of the Commission for Legal Education Opportunity created by the Chief Justice of the Supreme Court of Ohio for purposes of assisting minority, low-income, and educationally disadvantaged college graduates in transition to legal education. Moneys appropriated to the Commission for Legal Education Opportunity may be used to establish and provide intensive course study designed to prepare eligible college graduates for law education, provide annual stipends for students who successfully complete the course of study and are admitted to and maintain satisfactory academic standing in an Ohio law school, and pay the administrative costs associated with the program.

CONTINUING JUDICIAL EDUCATION

The Continuing Judicial Education Fund (Fund 672) shall consist of fees paid by judges and court personnel for attending continuing education courses and other gifts and grants received for the purpose of continuing judicial education. The foregoing appropriation item 005-601, Continuing Judicial Education, shall be used to pay expenses for continuing education courses for judges and court personnel. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in the Continuing Judicial Education Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in the Continuing Judicial Education Fund shall be credited to the fund.

FEDERAL GRANTS

The Federal Grants Fund (Fund 3J0) shall consist of grants and other moneys awarded to the Supreme Court (The Judiciary) by

the United States Government or other entities that receive the 95194
moneys directly from the United States Government and distribute 95195
those moneys to the Supreme Court (The Judiciary). The foregoing 95196
appropriation item 005-603, Federal Grants, shall be used in a 95197
manner consistent with the purpose of the grant or award. If it is 95198
determined by the Administrative Director of the Supreme Court 95199
that additional appropriations are necessary, the amounts are 95200
hereby appropriated. 95201

No money in the Federal Grants Fund shall be transferred to 95202
any other fund by the Director of Budget and Management or the 95203
Controlling Board. However, interest earned on moneys in the 95204
Federal Grants Fund shall be credited or transferred to the 95205
General Revenue Fund. 95206

ATTORNEY REGISTRATION 95207

In addition to funding other activities considered 95208
appropriate by the Supreme Court, the foregoing appropriation item 95209
005-605, Attorney Registration, may be used to compensate 95210
employees and to fund appropriate activities of the following 95211
offices established by the Supreme Court under the Rules for the 95212
Government of the Bar of Ohio: the Office of Disciplinary Counsel, 95213
the Board of Commissioners on Grievances and Discipline, the 95214
Clients' Security Fund, the Board of Commissioners on the 95215
Unauthorized Practice of Law, and the Office of Attorney 95216
Registration. If it is determined by the Administrative Director 95217
of the Supreme Court that additional appropriations are necessary, 95218
the amounts are hereby appropriated. 95219

No moneys in the Attorney Registration Fund shall be 95220
transferred to any other fund by the Director of Budget and 95221
Management or the Controlling Board. Interest earned on moneys in 95222
the Attorney Registration Fund shall be credited to the fund. 95223

GRANTS AND AWARDS 95224

The Grants and Awards Fund (Fund 5T8) shall consist of grants 95225
and other moneys awarded to the Supreme Court (The Judiciary) by 95226
the State Justice Institute, the Division of Criminal Justice 95227
Services, or other entities. The foregoing appropriation item 95228
005-609, Grants and Awards, shall be used in a manner consistent 95229
with the purpose of the grant or award. If it is determined by the 95230
Administrative Director of the Supreme Court that additional 95231
appropriations are necessary, the amounts are hereby appropriated. 95232

No moneys in the Grants and Awards Fund shall be transferred 95233
to any other fund by the Director of Budget and Management or the 95234
Controlling Board. However, interest earned on moneys in the 95235
Grants and Awards Fund shall be credited or transferred to the 95236
General Revenue Fund. 95237

SUPREME COURT ADMISSIONS 95238

The foregoing appropriation item 005-606, Supreme Court 95239
Admissions, shall be used to compensate Supreme Court employees 95240
who are primarily responsible for administering the attorney 95241
admissions program under the Rules for the Government of the Bar 95242
of Ohio, and to fund any other activities considered appropriate 95243
by the court. Moneys shall be deposited into the Supreme Court 95244
Admissions Fund (Fund 6A8) under the Supreme Court Rules for the 95245
Government of the Bar of Ohio. If it is determined by the 95246
Administrative Director of the Supreme Court that additional 95247
appropriations are necessary, the amounts are hereby appropriated. 95248

No moneys in the Supreme Court Admissions Fund shall be 95249
transferred to any other fund by the Director of Budget and 95250
Management or the Controlling Board. Interest earned on moneys in 95251
the Supreme Court Admissions Fund shall be credited to the fund. 95252

CONTINUING LEGAL EDUCATION 95253

The foregoing appropriation item 005-607, Commission on 95254
Continuing Legal Education, shall be used to compensate employees 95255

of the Commission on Continuing Legal Education established under 95256
the Supreme Court Rules for the Government of the Bar of Ohio, and 95257
to fund other activities of the commission considered appropriate 95258
by the court. If it is determined by the Administrative Director 95259
of the Supreme Court that additional appropriations are necessary, 95260
the amounts are hereby appropriated. 95261

No moneys in the Continuing Legal Education Fund shall be 95262
transferred to any other fund by the Director of Budget and 95263
Management or the Controlling Board. Interest earned on moneys in 95264
the Continuing Legal Education Fund shall be credited to the fund. 95265

Section 206.78. LEC LAKE ERIE COMMISSION 95266

State Special Revenue Fund Group 95267

4C0 780-601 Lake Erie Protection \$ 875,000 \$ 875,000 95268

Fund

5D8 780-602 Lake Erie Resources \$ 486,072 \$ 492,794 95269

Fund

TOTAL SSR State Special Revenue 95270

Fund Group \$ 1,361,072 \$ 1,367,794 95271

TOTAL ALL BUDGET FUND GROUPS \$ 1,361,072 \$ 1,367,794 95272

CASH TRANSFER 95273

Not later than the thirtieth day of November of each fiscal 95274
year, the Executive Director of the Ohio Lake Erie Office, with 95275
the approval of the Lake Erie Commission, shall certify to the 95276
Director of Budget and Management the cash balance in the Lake 95277
Erie Resources Fund (Fund 5D8) in excess of amounts needed to meet 95278
operating expenses of the Lake Erie Office. The Lake Erie Office 95279
may request the Director of Budget and Management to transfer up 95280
to the certified amount from the Lake Erie Resources Fund (Fund 95281
5D8) to the Lake Erie Protection Fund (Fund 4C0). The Director of 95282
Budget and Management may transfer the requested amount, or the 95283
Director may transfer a different amount up to the certified 95284

amount. Cash transferred shall be used for the purposes described 95285
in division (A) of section 1506.23 of the Revised Code. The amount 95286
transferred by the director is hereby appropriated to the 95287
foregoing appropriation item 780-601, Lake Erie Protection Fund, 95288
which shall be increased by the amount transferred. 95289

Section 206.81. LRS LEGAL RIGHTS SERVICE 95290

General Revenue Fund 95291

| | | | | | |
|--------------------------------|----|---------|----|---------|-------|
| GRF 054-100 Personal Services | \$ | 162,281 | \$ | 162,281 | 95292 |
| GRF 054-200 Maintenance | \$ | 33,938 | \$ | 33,938 | 95293 |
| GRF 054-300 Equipment | \$ | 1,856 | \$ | 1,856 | 95294 |
| GRF 054-401 Ombudsman | \$ | 291,247 | \$ | 291,247 | 95295 |
| TOTAL GRF General Revenue Fund | \$ | 489,322 | \$ | 489,322 | 95296 |

General Services Fund Group 95297

| | | | | | |
|---------------------------------|----|--------|----|--------|-------|
| 416 054-601 Gifts and Donations | \$ | 1,352 | \$ | 1,352 | 95298 |
| 5M0 054-610 Settlements | \$ | 75,000 | \$ | 75,000 | 95299 |
| TOTAL GSF General Services | | | | | 95300 |
| Fund Group | \$ | 76,352 | \$ | 76,352 | 95301 |

Federal Special Revenue Fund Group 95302

| | | | | | |
|---|----|-----------|----|-----------|-------|
| 3AG 054-613 Protection and Advocacy - Voter Accessibility | \$ | 114,089 | \$ | 114,089 | 95303 |
| 3B8 054-603 Protection and Advocacy - Mentally Ill | \$ | 1,059,041 | \$ | 1,059,041 | 95304 |
| 3N3 054-606 Protection and Advocacy - Individual Rights | \$ | 550,283 | \$ | 550,283 | 95305 |
| 3N9 054-607 Assistive Technology | \$ | 141,686 | \$ | 141,686 | 95306 |
| 3R9 054-604 Family Support Collaborative | \$ | 50,000 | \$ | 50,000 | 95307 |
| 3T2 054-609 Client Assistance | \$ | 400,553 | \$ | 400,553 | 95308 |

| | | | | | | |
|---|---------|------------------------|----|------------|---------------|-------|
| | Program | | | | | |
| 3X1 | 054-611 | Protection and | \$ | 187,784 | \$ 187,784 | 95309 |
| | | Advocacy for | | | | |
| | | Beneficiaries of | | | | |
| | | Social Security | | | | |
| 3Z6 | 054-612 | Traumatic Brain Injury | \$ | 65,138 | \$ 65,138 | 95310 |
| 305 | 054-602 | Protection and | \$ | 1,369,082 | \$ 1,369,082 | 95311 |
| | | Advocacy - | | | | |
| | | Developmentally | | | | |
| | | Disabled | | | | |
| TOTAL FED Federal Special Revenue | | | | | | 95312 |
| Fund Group | | | \$ | 3,937,656 | \$ 3,937,656 | 95313 |
| State Special Revenue Fund Group | | | | | | 95314 |
| 5AE | 054-614 | Grants and Contracts | \$ | 75,000 | \$ 75,000 | 95315 |
| TOTAL SSR State Special Revenue | | | | | | 95316 |
| Fund Group | | | \$ | 75,000 | \$ 75,000 | |
| TOTAL ALL BUDGET FUND GROUPS | | | | | | 95317 |
| Section 206.84. JLE JOINT LEGISLATIVE ETHICS COMMITTEE | | | | | | 95319 |
| General Revenue Fund | | | | | | 95320 |
| GRF | 028-321 | Legislative Ethics | \$ | 550,000 | \$ 550,000 | 95321 |
| | | Committee | | | | |
| TOTAL GRF General Revenue Fund | | | | | | 95322 |
| TOTAL ALL BUDGET FUND GROUPS | | | | | | 95323 |
| Section 206.87. LSC LEGISLATIVE SERVICE COMMISSION | | | | | | 95325 |
| General Revenue Fund | | | | | | 95326 |
| GRF | 035-321 | Operating Expenses | \$ | 15,398,213 | \$ 16,026,427 | 95327 |
| GRF | 035-402 | Legislative Interns | \$ | 1,012,000 | \$ 1,012,000 | 95328 |
| GRF | 035-404 | Legislative Office of | \$ | 628,214 | \$ 0 | 95329 |
| | | Education Oversight | | | | |
| GRF | 035-405 | Correctional | \$ | 375,000 | \$ 390,000 | 95330 |

| | | | | |
|--|-----------------------|----|------------|---------------------|
| Institution Inspection | | | | |
| Committee | | | | |
| GRF 035-409 | National Associations | \$ | 445,000 | \$ 456,000 95331 |
| GRF 035-410 | Legislative | \$ | 3,625,000 | \$ 3,625,000 95332 |
| Information Systems | | | | |
| TOTAL GRF | General Revenue Fund | \$ | 21,483,427 | \$ 21,509,427 95333 |
| General Services Fund Group | | | | 95334 |
| 4F6 035-603 | Legislative Budget | \$ | 152,000 | \$ 152,500 95335 |
| Services | | | | |
| 410 035-601 | Sale of Publications | \$ | 25,000 | \$ 25,000 95336 |
| TOTAL GSF | General Services | | | 95337 |
| Fund Group | | \$ | 177,000 | \$ 177,500 95338 |
| TOTAL ALL BUDGET FUND GROUPS | | \$ | 21,660,427 | \$ 21,686,927 95339 |
| JOINT LEGISLATIVE COMMITTEE ON MEDICAID TECHNOLOGY AND REFORM | | | | 95340 |
| Of the foregoing appropriation item 035-321, Operating | | | | 95341 |
| Expenses, \$100,000 in each fiscal year shall be used for costs | | | | 95342 |
| associated with employing an executive director for the Joint | | | | 95343 |
| Legislative Committee on Medicaid Technology and Reform as | | | | 95344 |
| authorized by division (C) of section 101.391 of the Revised Code. | | | | 95345 |
| ELIMINATION OF LEGISLATIVE OFFICE OF EDUCATION OVERSIGHT | | | | 95346 |
| The Legislative Office of Education Oversight shall complete | | | | 95347 |
| statutorily required studies by December 31, 2005. On January 1, | | | | 95348 |
| 2006, the Director of Budget and Management shall transfer the | | | | 95349 |
| unencumbered cash balance from GRF appropriation item 035-404, | | | | 95350 |
| Legislative Office of Education Oversight, to GRF appropriation | | | | 95351 |
| item 035-321, Operating Expenses. | | | | 95352 |
| It is the intent of the General Assembly to reconstitute the | | | | 95353 |
| Legislative Budget Office within the Legislative Service | | | | 95354 |
| Commission to focus on revenue forecasting. The Legislative | | | | 95355 |
| Service Commission shall employ a Legislative Budget Officer. The | | | | 95356 |
| Legislative Service Commission shall also employ a person to focus | | | | 95357 |

on Medicaid, TANF, and other federally-funded, caseload-driven 95358
programs. It is the intent of the General Assembly to retain 95359
current fiscal staff within the Legislative Service Commission. 95360

Section 206.90. LIB STATE LIBRARY BOARD 95361

General Revenue Fund 95362

GRF 350-321 Operating Expenses \$ 6,298,677 \$ 6,298,677 95363

GRF 350-400 Ohio Public Library \$ 4,330,000 \$ 4,330,000 95364
Information Network

GRF 350-401 Ohioana Rental \$ 124,816 \$ 124,816 95365
Payments

GRF 350-501 Library for the \$ 535,615 \$ 535,615 95366
Blind-Cincinnati

GRF 350-502 Regional Library \$ 1,010,441 \$ 1,010,441 95367
Systems

GRF 350-503 Library for the \$ 805,642 \$ 805,642 95368
Blind-Cleveland

TOTAL GRF General Revenue Fund \$ 13,105,191 \$ 13,105,191 95369

General Services Fund Group 95370

139 350-602 Intra-Agency Service \$ 9,000 \$ 9,000 95371
Charges

4S4 350-604 OPLIN Technology \$ 3,000,000 \$ 3,000,000 95372

459 350-602 Interlibrary Service \$ 2,469,925 \$ 2,708,092 95373
Charges

TOTAL GSF General Services 95374

Fund Group \$ 5,478,925 \$ 5,717,092 95375

Federal Special Revenue Fund Group 95376

313 350-601 LSTA Federal \$ 5,643,905 \$ 5,643,905 95377

TOTAL FED Federal Special Revenue 95378

Fund Group \$ 5,643,905 \$ 5,643,905 95379

TOTAL ALL BUDGET FUND GROUPS \$ 24,228,021 \$ 24,466,188 95380

OHIOANA RENTAL PAYMENTS 95381

The foregoing appropriation item 350-401, Ohioana Rental
Payments, shall be used to pay the rental expenses of the Martha
Kinney Cooper Ohioana Library Association pursuant to section
3375.61 of the Revised Code.

LIBRARY FOR THE BLIND-CINCINNATI 95386

The foregoing appropriation item 350-501, Library for the
Blind-Cincinnati, shall be used for the Talking Book program,
which assists the blind and disabled.

REGIONAL LIBRARY SYSTEMS 95390

The foregoing appropriation item 350-502, Regional Library
Systems, shall be used to support regional library systems
eligible for funding under sections 3375.83 and 3375.90 of the
Revised Code.

LIBRARY FOR THE BLIND-CLEVELAND 95395

The foregoing appropriation item 350-503, Library for the
Blind-Cleveland, shall be used for the Talking Book program, which
assists the blind and disabled.

OHIO PUBLIC LIBRARY INFORMATION NETWORK 95399

The foregoing appropriation items 350-604, OPLIN Technology,
and 350-400, Ohio Public Library Information Network, shall be
used for an information telecommunications network linking public
libraries in the state and such others as may be certified as
participants by the Ohio Public Library Information Network Board.

The Ohio Public Library Information Network Board shall
consist of eleven members appointed by the State Library Board
from among the staff of public libraries and past and present
members of boards of trustees of public libraries, based on the
recommendations of the Ohio library community. The Ohio Public
Library Information Network Board, in consultation with the State
Library, shall develop a plan of operations for the network. The

board may make decisions regarding use of the foregoing 95412
appropriation items 350-400, Ohio Public Library Information 95413
Network, and 350-604, OPLIN Technology, may receive and expend 95414
grants to carry out the operations of the network in accordance 95415
with state law, and may appoint and fix the compensation of a 95416
director and necessary staff. The State Library shall be the 95417
fiscal agent for the network and shall have fiscal accountability 95418
for the expenditure of funds. The Ohio Public Library Information 95419
Network Board members shall be reimbursed for actual travel and 95420
necessary expenses incurred in carrying out their 95421
responsibilities. 95422

In order to limit access to obscene and illegal materials 95423
through internet use at Ohio Public Library Information Network 95424
(OPLIN) terminals, local libraries with OPLIN computer terminals 95425
shall adopt and implement policies that control access to obscene 95426
and illegal materials. These policies may include use of 95427
technological systems to select or block certain internet access. 95428
The OPLIN shall condition provision of its funds, goods, and 95429
services on compliance with these policies. The OPLIN Board shall 95430
also adopt and communicate specific recommendations, including 95431
recommendations related to computer filtering, to local libraries 95432
on methods to control such improper usage. These methods may 95433
include each library implementing a written policy controlling 95434
such improper use of library terminals and requirements for 95435
parental involvement or written authorization for juvenile 95436
internet usage. 95437

Of the foregoing appropriation item 350-400, Ohio Public 95438
Library Information Network, up to \$100,000 in each fiscal year 95439
shall be used to help local libraries purchase or maintain filters 95440
to screen out obscene and illegal internet materials. At least 50 95441
per cent of the funds used for these purposes in each fiscal year 95442
shall be used for the purchase of filters. 95443

The OPLIN Board shall research and assist or advise local libraries with regard to emerging technologies and methods that may be effective means to control access to obscene and illegal materials. The OPLIN Executive Director shall biannually provide written reports to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate on any steps being taken by OPLIN and public libraries in the state to limit and control such improper usage as well as information on technological, legal, and law enforcement trends nationally and internationally affecting this area of public access and service.

The Ohio Public Library Information Network, INFOhio, and OhioLINK shall, to the extent feasible, coordinate and cooperate in their purchase or other acquisition of the use of electronic databases for their respective users and shall contribute funds in an equitable manner to such effort.

Section 206.93. LCO LIQUOR CONTROL COMMISSION

| | | | | |
|-------------------------------------|----|---------|------------|-------|
| Liquor Control Fund Group | | | | 95461 |
| 043 970-321 Operating Expenses | \$ | 781,181 | \$ 803,348 | 95462 |
| TOTAL LCF Liquor Control Fund Group | \$ | 781,181 | \$ 803,348 | 95463 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 781,181 | \$ 803,348 | 95464 |

Section 206.96. LOT STATE LOTTERY COMMISSION

| | | | | |
|---------------------------------------|----|------------|---------------|-------|
| General Services Fund Group | | | | 95466 |
| 231 950-604 Charitable Gaming | \$ | 1,200,000 | \$ 1,200,000 | 95468 |
| Oversight | | | | |
| TOTAL GSF General Services Fund Group | \$ | 1,200,000 | \$ 1,200,000 | 95469 |
| State Lottery Fund Group | | | | 95470 |
| 044 950-100 Personal Services | \$ | 24,969,422 | \$ 25,457,016 | 95471 |
| 044 950-200 Maintenance | \$ | 17,642,894 | \$ 17,954,156 | 95472 |

| | | | | | | | |
|---------------------------------------|---------|-------------------------------------|----|-------------|----|-------------|-------|
| 044 | 950-300 | Equipment | \$ | 2,517,533 | \$ | 2,494,718 | 95473 |
| 044 | 950-402 | Game and Advertising Contracts | \$ | 70,524,000 | \$ | 70,024,000 | 95474 |
| 044 | 950-500 | Problem Gambling Subsidy | \$ | 335,000 | \$ | 335,000 | 95475 |
| 044 | 950-601 | Prizes, Bonuses, and Commissions | \$ | 150,952,466 | \$ | 147,716,286 | 95476 |
| 871 | 950-602 | Annuity Prizes | \$ | 148,680,031 | \$ | 138,918,557 | 95477 |
| TOTAL SLF State Lottery Fund Group | | | | | | | 95478 |
| | | | \$ | 415,621,346 | \$ | 402,899,733 | 95479 |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 416,821,346 | \$ | 404,099,733 | 95480 |

OPERATING EXPENSES

Notwithstanding sections 127.14 and 131.35 of the Revised Code, the Controlling Board may, at the request of the State Lottery Commission, authorize additional appropriations for operating expenses of the State Lottery Commission from the State Lottery Fund up to a maximum of 15 per cent of anticipated total revenue accruing from the sale of lottery tickets.

PRIZES, BONUSSES, AND COMMISSIONS

Any amounts, in addition to the amounts appropriated in appropriation item 950-601, Prizes, Bonuses, and Commissions, that the Director of the State Lottery Commission determines to be necessary to fund prizes, bonuses, and commissions are hereby appropriated.

ANNUITY PRIZES

With the approval of the Office of Budget and Management, the State Lottery Commission shall transfer cash from the State Lottery Fund Group (Fund 044) to the Deferred Prizes Trust Fund (Fund 871) in an amount sufficient to fund deferred prizes. The Treasurer of State, from time to time, shall credit the Deferred Prizes Trust Fund (Fund 871) the pro rata share of interest earned

by the Treasurer of State on invested balances. 95501

Any amounts, in addition to the amounts appropriated in 95502
appropriation item 950-602, Annuity Prizes, that the Director of 95503
the State Lottery Commission determines to be necessary to fund 95504
deferred prizes and interest earnings are hereby appropriated. 95505

TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND 95506

The Ohio Lottery Commission shall transfer an amount greater 95507
than or equal to \$637,900,000 in fiscal year 2006 and \$637,900,000 95508
in fiscal year 2007 to the Lottery Profits Education Fund. 95509
Transfers from the Commission to the Lottery Profits Education 95510
Fund shall represent the estimated net income from operations for 95511
the Commission in fiscal year 2006 and fiscal year 2007. Transfers 95512
by the Commission to the Lottery Profits Education Fund shall be 95513
administered as the statutes direct. 95514

Section 206.99. MHC MANUFACTURED HOMES COMMISSION 95515

General Services Fund Group 95516

| | | | | | |
|--------------------------------|----|---------|----|---|-------|
| 4K9 996-609 Operating Expenses | \$ | 272,500 | \$ | 0 | 95517 |
|--------------------------------|----|---------|----|---|-------|

TOTAL GSF General Services 95518

| | | | | | |
|------------|----|---------|----|---|-------|
| Fund Group | \$ | 272,500 | \$ | 0 | 95519 |
|------------|----|---------|----|---|-------|

| | | | | | |
|------------------------------|----|---------|----|---|-------|
| TOTAL ALL BUDGET FUND GROUPS | \$ | 272,500 | \$ | 0 | 95520 |
|------------------------------|----|---------|----|---|-------|

INCREASED APPROPRIATION THROUGH CONTROLLING BOARD 95521

The Manufactured Homes Commission shall seek Controlling 95522
Board approval in fiscal year 2006 for a planned increase of at 95523
least \$356,250 in appropriation item 996-609, Operating Expenses. 95524

Section 209.03. MED STATE MEDICAL BOARD 95525

General Services Fund Group 95526

| | | | | | |
|--------------------------------|----|-----------|----|-----------|-------|
| 5C6 883-609 Operating Expenses | \$ | 7,467,317 | \$ | 7,467,317 | 95527 |
|--------------------------------|----|-----------|----|-----------|-------|

TOTAL GSF General Services 95528

| | | | | | |
|------------|----|-----------|----|-----------|-------|
| Fund Group | \$ | 7,467,317 | \$ | 7,467,317 | 95529 |
|------------|----|-----------|----|-----------|-------|

| | | | | | |
|--|----|------------|----|------------|-------|
| TOTAL ALL BUDGET FUND GROUPS | \$ | 7,467,317 | \$ | 7,467,317 | 95530 |
| | | | | | |
| Section 209.04. AMB MEDICAL TRANSPORTATION BOARD | | | | | 95532 |
| General Services Fund Group | | | | | 95533 |
| 4N1 915-601 Operating Expenses | \$ | 388,450 | \$ | 0 | 95534 |
| TOTAL GSF General Services | | | | | 95535 |
| Fund Group | \$ | 388,450 | \$ | 0 | 95536 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 388,450 | \$ | 0 | 95537 |
| | | | | | |
| Section 209.06. DMH DEPARTMENT OF MENTAL HEALTH | | | | | 95539 |
| General Services Fund Group | | | | | 95540 |
| 151 235-601 General Administration | \$ | 89,614,180 | \$ | 93,898,713 | 95541 |
| TOTAL ISF Intragovernmental | | | | | 95542 |
| Service Fund Group | \$ | 89,614,180 | \$ | 93,898,713 | 95543 |
| Division of Mental Health-- | | | | | 95544 |
| Psychiatric Services to Correctional Facilities | | | | | 95545 |
| General Revenue Fund | | | | | 95546 |
| GRF 332-401 Forensic Services | \$ | 4,338,858 | \$ | 4,338,858 | 95547 |
| TOTAL GRF General Revenue Fund | \$ | 4,338,858 | \$ | 4,338,858 | 95548 |
| FORENSIC SERVICES | | | | | 95549 |
| The foregoing appropriation item 332-401, Forensic Services, | | | | | 95550 |
| shall be used to provide psychiatric services to courts of common | | | | | 95551 |
| pleas. The appropriation shall be allocated through community | | | | | 95552 |
| mental health boards to certified community agencies and shall be | | | | | 95553 |
| distributed according to the criteria delineated in rule | | | | | 95554 |
| 5122:4-1-01 of the Administrative Code. These community forensic | | | | | 95555 |
| funds may also be used to provide forensic training to community | | | | | 95556 |
| mental health boards and to forensic psychiatry residency programs | | | | | 95557 |
| in hospitals operated by the Department of Mental Health and to | | | | | 95558 |
| provide evaluations of patients of forensic status in facilities | | | | | 95559 |
| operated by the Department of Mental Health prior to conditional | | | | | 95560 |
| release to the community. | | | | | 95561 |

In addition, appropriation item 332-401, Forensic Services, 95562
 may be used to support projects involving mental health, substance 95563
 abuse, courts, and law enforcement to identify and develop 95564
 appropriate alternative services to institutionalization for 95565
 nonviolent mentally ill offenders, and to provide linkage to 95566
 community services for severely mentally disabled offenders 95567
 released from institutions operated by the Department of 95568
 Rehabilitation and Correction. Funds may also be utilized to 95569
 provide forensic monitoring and tracking in addition to community 95570
 programs serving persons of forensic status on conditional release 95571
 or probation. 95572

Division of Mental Health-- 95573

Administration and Statewide Programs 95574

General Revenue Fund 95575

| | | | | | | |
|-------------|------------------------|----|------------|----|------------|-------|
| GRF 333-321 | Central Administration | \$ | 23,853,669 | \$ | 23,853,669 | 95576 |
| GRF 333-402 | Resident Trainees | \$ | 1,364,919 | \$ | 1,364,919 | 95577 |
| GRF 333-403 | Pre-Admission | \$ | 650,135 | \$ | 650,135 | 95578 |

Screening Expenses

| | | | | | | |
|-------------|-----------------------|----|------------|----|------------|-------|
| GRF 333-415 | Lease-Rental Payments | \$ | 23,296,200 | \$ | 23,833,600 | 95579 |
| GRF 333-416 | Research Program | \$ | 1,001,551 | \$ | 1,001,551 | 95580 |

Evaluation

| | | | | | |
|--------------------------------|----|------------|----|------------|-------|
| TOTAL GRF General Revenue Fund | \$ | 50,166,474 | \$ | 50,703,874 | 95581 |
|--------------------------------|----|------------|----|------------|-------|

General Services Fund Group 95582

| | | | | | | |
|-------------|-----------------------|----|---------|----|---------|-------|
| 149 333-609 | Central Office Rotary | \$ | 883,773 | \$ | 893,786 | 95583 |
| | - Operating | | | | | |

| | | | | | | |
|-------------|---------------------|----|---------|----|---------|-------|
| 232 333-621 | Family and Children | \$ | 625,000 | \$ | 625,000 | 95584 |
|-------------|---------------------|----|---------|----|---------|-------|

First Administration

| | | | | | |
|-----------------------------------|----|-----------|----|-----------|-------|
| TOTAL General Services Fund Group | \$ | 1,508,773 | \$ | 1,518,786 | 95585 |
|-----------------------------------|----|-----------|----|-----------|-------|

Federal Special Revenue Fund Group 95586

| | | | | | | |
|-------------|----------------------|----|--------|----|---|-------|
| 3A6 333-608 | Community & Hospital | \$ | 65,000 | \$ | 0 | 95587 |
| | Services | | | | | |

| | | | | | | |
|-------------|-----------------|----|---------|----|---------|-------|
| 3A8 333-613 | Federal Grant - | \$ | 562,417 | \$ | 512,417 | 95588 |
|-------------|-----------------|----|---------|----|---------|-------|

| | | | | | | | |
|----------------------------------|---------|---------------------|----|------------|----|------------|-------|
| | | Administration | | | | | |
| 3A9 | 333-614 | Mental Health Block | \$ | 748,740 | \$ | 748,470 | 95589 |
| | | Grant | | | | | |
| 3B1 | 333-635 | Community Medicaid | \$ | 3,671,537 | \$ | 3,691,683 | 95590 |
| | | Expansion | | | | | |
| 324 | 333-605 | Medicaid/Medicare | \$ | 150,000 | \$ | 150,000 | 95591 |
| TOTAL Federal Special Revenue | | | | | | | 95592 |
| Fund Group | | | \$ | 5,197,694 | \$ | 5,102,570 | 95593 |
| State Special Revenue Fund Group | | | | | | | 95594 |
| 4X5 | 333-607 | Behavioral Health | \$ | 3,000,634 | \$ | 3,000,634 | 95595 |
| | | Medicaid Services | | | | | |
| 5V2 | 333-611 | Non-Federal | \$ | 35,000 | \$ | 35,000 | 95596 |
| | | Miscellaneous | | | | | |
| 485 | 333-632 | Mental Health | \$ | 134,233 | \$ | 134,233 | 95597 |
| | | Operating | | | | | |
| TOTAL State Special Revenue | | | | | | | 95598 |
| Fund Group | | | \$ | 3,169,867 | \$ | 3,169,867 | 95599 |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 60,042,808 | \$ | 60,495,097 | 95600 |

RESIDENCY TRAINEESHIP PROGRAMS 95601

The foregoing appropriation item 333-402, Resident Trainees, 95602
shall be used to fund training agreements entered into by the 95603
Department of Mental Health for the development of curricula and 95604
the provision of training programs to support public mental health 95605
services. 95606

PRE-ADMISSION SCREENING EXPENSES 95607

The foregoing appropriation item 333-403, Pre-Admission 95608
Screening Expenses, shall be used to pay for costs to ensure that 95609
uniform statewide methods for pre-admission screening are in place 95610
to perform assessments for persons in need of mental health 95611
services or for whom institutional placement in a hospital or in 95612
another inpatient facility is sought. Pre-admission screening 95613
includes the following activities: pre-admission assessment, 95614

| | | | | |
|--|----------------|----------------|--|-------|
| consideration of continued stay requests, discharge planning and | | | | 95615 |
| referral, and adjudication of appeals and grievance procedures. | | | | 95616 |
| LEASE-RENTAL PAYMENTS | | | | 95617 |
| The foregoing appropriation item 333-415, Lease-Rental | | | | 95618 |
| Payments, shall be used to meet all payments at the times they are | | | | 95619 |
| required to be made during the period from July 1, 2005, to June | | | | 95620 |
| 30, 2007, by the Department of Mental Health under leases and | | | | 95621 |
| agreements made under section 154.20 of the Revised Code, but | | | | 95622 |
| limited to the aggregate amount of \$47,129,800. Nothing in this | | | | 95623 |
| act shall be deemed to contravene the obligation of the state to | | | | 95624 |
| pay, without necessity for further appropriation, from the sources | | | | 95625 |
| pledged thereto, the bond service charges on obligations issued | | | | 95626 |
| under section 154.20 of the Revised Code. | | | | 95627 |
| BEHAVIORAL HEALTH MEDICAID SERVICES | | | | 95628 |
| The Department of Mental Health shall administer specified | | | | 95629 |
| Medicaid Services as delegated by the Department of Job and Family | | | | 95630 |
| Services in an interagency agreement. The foregoing appropriation | | | | 95631 |
| item 333-607, Behavioral Health Medicaid Services, may be used to | | | | 95632 |
| make payments for free-standing psychiatric hospital inpatient | | | | 95633 |
| services as defined in an interagency agreement with the | | | | 95634 |
| Department of Job and Family Services. | | | | 95635 |
| Section 209.06.03. DIVISION OF MENTAL HEALTH - HOSPITALS | | | | 95636 |
| General Revenue Fund | | | | 95637 |
| GRF 334-408 Community and Hospital | \$ 390,424,545 | \$ 400,324,545 | | 95638 |
| Mental Health Services | | | | |
| GRF 334-506 Court Costs | \$ 976,652 | \$ 976,652 | | 95639 |
| TOTAL GRF General Revenue Fund | \$ 391,401,197 | \$ 401,301,197 | | 95640 |
| General Services Fund Group | | | | 95641 |
| 149 334-609 Hospital Rotary - | \$ 24,408,053 | \$ 24,408,053 | | 95642 |
| Operating Expenses | | | | |

| | | | | | | | |
|--|---------|---|----|-------------|----|-------------|-------|
| 150 | 334-620 | Special Education | \$ | 120,930 | \$ | 120,930 | 95643 |
| TOTAL GSF General Services | | | | | | | 95644 |
| Fund Group | | | \$ | 24,528,983 | \$ | 24,528,983 | 95645 |
| Federal Special Revenue Fund Group | | | | | | | 95646 |
| 3A6 | 334-608 | Subsidy for Federal Grants | \$ | 586,224 | \$ | 586,224 | 95647 |
| 3A8 | 334-613 | Federal Letter of Credit | \$ | 200,000 | \$ | 200,000 | 95648 |
| 3B0 | 334-617 | Elementary and Secondary Education Act | \$ | 171,930 | \$ | 178,807 | 95649 |
| 3B1 | 334-635 | Hospital Medicaid Expansion | \$ | 2,000,000 | \$ | 2,000,000 | 95650 |
| 324 | 334-605 | Medicaid/Medicare | \$ | 11,764,280 | \$ | 11,873,408 | 95651 |
| TOTAL FED Federal Special Revenue | | | | | | | 95652 |
| Fund Group | | | \$ | 14,722,434 | \$ | 14,838,439 | 95653 |
| State Special Revenue Fund Group | | | | | | | 95654 |
| 485 | 334-632 | Mental Health Operating | \$ | 2,476,297 | \$ | 2,476,297 | 95655 |
| 692 | 334-636 | Community Mental Health Board Risk Fund | \$ | 80,000 | \$ | 80,000 | 95656 |
| TOTAL SSR State Special Revenue | | | | | | | 95657 |
| Fund Group | | | \$ | 2,556,297 | \$ | 2,556,297 | 95658 |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 433,208,911 | \$ | 443,224,916 | 95659 |
| COMMUNITY MENTAL HEALTH BOARD RISK FUND | | | | | | | 95660 |
| The foregoing appropriation item 334-636, Community Mental Health Board Risk Fund, shall be used to make payments under section 5119.62 of the Revised Code. | | | | | | | 95661 |
| | | | | | | | 95662 |
| | | | | | | | 95663 |
| Section 209.06.06. DIVISION OF MENTAL HEALTH - COMMUNITY | | | | | | | 95664 |
| SUPPORT SERVICES | | | | | | | 95665 |
| General Revenue Fund | | | | | | | 95666 |

| | | | | |
|-------------|---|----------------|----------------|----------------|
| GRF 335-404 | Behavioral Health Services-Children | \$ 5,865,265 | \$ 6,865,265 | 95667 |
| GRF 335-405 | Family & Children First | \$ 2,260,000 | \$ 2,260,000 | 95668 |
| GRF 335-419 | Community Medication Subsidy | \$ 12,292,848 | \$ 13,626,748 | 95669 |
| GRF 335-505 | Local Mental Health Systems of Care | \$ 94,687,868 | \$ 99,687,868 | 95670 |
| TOTAL GRF | General Revenue Fund | \$ 115,105,981 | \$ 122,439,881 | 95671 |
| | General Services Fund Group | | | 95672 |
| 4P9 335-604 | Community Mental Health Projects | \$ 250,000 | \$ 250,000 | 95673 |
| TOTAL GSF | General Services Fund Group | \$ 250,000 | \$ 250,000 | 95674 95675 |
| | Federal Special Revenue Fund Group | | | 95676 |
| 3A6 335-608 | Federal Miscellaneous | \$ 1,089,699 | \$ 678,699 | 95677 |
| 3A7 335-612 | Social Services Block Grant | \$ 8,657,288 | \$ 8,657,288 | 95678 |
| 3A8 335-613 | Federal Grant - Community Mental Health Board Subsidy | \$ 2,407,040 | \$ 2,407,040 | 95679 |
| 3A9 335-614 | Mental Health Block Grant | \$ 14,969,400 | \$ 14,969,400 | 95680 |
| 3B1 335-635 | Community Medicaid Expansion | \$ 264,088,404 | \$ 282,807,902 | 95681 |
| TOTAL FED | Federal Special Revenue Fund Group | \$ 291,211,831 | \$ 309,520,329 | 95682 |
| | State Special Revenue Fund Group | | | 95683 |
| 5AU 335-615 | Behavioral Healthcare | \$ 4,690,000 | \$ 4,690,000 | 95684 |
| 5CH 335-622 | Residential State Supplement | \$ 1,500,000 | \$ 1,500,000 | 95685 |
| 632 335-616 | Community Capital | \$ 350,000 | \$ 350,000 | 95686 |

Replacement

| | | | | | |
|-----------------------------------|----|---------------|----|---------------|-------|
| TOTAL SSR State Special Revenue | \$ | 6,540,000 | \$ | 6,540,000 | 95687 |
| Fund Group | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 413,107,812 | \$ | 438,750,210 | 95688 |
| DEPARTMENT TOTAL | | | | | 95689 |
| GENERAL REVENUE FUND | \$ | 561,012,510 | \$ | 578,783,810 | 95690 |
| DEPARTMENT TOTAL | | | | | 95691 |
| GENERAL SERVICES FUND GROUP | \$ | 115,901,936 | \$ | 120,196,482 | 95692 |
| DEPARTMENT TOTAL | | | | | 95693 |
| FEDERAL SPECIAL REVENUE | | | | | 95694 |
| FUND GROUP | \$ | 311,131,959 | \$ | 329,461,338 | 95695 |
| DEPARTMENT TOTAL | | | | | 95696 |
| STATE SPECIAL REVENUE FUND GROUP | \$ | 12,266,164 | \$ | 12,266,164 | 95697 |
| DEPARTMENT TOTAL | | | | | 95698 |
| TOTAL DEPARTMENT OF MENTAL HEALTH | \$ | 1,000,312,569 | \$ | 1,040,707,794 | 95699 |

Section 209.06.09. COMMUNITY MEDICATION SUBSIDY 95701

The foregoing appropriation item 335-419, Community Medication Subsidy, shall be used to provide subsidized support for psychotropic medication needs of indigent citizens in the community to reduce unnecessary hospitalization because of lack of medication and to provide subsidized support for methadone costs. 95702
95703
95704
95705
95706

Of the foregoing appropriation item 335-419, Community Medication Subsidy, \$4,333,050 in fiscal year 2006 and \$5,666,950 in fiscal year 2007 shall be used to provide services to persons who meet criteria that is consistent with the criteria for the Disability Medical Assistance Program. 95707
95708
95709
95710
95711

LOCAL MENTAL HEALTH SYSTEMS OF CARE 95712

The foregoing appropriation item 335-505, Local Mental Health Systems of Care, shall be used for mental health services provided by community mental health boards in accordance with a community mental health plan submitted under section 340.03 of the Revised 95713
95714
95715
95716

Code and as approved by the Department of Mental Health. 95717

Of the foregoing appropriation, not less than \$34,818,917 in 95718
fiscal year 2006 and not less than \$34,818,917 in fiscal year 2007 95719
shall be distributed by the Department of Mental Health on a per 95720
capita basis to community mental health boards. 95721

Of the foregoing appropriation, \$100,000 in each fiscal year 95722
shall be used to fund family and consumer education and support. 95723

BEHAVIORAL HEALTH - CHILDREN 95724

The foregoing appropriation item 335-404, Behavioral Health 95725
Services-Children, shall be used to provide behavioral health 95726
services for children and their families. Behavioral health 95727
services include mental health and alcohol and other drug 95728
treatment services and other necessary supports. 95729

Of the foregoing appropriation item 335-404, Behavioral 95730
Health Services-Children, an amount up to \$4.5 million in fiscal 95731
year 2006 and \$5.5 million in fiscal year 2007 shall be 95732
distributed to local Alcohol, Drug Addiction, and Mental Health 95733
Boards; Community Mental Health Boards; and Alcohol and Drug 95734
Addiction Boards, based upon a formula and an approved children's 95735
behavioral health transformation plan developed and endorsed by 95736
the local Family and Children First Council with the leadership 95737
from the Alcohol, Drug Addiction, and Mental Health Board, or the 95738
Community Mental Health Board, and the Alcohol and Drug Addiction 95739
Services Board. The use of these funds shall be approved by a team 95740
of state and local stakeholders appointed by the Ohio Family and 95741
Children First Cabinet Council. This team shall be appointed not 95742
later than July 1, 2005, and shall include, but not be limited to, 95743
all of the following: 95744

(A) At least one representative from each of the Departments 95745
of Alcohol and Drug Addiction Services, Mental Health, Education, 95746
Health, Job and Family Services, Mental Retardation and 95747

| | |
|---|--|
| Developmental Disabilities, and the Department of Youth Services; | 95748 |
| (B) At least one person representing local public children's services agencies; | 95749 95750 |
| (C) At least one person representing juvenile courts; | 95751 |
| (D) At least one person representing local Alcohol, Drug Addiction, and Mental Health Boards; Community Mental Health Boards; and Alcohol and Drug Addiction Boards; | 95752 95753 95754 |
| (E) At least one person representing local Family and Children First Council Coordinators; | 95755 95756 |
| (F) At least one family representative. | 95757 |
| Children's behavioral health transformation plans shall be congruent with the development and implementation of the process described in division (B)(2)(b) of section 121.37 of the Revised Code and shall address all of the following as determined by a team of state and local stakeholders appointed by the Ohio Family and Children First Cabinet Council: | 95758 95759 95760 95761 95762 95763 |
| (A) Specific strategies and actions for use of all funds allocated for the Access to Better Care Initiative by all Ohio Family and Children First Cabinet Council agencies that will further the transformation of the local Children's Behavioral Health Care System; | 95764 95765 95766 95767 95768 |
| (B) Providing services to children with behavioral health disorders, particularly those with intensive needs, and their families, across all child-serving systems, including child welfare and juvenile justice and for those youth whose parents would otherwise have to relinquish custody to obtain needed behavioral health services; | 95769 95770 95771 95772 95773 95774 |
| (C) Assuring that families are included in all service planning activities and have access to advocates to assist them if they choose; | 95775 95776 95777 |

| | |
|--|--|
| (D) Implementation of home-based services and other alternatives to out-of-home placement; | 95778 95779 |
| (E) Assuring that all individual service plans for children and their families address the academic achievement of the child; | 95780 95781 |
| (F) Coordinating the most efficient and effective use of federal, state, and local funds to meet the needs of children and their families. | 95782 95783 95784 |
| Funds may be used to support the following services and activities: | 95785 95786 |
| (A) Mental health services provided by the Ohio Department of Mental Health certified agencies and alcohol and other drug services provided by Department of Alcohol and Drug Addiction Services certified agencies; | 95787 95788 95789 95790 |
| (B) Services and supports for children and their families that further the implementation of their individual service plans; | 95791 95792 |
| (C) Treatment services in out-of-home settings, including residential facilities, when other alternatives are not available or feasible; | 95793 95794 95795 |
| (D) Administrative support for efforts associated with this initiative; | 95796 95797 |
| (E) These funds shall not be used to supplant existing efforts. | 95798 95799 |
| The Ohio Family and Children First Cabinet Council appointed team shall approve the plans for local behavioral health services and ensure the plans are components of and properly coordinated with the county service coordination plan as defined in section 121.37 of the Revised Code. In addition to approving the plans for new behavioral health funding, this team shall design a mechanism to provide technical assistance to local communities, monitor the plans, and may, as part of the monitoring role, conduct site | 95800 95801 95802 95803 95804 95805 95806 95807 |

visits. 95808

Of the foregoing appropriation item 335-404, Behavioral 95809
Health Services-Children, an amount up to \$1.0 million in fiscal 95810
year 2006 and \$1.0 million in fiscal year 2007 shall be used to 95811
support projects, as determined by the Ohio Family and Children 95812
First Cabinet Council, in select areas around the state to focus 95813
on improving behavioral health services for children involved in 95814
the child welfare and juvenile justice systems. At least one of 95815
these projects shall focus on services for adolescent girls that 95816
are involved in or at risk of involvement with the juvenile 95817
justice system. 95818

Of the foregoing appropriation item 335-405, Family & 95819
Children First, an amount up to \$500,000 in fiscal year 2006 and 95820
\$500,000 in fiscal year 2007 shall be used for children who do not 95821
have behavioral health disorders but require assistance through 95822
the County Family and Children First Council. 95823

RESIDENTIAL STATE SUPPLEMENT 95824

The foregoing appropriation item 335-622, Residential State 95825
Supplement, shall be used to provide subsidized support for 95826
licensed adult care facilities which serve individuals with mental 95827
illness. 95828

Section 209.06.15. The Department of Mental Health, with the 95829
Bureau of Workers' Compensation, Department of Rehabilitation and 95830
Correction, the Department of Youth Services, and any other state 95831
or local government agency that purchases prescription drugs, 95832
other than the Department of Job and Family Services for the 95833
purposes of the Medicaid program shall do all of the following: 95834

(A) Study intrastate consolidated prescription drug 95835
purchasing systems currently in effect in other states under which 95836
a single entity administers the state's prescription drug 95837

| | |
|---|--|
| purchases; | 95838 |
| (B) Estimate potential cost-savings and other advantages, as well as any potential disadvantages, that might result if Ohio were to consolidate its executive agencies' prescription drug purchases under a prescription drug purchasing program; | 95839 95840 95841 95842 |
| (C) Design a consolidated prescription drug purchasing program appropriate to the prescription drug purchasing needs of the state, including the following elements: | 95843 95844 95845 |
| (1) The scope and structure of the consolidated prescription drug purchasing program; | 95846 95847 |
| (2) A business plan to direct the implementation of the program and the transition of prescription drug purchasing from the state's executive agencies to the consolidated prescription drug purchasing program; | 95848 95849 95850 95851 |
| (3) Identification of the resources required to implement the business plan described in division (C)(2) of this section; | 95852 95853 |
| (4) A schedule of the amount of time required to implement the business plan described in division (C)(2) of this section. | 95854 95855 |
| (D) By not later than January 1, 2006, prepare and submit a written report of its findings to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate. The report shall include an analysis of any costs Ohio may incur in creating a consolidated prescription drug purchasing program. | 95856 95857 95858 95859 95860 95861 |
| Section 209.09. DMR DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES | 95862 95863 |
| Section 209.09.03. GENERAL ADMINISTRATION AND STATEWIDE SERVICES | 95864 95865 |
| General Revenue Fund | 95866 |

| | | | | | |
|--|----|------------|----|------------|-------|
| GRF 320-321 Central Administration | \$ | 9,357,877 | \$ | 9,357,874 | 95867 |
| GRF 320-412 Protective Services | \$ | 2,463,000 | \$ | 2,463,000 | 95868 |
| GRF 320-415 Lease-Rental Payments | \$ | 23,296,200 | \$ | 23,833,600 | 95869 |
| TOTAL GRF General Revenue Fund | \$ | 35,117,077 | \$ | 35,654,474 | 95870 |
| General Services Fund Group | | | | | 95871 |
| 4B5 320-640 Conference/Training | \$ | 300,000 | \$ | 300,000 | 95872 |
| TOTAL GSF General Services | | | | | 95873 |
| Fund Group | \$ | 300,000 | \$ | 300,000 | 95874 |
| Federal Special Revenue Fund Group | | | | | 95875 |
| 3A4 320-605 Administrative Support | \$ | 13,492,892 | \$ | 13,492,892 | 95876 |
| 3A5 320-613 DD Council Operating | \$ | 895,440 | \$ | 895,440 | 95877 |
| Expenses | | | | | 95878 |
| 325 320-634 Protective Services | \$ | 100,000 | \$ | 100,000 | 95879 |
| TOTAL FED Federal Special Revenue | | | | | 95880 |
| Fund Group | \$ | 14,488,332 | \$ | 14,488,332 | 95881 |
| State Special Revenue Fund Group | | | | | 95882 |
| 5S2 590-622 Medicaid | \$ | 8,000,000 | \$ | 8,000,000 | 95883 |
| Administration & | | | | | |
| Oversight | | | | | |
| TOTAL SSR State Special Revenue | | | | | 95884 |
| Fund Group | \$ | 8,000,000 | \$ | 8,000,000 | 95885 |
| TOTAL ALL GENERAL ADMINISTRATION | | | | | 95886 |
| AND STATEWIDE SERVICES | | | | | 95887 |
| BUDGET FUND GROUPS | \$ | 57,905,409 | \$ | 58,442,806 | 95888 |
| LEASE-RENTAL PAYMENTS | | | | | 95889 |
| The foregoing appropriation item 320-415, Lease-Rental | | | | | 95890 |
| Payments, shall be used to meet all payments at the times they are | | | | | 95891 |
| required to be made during the period from July 1, 2005, to June | | | | | 95892 |
| 30, 2007, by the Department of Mental Retardation and | | | | | 95893 |
| Developmental Disabilities under leases and agreements made under | | | | | 95894 |
| section 154.20 of the Revised Code, but limited to the aggregate | | | | | 95895 |
| amount of \$47,129,800. Nothing in this act shall be deemed to | | | | | 95896 |

contravene the obligation of the state to pay, without necessity 95897
for further appropriation, from the sources pledged thereto, the 95898
bond service charges on obligations issued under section 154.20 of 95899
the Revised Code. 95900

Section 209.09.06. COMMUNITY SERVICES 95901

General Revenue Fund 95902

GRF 322-405 State Use Program \$ 20,000 \$ 0 95903

GRF 322-413 Residential and \$ 7,423,021 \$ 7,423,021 95904

Support Services

GRF 322-416 Waiver State Match \$ 103,090,738 \$ 104,397,504 95905

GRF 322-417 Supported Living \$ 43,160,198 \$ 43,160,198 95906

GRF 322-451 Family Support \$ 6,938,898 \$ 6,938,898 95907

Services

GRF 322-452 Service and Support \$ 8,672,730 \$ 8,672,730 95908

Administration

GRF 322-501 County Boards \$ 32,193,542 \$ 32,193,542 95909

Subsidies

GRF 322-503 Tax Equity \$ 14,500,000 \$ 14,500,000 95910

TOTAL GRF General Revenue Fund \$ 215,999,127 \$ 217,285,893 95911

General Services Fund Group 95912

4J6 322-645 Intersystem Services \$ 300,000 \$ 0 95913

for Children

4U4 322-606 Community MR and DD \$ 300,000 \$ 50,000 95914

Trust

4V1 322-611 Family and Children \$ 40,000 \$ 0 95915

First

488 322-603 Provider Audit Refunds \$ 350,000 \$ 350,000 95916

TOTAL GSF General Services 95917

Fund Group \$ 990,000 \$ 400,000 95918

Federal Special Revenue Fund Group 95919

3A4 322-605 Community Program \$ 1,500,000 \$ 1,500,000 95920

| | | | | | | |
|----------------------------------|---------|---|----|-------------|----|-------------------|
| | | Support | | | | |
| 3A5 | 322-613 | DD Council Grants | \$ | 3,204,240 | \$ | 3,204,240 95921 |
| 3G6 | 322-639 | Medicaid Waiver | \$ | 373,772,814 | \$ | 373,772,814 95922 |
| 3M7 | 322-650 | CAFS Medicaid | \$ | 125,924,299 | \$ | 103,773,730 95923 |
| 325 | 322-608 | Grants for Infants and Families with Disabilities | \$ | 1,763,165 | \$ | 1,763,165 95924 |
| 325 | 322-612 | Community Social Service Programs | \$ | 11,500,000 | \$ | 11,500,000 95925 |
| TOTAL FED | | Federal Special Revenue | | | | 95926 |
| Fund Group | | | \$ | 517,664,518 | \$ | 495,513,949 95927 |
| State Special Revenue Fund Group | | | | | | 95928 |
| 4K8 | 322-604 | Waiver - Match | \$ | 12,000,000 | \$ | 12,000,000 95929 |
| 5H0 | 322-619 | Medicaid Repayment | \$ | 25,000 | \$ | 25,000 95930 |
| 5Z1 | 322-624 | County Board Waiver | \$ | 82,000,000 | \$ | 82,000,000 95931 |
| TOTAL SSR | | State Special Revenue | | | | 95932 |
| Fund Group | | | \$ | 94,025,000 | \$ | 94,025,000 95933 |
| TOTAL ALL COMMUNITY SERVICES | | | | | | 95934 |
| BUDGET FUND GROUPS | | | \$ | 828,678,645 | \$ | 807,224,842 95935 |
| | | RESIDENTIAL AND SUPPORT SERVICES | | | | 95936 |
| | | The Department of Mental Retardation and Developmental Disabilities may designate a portion of appropriation item 322-413, Residential and Support Services, for the following: | | | | 95937 |
| | | (A) Sermak Class Services used to implement the requirements of the agreement settling the consent decree in <i>Sermak v. Manuel</i> , Case No. c-2-80-220, United States District Court for the Southern District of Ohio, Eastern Division; | | | | 95938 |
| | | (B) Medicaid-reimbursed programs other than home and community-based waiver services, in an amount not to exceed \$1,000,000 in each fiscal year, that enable persons with mental retardation and developmental disabilities to live in the | | | | 95939 |
| | | | | | | 95940 |
| | | | | | | 95941 |
| | | | | | | 95942 |
| | | | | | | 95943 |
| | | | | | | 95944 |
| | | | | | | 95945 |
| | | | | | | 95946 |
| | | | | | | 95947 |

| | |
|--|-------|
| community. | 95948 |
| WAIVER STATE MATCH | 95949 |
| The purposes for which the foregoing appropriation item | 95950 |
| 322-416, Waiver State Match, shall be used include the following: | 95951 |
| (A) Home and community-based waiver services under Title XIX | 95952 |
| of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, | 95953 |
| as amended. | 95954 |
| (B) Services contracted by county boards of mental | 95955 |
| retardation and developmental disabilities. | 95956 |
| (C) To pay the nonfederal share of the cost of one or more | 95957 |
| new intermediate-care-facility-for-the-mentally-retarded certified | 95958 |
| beds in a county where the county board of mental retardation and | 95959 |
| developmental disabilities does not initiate or support the | 95960 |
| development or certification of such beds, if the Director of | 95961 |
| Mental Retardation and Developmental Disabilities is required by | 95962 |
| this act to transfer to the Director of Job and Family Services | 95963 |
| funds to pay such nonfederal share. | 95964 |
| The Department of Mental Retardation and Developmental | 95965 |
| Disabilities may designate a portion of appropriation item | 95966 |
| 322-416, Waiver State Match, to county boards of mental | 95967 |
| retardation and developmental disabilities that have greater need | 95968 |
| for various residential and support services because of a low | 95969 |
| percentage of residential and support services development in | 95970 |
| comparison to the number of individuals with mental retardation or | 95971 |
| developmental disabilities in the county. | 95972 |
| Of the foregoing appropriation item 322-416, Waiver State | 95973 |
| Match, \$9,850,000 in each year of the biennium shall be | 95974 |
| distributed by the Department to county boards of mental | 95975 |
| retardation and developmental disabilities to support existing | 95976 |
| residential facilities waiver and individual options waiver | 95977 |
| related to Medicaid activities provided for in the component of a | 95978 |

county board's plan developed under division (A)(2) of section 95979
5126.054 of the Revised Code and approved under section 5123.046 95980
of the Revised Code. Up to \$3,000,000 of these funds in each 95981
fiscal year may be used to implement day-to-day program management 95982
services under division (A)(2) of section 5126.054 of the Revised 95983
Code. Up to \$4,200,000 in each fiscal year may be used to 95984
implement the program and health and welfare requirements of 95985
division (A)(2) of section 5126.054 of the Revised Code. 95986

In fiscal years 2006 and 2007 not less than \$2,650,000 of 95987
these funds shall be used to recruit and retain, under division 95988
(A)(2) of section 5126.054 of the Revised Code, the direct care 95989
staff necessary to implement the services included in an 95990
individualized service plan in a manner that ensures the health 95991
and welfare of the individuals being served. 95992

The method utilized by the department to determine each 95993
residential facilities wavier and individual options provider's 95994
allocation of such funds in fiscal year 2005 shall be used for 95995
allocation purposes to such providers in fiscal years 2006 and 95996
2007, respectively. 95997

SUPPORTED LIVING 95998

The purposes for which the foregoing appropriation item 95999
322-417, Supported Living, shall be used include supported living 96000
services contracted by county boards of mental retardation and 96001
developmental disabilities under sections 5126.40 to 5126.47 of 96002
the Revised Code and paying the nonfederal share of the cost of 96003
one or more new 96004
intermediate-care-facility-for-the-mentally-retarded certified 96005
beds in a county where the county board of mental retardation and 96006
developmental disabilities does not initiate or support the 96007
development or certification of such beds, if the Director of 96008
Mental Retardation and Developmental Disabilities is required by 96009
this act to transfer to the Director of Job and Family Services 96010

funds to pay such nonfederal share. 96011

OTHER RESIDENTIAL AND SUPPORT SERVICE PROGRAMS 96012

Notwithstanding Chapters 5123. and 5126. of the Revised Code, 96013
the Department of Mental Retardation and Developmental 96014
Disabilities may develop residential and support service programs 96015
funded by appropriation item 322-413, Residential and Support 96016
Services; appropriation item 322-416, Waiver State Match; or 96017
appropriation item 322-417, Supported Living, that enable persons 96018
with mental retardation and developmental disabilities to live in 96019
the community. Notwithstanding Chapter 5121. and section 5123.122 96020
of the Revised Code, the Department may waive the support 96021
collection requirements of those statutes for persons in community 96022
programs developed by the Department under this section. The 96023
Department shall adopt rules under Chapter 119. of the Revised 96024
Code or may use existing rules for the implementation of these 96025
programs. 96026

FAMILY SUPPORT SERVICES 96027

Notwithstanding sections 5123.171, 5123.19, 5123.20, and 96028
5126.11 of the Revised Code, the Department of Mental Retardation 96029
and Developmental Disabilities may implement programs funded by 96030
appropriation item 322-451, Family Support Services, to provide 96031
assistance to persons with mental retardation or developmental 96032
disabilities and their families who are living in the community. 96033
The department shall adopt rules to implement these programs. The 96034
department may also use the foregoing appropriation item 322-451, 96035
Family Support Services, to pay the nonfederal share of the cost 96036
of one or more new 96037
intermediate-care-facility-for-the-mentally-retarded certified 96038
beds in a county where the county board of mental retardation and 96039
developmental disabilities initiates or supports the development 96040
or certification of such beds, if the Director of Mental 96041
Retardation and Developmental Disabilities is required by this act 96042

to transfer to the Director of Job and Family Services funds to 96043
pay such nonfederal share. 96044

SERVICE AND SUPPORT ADMINISTRATION 96045

The foregoing appropriation item 322-452, Service and Support 96046
Administration, shall be allocated to county boards of mental 96047
retardation and developmental disabilities for the purpose of 96048
providing service and support administration services and to 96049
assist in bringing state funding for all department-approved 96050
service and support administrators within county boards of mental 96051
retardation and developmental disabilities to the level authorized 96052
in division (C) of section 5126.15 of the Revised Code. The 96053
department may request approval from the Controlling Board to 96054
transfer any unobligated appropriation authority from other state 96055
General Revenue Fund appropriation items within the department's 96056
budget to appropriation item 322-452, Service and Support 96057
Administration, to be used to meet the statutory funding level in 96058
division (C) of section 5126.15 of the Revised Code. 96059

Notwithstanding division (C) of section 5126.15 of the 96060
Revised Code and subject to funding in appropriation item 322-452, 96061
Service and Support Administration, no county may receive less 96062
than its allocation in fiscal year 1995. Wherever case management 96063
services are referred to in any law, contract, or other document, 96064
the reference shall be deemed to refer to service and support 96065
administration. No action or proceeding pending on the effective 96066
date of this section is affected by the renaming of case 96067
management services as service and support administration. 96068

The Department of Mental Retardation and Developmental 96069
Disabilities shall adopt, amend, and rescind rules as necessary to 96070
reflect the renaming of case management services as service and 96071
support administration. All boards of mental retardation and 96072
developmental disabilities and the entities with which they 96073
contract for services shall rename the titles of their employees 96074

who provide service and support administration. All boards and 96075
contracting entities shall make corresponding changes to all 96076
employment contracts. 96077

The Department also may use the foregoing appropriation item 96078
322-452, Service and Support Administration, to pay the nonfederal 96079
share of the cost of one or more new 96080
intermediate-care-facility-for-the-mentally-retarded certified 96081
beds in a county where the county board of mental retardation and 96082
developmental disabilities initiates or supports the development 96083
or certification of such beds, if the Director of Mental 96084
Retardation and Developmental Disabilities is required by this act 96085
to transfer to the Director of Job and Family Services funds to 96086
pay such nonfederal share. 96087

STATE SUBSIDIES TO MR/DD BOARDS 96088

Notwithstanding section 5126.12 of the Revised Code, for 96089
fiscal year 2006, the Department shall, if sufficient funds as 96090
determined by the Department are available, use the foregoing 96091
appropriation item 322-501, County Boards Subsidies, to pay each 96092
county board of mental retardation and developmental disabilities 96093
an amount that is equal to the amount such board received in 96094
fiscal year 2005. If the Department determines that there are not 96095
sufficient funds available in appropriation item 322-501, County 96096
Boards Subsidies, for this purpose, the Department shall pay to 96097
each county board an amount that is proportionate to the amount 96098
such board received in fiscal year 2005. Proportionality shall be 96099
determined by comparing the payment a county board received in a 96100
category in fiscal year 2005 to the total payments distributed to 96101
all county boards for such category in fiscal year 2005. For 96102
fiscal year 2007, the Department shall pay to each county board an 96103
amount that is determined by an allocation formula to be developed 96104
by the Department that considers the applicable factors in section 96105
5126.12 of the Revised Code. 96106

The Department also may use the foregoing appropriation item 96107
322-501, County Boards Subsidies, to pay the nonfederal share of 96108
the cost of one or more new 96109
intermediate-care-facility-for-the-mentally-retarded certified 96110
beds in a county where the county board of mental retardation and 96111
developmental disabilities initiates or supports the development 96112
or certification of such beds, if the Director of Mental 96113
Retardation and Developmental Disabilities is required by this act 96114
to transfer to the Director of Job and Family Services funds to 96115
pay such nonfederal share. 96116

NONFEDERAL MATCH FOR ACTIVE TREATMENT SERVICES 96117

Pursuant to an agreement between the county board and the 96118
Director of Mental Retardation and Developmental Disabilities, a 96119
county may pledge funds from its state allocation from GRF 96120
appropriation item 322-501, County Boards Subsidies, to cover the 96121
cost of providing the nonfederal match for active treatment 96122
services that the county provides to residents of the Department's 96123
developmental centers. The Director of Mental Retardation and 96124
Developmental Disabilities is authorized to transfer, through 96125
intrastate transfer vouchers, cash from these pledges from GRF 96126
appropriation item 322-501, County Boards Subsidies, to Fund 489, 96127
Mental Retardation Operating. Any other county funds received by 96128
the Department from county boards for active treatment shall be 96129
deposited in Fund 489, Mental Retardation Operating. 96130

WAIVER - MATCH 96131

The foregoing appropriation item 322-604, Waiver - Match 96132
(Fund 4K8), shall be used as state matching funds for the home and 96133
community-based waivers. 96134

COUNTY BOARD WAIVER MATCH 96135

The Director of Mental Retardation and Developmental 96136
Disabilities shall transfer, through intrastate transfer vouchers, 96137

cash from any allowable General Revenue Fund appropriation item to Fund 5Z1, appropriation item 322-624, County Board Waiver Match. (The amounts being transferred reflect the amounts that county boards pledge from their state General Revenue Funds allocations to cover the cost of providing the non-federal match for waiver services.)

TRANSFER OF FUNDS FOR THE FAMILY AND CHILDREN FIRST CABINET COUNCIL TO THE DEPARTMENT OF MENTAL HEALTH

On July 1, 2005, or as soon as possible thereafter, the Director of Mental Retardation and Developmental Disabilities shall certify the remaining cash balance in Fund 4V1, Miscellaneous Use, to the Director of Budget and Management. Upon receipt of the certification, the Director of Budget and Management shall transfer that amount and re-establish existing encumbrances in the Department of Mental Health, Fund 232, Family and Children First Administration Fund. When this transfer has been completed, Fund 4V1 shall be abolished.

On November 1, 2005, or as soon as possible thereafter, the Director of Mental Retardation and Developmental Disabilities shall certify the remaining cash balance in Fund 4J6, Youth Cluster, to the Director of Budget and Management, who upon receipt shall transfer that amount to the General Revenue Fund and increase the Department of Mental Health's GRF appropriation item 335-404, Behavioral Health Services-Children, by the same amount. When this transfer has been completed, Fund 4J6 shall be abolished.

Section 209.09.09. COMMUNITY ALTERNATIVE FUNDING SYSTEM

(A) As used in this section, "habilitation center services" has the same meaning as in former section 5111.041 of the Revised Code as that section existed on June 30, 2005.

(B) The Department of Mental Retardation and Developmental Disabilities may use funds appropriated to the Department for the purpose of habilitation center services to satisfy a claim or contingent claim for habilitation center services provided before July 1, 2005, if the Department receives the claim or contingent claim before July 1, 2006. The Department has no liability to satisfy either of the following:

(1) A claim for habilitation center services provided before July 1, 2005, if the Department receives the claim on or after July 1, 2006.

(2) A claim for habilitation center services provided on or after July 1, 2005.

(C) The Department of Mental Retardation and Developmental Disabilities may inform individuals who received habilitation center services under the community alternative funding system on June 30, 2005, and such individuals' representatives about alternative services that may be available for the individuals. The Department may require county boards of mental retardation and developmental disabilities to provide such information to the individuals and their representatives.

Section 209.09.12. DEVELOPMENTAL CENTER PROGRAM TO DEVELOP A MODEL BILLING FOR SERVICES RENDERED

Developmental centers of the Department of Mental Retardation and Developmental Disabilities may provide services to persons with mental retardation or developmental disabilities living in the community or to providers of services to these persons. The department may develop a method for recovery of all costs associated with the provisions of these services.

Section 209.09.15. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER PHARMACY PROGRAMS

The Department of Mental Retardation and Developmental Disabilities shall pay the Department of Job and Family Services quarterly, through intrastate transfer voucher, the nonfederal share of Medicaid prescription drug claim costs for all developmental centers paid by the Department of Job and Family Services.

Section 209.09.16. TRANSFER OF ADMINISTRATION OF FAMILY AND CHILDREN FIRST

The Department of Mental Retardation and Developmental Disabilities shall transfer the administrative duties related to the operation of the Ohio Family and Children First Cabinet Council to the Department of Mental Health. As part of the transfer, all of the following shall occur on July 1, 2005, or as soon as possible thereafter as the Departments of Mental Retardation and Developmental Disabilities and Mental Health are able to make the transfers:

(A) Individuals employed by the Department of Mental Retardation and Developmental Disabilities on June 30, 2005, to perform administrative functions for the Ohio Family and Children First Cabinet Council shall be transferred to the Department of Mental Health.

(B) The assets, liabilities, equipment, and records, irrespective of form or medium, related to the administrative duties of the Ohio Family and Children First Cabinet Council shall transfer or be transferred to the Department of Mental Health;

(C) The Department of Mental Health shall assume the obligations of the Ohio Family and Children First Cabinet Council's administrative duties.

Section 209.09.18. RESIDENTIAL FACILITIES
General Revenue Fund

| | | | | | |
|------------------------------------|----|-------------|----|-------------|-------|
| GRF 323-321 Residential Facilities | \$ | 101,764,366 | \$ | 100,457,600 | 96228 |
| Operations | | | | | 96229 |
| TOTAL GRF General Revenue Fund | \$ | 101,764,366 | \$ | 100,457,600 | 96230 |
| General Services Fund Group | | | | | 96231 |
| 152 323-609 Residential Facilities | \$ | 912,177 | \$ | 912,177 | 96232 |
| Support | | | | | 96233 |
| TOTAL GSF General Services | | | | | 96234 |
| Fund Group | \$ | 912,177 | \$ | 912,177 | 96235 |
| Federal Special Revenue Fund Group | | | | | 96236 |
| 3A4 323-605 Developmental Center | \$ | 120,000,000 | \$ | 120,000,000 | 96237 |
| Operation Expenses | | | | | |
| 325 323-608 Foster Grandparent | \$ | 575,000 | \$ | 575,000 | 96238 |
| Program | | | | | |
| TOTAL FED Federal Special Revenue | | | | | 96239 |
| Fund Group | \$ | 120,575,000 | \$ | 120,575,000 | 96240 |
| State Special Revenue Fund Group | | | | | 96241 |
| 221 322-620 Supplement Service | \$ | 150,000 | \$ | 150,000 | 96242 |
| Trust | | | | | |
| 489 323-632 Developmental Center | \$ | 12,125,628 | \$ | 12,125,628 | 96243 |
| Direct Care Support | | | | | |
| TOTAL SSR State Special Revenue | | | | | 96244 |
| Fund Group | \$ | 12,275,628 | \$ | 12,275,628 | 96245 |
| TOTAL ALL RESIDENTIAL FACILITIES | | | | | 96246 |
| BUDGET FUND GROUPS | \$ | 235,527,171 | \$ | 234,220,405 | 96247 |
| DEPARTMENT TOTAL | | | | | 96248 |
| GENERAL REVENUE FUND | \$ | 352,880,570 | \$ | 353,397,967 | 96249 |
| DEPARTMENT TOTAL | | | | | 96250 |
| GENERAL SERVICES FUND GROUP | \$ | 2,202,177 | \$ | 1,612,177 | 96251 |
| DEPARTMENT TOTAL | | | | | 96252 |
| FEDERAL SPECIAL REVENUE FUND GROUP | \$ | 652,727,850 | \$ | 630,577,281 | 96253 |
| DEPARTMENT TOTAL | | | | | 96254 |
| STATE SPECIAL REVENUE FUND GROUP | \$ | 114,300,628 | \$ | 114,300,628 | 96255 |

| | |
|-------------------------------|---|
| TOTAL DEPARTMENT OF MENTAL | 96256 |
| RETARDATION AND DEVELOPMENTAL | 96257 |
| DISABILITIES | \$ 1,122,111,225 \$ 1,099,888,053 96258 |

Section 209.09.21. (A) As used in this section: 96260

(1) "Family support services," "home and community-based services," "service and support administration," and "supported living" have the same meaning as in section 5126.01 of the Revised Code. 96261
96262
96263
96264

(2) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code. 96265
96266

(B) If one or more new beds obtain certification as an intermediate-care-facility-for-the-mentally-retarded bed on or after the effective date of this section, the Director of Mental Retardation and Developmental Disabilities shall transfer funds to the Department of Job and Family Services to pay the nonfederal share of the cost under the Medicaid Program for those beds. The Director shall use only the following funds for the transfer: 96267
96268
96269
96270
96271
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96273

(1) If the beds are located in a county served by a county board of mental retardation and developmental disabilities that does not initiate or support the beds' certification, funds appropriated to the Department of Mental Retardation and Developmental Disabilities for home and community-based services and supported living for which the Director is authorized to make allocations to county boards; 96274
96275
96276
96277
96278
96279
96280

(2) If the beds are located in a county served by a county board that initiates or supports the beds' certification, funds appropriated to the Department for family support services, service and support administration, and other services for which the Director is authorized to make allocations to counties. 96281
96282
96283
96284
96285

(C) The funds that the Director transfers under division 96286

(B)(2) of this section shall be funds that the Director has 96287
allocated to the county board serving the county in which the beds 96288
are located unless the amount of the allocation is insufficient to 96289
pay the entire nonfederal share of the cost under the Medicaid 96290
Program for those beds. If the allocation is insufficient, the 96291
Director shall use as much of such funds allocated to other 96292
counties as is needed to make up the difference. 96293

Section 209.09.24. HABILITATION CENTERS PROVIDING MEDICAID 96294
CASE MANAGEMENT SERVICES 96295

A habilitation center holding on June 30, 2005, a valid 96296
certificate issued under former section 5123.041 of the Revised 96297
Code may provide Medicaid case management services until the 96298
earlier of the following: 96299

(A) The date the United States Secretary of Health and Human 96300
Services approves an amendment to the state Medicaid plan that 96301
provides that only county boards of mental retardation and 96302
developmental disabilities may provide Medicaid case management 96303
services; 96304

(B) The habilitation center ceases to meet the requirements 96305
that were in effect on June 30, 2005, for the certificate issued 96306
under former section 5123.041 of the Revised Code. 96307

Section 209.09.27. INTENT OF SECTION 5123.045 OF THE REVISED 96308
CODE 96309

(A) A person or government entity described in division (A) 96310
of section 5123.045 of the Revised Code shall not receive payment 96311
for home and community-based services unless both of the following 96312
are the case: 96313

(1) The individuals who receive the services reside with not 96314
more than three other individuals with mental retardation or an 96315
other developmental disability unless the individuals are related 96316

| | | | | |
|--|----|-----------|--------------|-------|
| by blood or marriage. | | | | 96317 |
| (2) Except as provided in division (B) of this section, the | | | | 96318 |
| person or government entity does not provide to the individuals | | | | 96319 |
| who receive the services a residence and home and community-based | | | | 96320 |
| services. | | | | 96321 |
| (B) A person described in division (A) of section 5123.045 of | | | | 96322 |
| the Revised Code may receive payment for home and community-based | | | | 96323 |
| services and provide a residence to the individuals who receive | | | | 96324 |
| the services if one of the following is the case: | | | | 96325 |
| (1) The person lives in the residence and provides the | | | | 96326 |
| services to not more than three individuals who reside in the | | | | 96327 |
| residence at any one time. | | | | 96328 |
| (2) The person is an association of family members related to | | | | 96329 |
| two or more of the individuals who reside in the residence and | | | | 96330 |
| provides the services to not more than four individuals who reside | | | | 96331 |
| in the residence at any one time. | | | | 96332 |
| Section 209.12. MIH COMMISSION ON MINORITY HEALTH | | | | 96333 |
| General Revenue Fund | | | | 96334 |
| GRF 149-321 Operating Expenses | \$ | 539,319 | \$ 539,319 | 96335 |
| GRF 149-501 Minority Health Grants | \$ | 670,965 | \$ 670,965 | 96336 |
| GRF 149-502 Lupus Program | \$ | 136,126 | \$ 136,126 | 96337 |
| TOTAL GRF General Revenue Fund | \$ | 1,346,410 | \$ 1,346,410 | 96338 |
| Federal Special Revenue Fund Group | | | | 96339 |
| 3J9 149-602 Federal Grants | \$ | 150,000 | \$ 150,000 | 96340 |
| TOTAL FED Federal Special Revenue | | | | 96341 |
| Fund Group | \$ | 150,000 | \$ 150,000 | 96342 |
| State Special Revenue Fund Group | | | | 96343 |
| 4C2 149-601 Minority Health | \$ | 250,000 | \$ 150,000 | 96344 |
| Conference | | | | |
| TOTAL SSR State Special Revenue | | | | 96345 |

| | | | | | |
|--|----|------------|----|------------|-------|
| Fund Group | \$ | 250,000 | \$ | 150,000 | 96346 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 1,746,410 | \$ | 1,646,410 | 96347 |
| LUPUS PROGRAM | | | | | 96348 |
| The foregoing appropriation item 149-502, Lupus Program, | | | | | 96349 |
| shall be used to provide grants for programs in patient, public, | | | | | 96350 |
| and professional education on the subject of systemic lupus | | | | | 96351 |
| erythematosus; to encourage and develop local centers on lupus | | | | | 96352 |
| information gathering and screening; and to provide outreach to | | | | | 96353 |
| minority women. | | | | | 96354 |
| Section 209.15. CRB MOTOR VEHICLE COLLISION REPAIR | | | | | 96355 |
| REGISTRATION BOARD | | | | | 96356 |
| General Service Fund Group | | | | | 96357 |
| 5H9 865-609 Operating Expenses - | \$ | 325,047 | \$ | 0 | 96358 |
| CRB | | | | | |
| TOTAL GSF General Services | | | | | 96359 |
| Fund Group | \$ | 325,047 | \$ | 0 | 96360 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 325,047 | \$ | 0 | 96361 |
| Section 209.18. DNR DEPARTMENT OF NATURAL RESOURCES | | | | | 96363 |
| General Revenue Fund | | | | | 96364 |
| GRF 725-401 Wildlife-GRF Central | \$ | 1,000,000 | \$ | 1,000,000 | 96365 |
| Support | | | | | |
| GRF 725-404 Fountain Square Rental | \$ | 1,025,300 | \$ | 1,092,000 | 96366 |
| Payments - OBA | | | | | |
| GRF 725-407 Conservation Reserve | \$ | 1,000,000 | \$ | 1,000,000 | 96367 |
| Enhancement Program | | | | | |
| GRF 725-413 OPFC Lease Rental | \$ | 18,699,100 | \$ | 20,962,800 | 96368 |
| Payments | | | | | |
| GRF 725-423 Stream and Ground | \$ | 311,910 | \$ | 311,910 | 96369 |
| Water Gauging | | | | | |
| GRF 725-425 Wildlife License | \$ | 646,319 | \$ | 646,319 | 96370 |

| | | | | | | |
|-------------|------------------------|-----------------------------|-------------|----|-------------|-------|
| | | Reimbursement | | | | |
| GRF 725-456 | Canal Lands | \$ | 332,859 | \$ | 332,859 | 96371 |
| GRF 725-502 | Soil and Water | \$ | 9,836,436 | \$ | 9,836,436 | 96372 |
| | | Districts | | | | |
| GRF 725-903 | Natural Resources | \$ | 25,866,000 | \$ | 24,359,100 | 96373 |
| | | General Obligation | | | | |
| | | Debt Service | | | | |
| GRF 727-321 | Division of Forestry | \$ | 8,541,511 | \$ | 8,541,511 | 96374 |
| GRF 728-321 | Division of Geological | \$ | 1,630,000 | \$ | 1,630,000 | 96375 |
| | | Survey | | | | |
| GRF 729-321 | Office of Information | \$ | 440,895 | \$ | 440,895 | 96376 |
| | | Technology | | | | |
| GRF 730-321 | Division of Parks and | \$ | 37,874,841 | \$ | 39,874,841 | 96377 |
| | | Recreation | | | | |
| GRF 731-321 | Office of Coastal | \$ | 259,707 | \$ | 259,707 | 96378 |
| | | Management | | | | |
| GRF 733-321 | Division of Water | \$ | 3,257,619 | \$ | 3,207,619 | 96379 |
| GRF 736-321 | Division of | \$ | 3,118,703 | \$ | 3,118,703 | 96380 |
| | | Engineering | | | | |
| GRF 737-321 | Division of Soil and | \$ | 4,074,788 | \$ | 4,074,788 | 96381 |
| | | Water | | | | |
| GRF 738-321 | Division of Real | \$ | 2,291,874 | \$ | 2,291,874 | 96382 |
| | | Estate and Land | | | | |
| | | Management | | | | |
| GRF 741-321 | Division of Natural | \$ | 3,009,505 | \$ | 3,009,505 | 96383 |
| | | Areas and Preserves | | | | |
| GRF 744-321 | Division of Mineral | \$ | 3,068,167 | \$ | 3,068,167 | 96384 |
| | | Resources Management | | | | |
| TOTAL GRF | General Revenue Fund | \$ | 126,285,534 | \$ | 129,059,034 | 96385 |
| | | General Services Fund Group | | | | 96386 |
| 155 725-601 | Departmental Projects | \$ | 3,135,821 | \$ | 3,011,726 | 96387 |
| 157 725-651 | Central Support | \$ | 6,528,675 | \$ | 6,528,675 | 96388 |
| | | Indirect | | | | |

| | | | | | | | |
|-----|---------|------------------------------------|----|------------|----|------------|-------|
| 204 | 725-687 | Information Services | \$ | 4,676,627 | \$ | 4,676,627 | 96389 |
| 206 | 725-689 | REALM Support Services | \$ | 475,000 | \$ | 475,000 | 96390 |
| 207 | 725-690 | Real Estate Services | \$ | 64,000 | \$ | 64,000 | 96391 |
| 223 | 725-665 | Law Enforcement | \$ | 2,096,225 | \$ | 2,096,225 | 96392 |
| | | Administration | | | | | |
| 227 | 725-406 | Parks Projects | \$ | 175,000 | \$ | 110,000 | 96393 |
| | | Personnel | | | | | |
| 4D5 | 725-618 | Recycled Materials | \$ | 50,000 | \$ | 50,000 | 96394 |
| 4S9 | 725-622 | NatureWorks Personnel | \$ | 472,648 | \$ | 307,648 | 96395 |
| 4X8 | 725-662 | Water Resources | \$ | 125,000 | \$ | 125,000 | 96396 |
| | | Council | | | | | |
| 430 | 725-671 | Canal Lands | \$ | 797,582 | \$ | 847,582 | 96397 |
| 508 | 725-684 | Natural Resources | \$ | 157,792 | \$ | 157,792 | 96398 |
| | | Publications | | | | | |
| 510 | 725-631 | Maintenance - | \$ | 260,849 | \$ | 260,849 | 96399 |
| | | State-owned Residences | | | | | |
| 516 | 725-620 | Water Management | \$ | 2,442,956 | \$ | 2,459,120 | 96400 |
| 635 | 725-664 | Fountain Square | \$ | 3,182,223 | \$ | 3,190,223 | 96401 |
| | | Facilities Management | | | | | |
| 697 | 725-670 | Submerged Lands | \$ | 542,011 | \$ | 542,011 | 96402 |
| | | TOTAL GSF General Services | | | | | 96403 |
| | | Fund Group | \$ | 25,182,409 | \$ | 24,902,478 | 96404 |
| | | Federal Special Revenue Fund Group | | | | | 96405 |
| 3B3 | 725-640 | Federal Forest | \$ | 150,000 | \$ | 150,000 | 96406 |
| | | Pass-Thru | | | | | |
| 3B4 | 725-641 | Federal Flood | \$ | 350,000 | \$ | 350,000 | 96407 |
| | | Pass-Thru | | | | | |
| 3B5 | 725-645 | Federal Abandoned Mine | \$ | 14,310,497 | \$ | 14,307,666 | 96408 |
| | | Lands | | | | | |
| 3B6 | 725-653 | Federal Land and Water | \$ | 5,000,000 | \$ | 5,000,000 | 96409 |
| | | Conservation Grants | | | | | |
| 3B7 | 725-654 | Reclamation - | \$ | 2,107,292 | \$ | 2,107,291 | 96410 |
| | | Regulatory | | | | | |

| | | | | | | | |
|-----------------------------------|---------|---|----|------------|----|------------|-------|
| 3P0 | 725-630 | Natural Areas and Preserves - Federal | \$ | 315,000 | \$ | 315,000 | 96411 |
| 3P1 | 725-632 | Geological Survey - Federal | \$ | 479,651 | \$ | 479,651 | 96412 |
| 3P2 | 725-642 | Oil and Gas-Federal | \$ | 362,933 | \$ | 367,912 | 96413 |
| 3P3 | 725-650 | Coastal Management - Federal | \$ | 1,592,923 | \$ | 1,607,686 | 96414 |
| 3P4 | 725-660 | Water - Federal | \$ | 419,766 | \$ | 420,525 | 96415 |
| 3R5 | 725-673 | Acid Mine Drainage Abatement/Treatment | \$ | 2,225,000 | \$ | 2,225,000 | 96416 |
| 3Z5 | 725-657 | REALM-Federal | \$ | 1,578,871 | \$ | 1,578,871 | 96417 |
| 328 | 725-603 | Forestry Federal | \$ | 1,813,827 | \$ | 2,228,081 | 96418 |
| 332 | 725-669 | Federal Mine Safety Grant | \$ | 258,102 | \$ | 258,102 | 96419 |
| TOTAL FED Federal Special Revenue | | | | | | | 96420 |
| Fund Group | | | \$ | 30,963,862 | \$ | 31,395,785 | 96421 |
| State Special Revenue Fund Group | | | | | | | 96422 |
| 4J2 | 725-628 | Injection Well Review | \$ | 93,957 | \$ | 79,957 | 96423 |
| 4M7 | 725-631 | Wildfire Suppression | \$ | 100,000 | \$ | 100,000 | 96424 |
| 4U6 | 725-668 | Scenic Rivers Protection | \$ | 407,100 | \$ | 407,100 | 96425 |
| 5B3 | 725-674 | Mining Regulation | \$ | 28,850 | \$ | 28,850 | 96426 |
| 5BV | 725-683 | Soil and Water Districts | \$ | 1,850,000 | \$ | 1,850,000 | 96427 |
| 5P2 | 725-634 | Wildlife Boater Angler Administration | \$ | 4,200,000 | \$ | 3,500,000 | 96428 |
| 509 | 725-602 | State Forest | \$ | 2,291,664 | \$ | 2,591,664 | 96429 |
| 511 | 725-646 | Ohio Geological Mapping | \$ | 549,310 | \$ | 549,310 | 96430 |
| 512 | 725-605 | State Parks Operations | \$ | 26,814,288 | \$ | 26,814,288 | 96431 |
| 512 | 725-680 | Parks Facilities Maintenance | \$ | 2,576,240 | \$ | 2,576,240 | 96432 |
| 514 | 725-606 | Lake Erie Shoreline | \$ | 612,075 | \$ | 657,113 | 96433 |

| | | | | | | | |
|---------------------------------|---------|--|----|------------|----|------------|-------|
| 518 | 725-643 | Oil and Gas Permit Fees | \$ | 2,674,377 | \$ | 2,674,378 | 96434 |
| 518 | 725-677 | Oil and Gas Well Plugging | \$ | 1,200,000 | \$ | 1,200,000 | 96435 |
| 521 | 725-627 | Off-Road Vehicle Trails | \$ | 143,490 | \$ | 143,490 | 96436 |
| 522 | 725-656 | Natural Areas Checkoff Funds | \$ | 1,550,670 | \$ | 1,550,670 | 96437 |
| 526 | 725-610 | Strip Mining Administration Fee | \$ | 1,932,492 | \$ | 1,932,492 | 96438 |
| 527 | 725-637 | Surface Mining Administration | \$ | 2,312,815 | \$ | 2,322,702 | 96439 |
| 529 | 725-639 | Unreclaimed Land Fund | \$ | 623,356 | \$ | 631,257 | 96440 |
| 531 | 725-648 | Reclamation Forfeiture | \$ | 2,061,861 | \$ | 2,062,237 | 96441 |
| 532 | 725-644 | Litter Control and Recycling | \$ | 7,100,000 | \$ | 7,100,000 | 96442 |
| 586 | 725-633 | Scrap Tire Program | \$ | 1,000,000 | \$ | 1,000,000 | 96443 |
| 615 | 725-661 | Dam Safety | \$ | 365,223 | \$ | 365,223 | 96444 |
| TOTAL SSR State Special Revenue | | | | | | | 96445 |
| Fund Group | | | \$ | 60,487,768 | \$ | 60,136,971 | 96446 |
| Clean Ohio Fund Group | | | | | | | 96447 |
| 061 | 725-405 | Clean Ohio Operating | \$ | 155,000 | \$ | 155,000 | 96448 |
| TOTAL CLF Clean Ohio Fund Group | | | \$ | 155,000 | \$ | 155,000 | 96449 |
| Wildlife Fund Group | | | | | | | 96450 |
| 015 | 740-401 | Division of Wildlife Conservation | \$ | 49,447,500 | \$ | 50,447,500 | 96451 |
| 815 | 725-636 | Cooperative Management Projects | \$ | 120,449 | \$ | 120,449 | 96452 |
| 816 | 725-649 | Wetlands Habitat | \$ | 966,885 | \$ | 966,885 | 96453 |
| 817 | 725-655 | Wildlife Conservation Checkoff Fund | \$ | 5,000,000 | \$ | 5,000,000 | 96454 |
| 818 | 725-629 | Cooperative Fisheries | \$ | 1,500,000 | \$ | 1,500,000 | 96455 |

| | | | | | |
|---|---------|------------------------|----------------|----------------|-------|
| Research | | | | | |
| 819 | 725-685 | Ohio River Management | \$ 128,584 | \$ 128,584 | 96456 |
| TOTAL WLF Wildlife Fund Group | | | \$ 57,163,418 | \$ 58,163,418 | 96457 |
| Waterways Safety Fund Group | | | | | 96458 |
| 086 | 725-414 | Waterways Improvement | \$ 3,792,343 | \$ 3,792,343 | 96459 |
| 086 | 725-418 | Buoy Placement | \$ 52,182 | \$ 52,182 | 96460 |
| 086 | 725-501 | Waterway Safety Grants | \$ 137,867 | \$ 137,867 | 96461 |
| 086 | 725-506 | Watercraft Marine | \$ 576,153 | \$ 576,153 | 96462 |
| Patrol | | | | | |
| 086 | 725-513 | Watercraft Educational | \$ 366,643 | \$ 366,643 | 96463 |
| Grants | | | | | |
| 086 | 739-401 | Division of Watercraft | \$ 20,027,909 | \$ 20,086,681 | 96464 |
| 5AW | 725-682 | Watercraft Revolving | \$ 3,000,000 | \$ 1,000,000 | 96465 |
| Loans | | | | | |
| TOTAL WSF Waterways Safety Fund | | | | | 96466 |
| Group | | | \$ 27,953,097 | \$ 26,011,869 | 96467 |
| Holding Account Redistribution Fund Group | | | | | 96468 |
| R17 | 725-659 | Performance Cash Bond | \$ 374,263 | \$ 374,263 | 96469 |
| Refunds | | | | | |
| R43 | 725-624 | Forestry | \$ 2,500,000 | \$ 1,500,000 | 96470 |
| TOTAL 090 Holding Account | | | | | 96471 |
| Redistribution Fund Group | | | \$ 2,874,263 | \$ 1,874,263 | 96472 |
| Accrued Leave Liability Fund Group | | | | | 96473 |
| 4M8 | 725-675 | FOP Contract | \$ 20,844 | \$ 20,844 | 96474 |
| TOTAL ALF Accrued Leave | | | | | 96475 |
| Liability Fund Group | | | \$ 20,844 | \$ 20,844 | 96476 |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ 331,086,195 | \$ 331,719,662 | 96477 |
| Section 209.18.03. CENTRAL SUPPORT INDIRECT | | | | | 96479 |
| With the exception of the Division of Wildlife, whose direct | | | | | 96480 |
| and indirect central support charges shall be paid out of the | | | | | 96481 |
| General Revenue Fund from the foregoing appropriation item | | | | | 96482 |

725-401, Wildlife-GRF Central Support, the Department of Natural Resources, with approval of the Director of Budget and Management, shall utilize a methodology for determining each division's payments into the Central Support Indirect Fund (Fund 157). The methodology used shall contain the characteristics of administrative ease and uniform application in compliance with federal grant requirements. It may include direct cost charges for specific services provided. Payments to the Central Support Indirect Fund (Fund 157) shall be made using an intrastate transfer voucher.

Section 209.18.06. FOUNTAIN SQUARE

The foregoing appropriation item 725-404, Fountain Square Rental Payments - OBA, shall be used by the Department of Natural Resources to meet all payments required to be made to the Ohio Building Authority during the period from July 1, 2005, to June 30, 2007, pursuant to leases and agreements with the Ohio Building Authority under section 152.241 of the Revised Code, but limited to the aggregate amount of \$2,117,300.

The Director of Natural Resources, using intrastate transfer vouchers, shall make payments to the General Revenue Fund from funds other than the General Revenue Fund to reimburse the General Revenue Fund for the other funds' shares of the lease rental payments to the Ohio Building Authority. The transfers from the non-General Revenue funds shall be made within 10 days of the payment to the Ohio Building Authority for the actual amounts necessary to fulfill the leases and agreements pursuant to section 152.241 of the Revised Code.

The foregoing appropriation item 725-664, Fountain Square Facilities Management (Fund 635), shall be used for payment of repairs, renovation, utilities, property management, and building maintenance expenses for the Fountain Square Complex. Cash

transferred by intrastate transfer vouchers from various 96514
department funds and rental income received by the Department of 96515
Natural Resources shall be deposited into the Fountain Square 96516
Facilities Management Fund (Fund 635). 96517

LEASE RENTAL PAYMENTS 96518

The foregoing appropriation item 725-413, OPFC Lease Rental 96519
Payments, shall be used to meet all payments at the times they are 96520
required to be made during the period from July 1, 2005, to June 96521
30, 2007, by the Department of Natural Resources pursuant to 96522
leases and agreements made under section 154.22 of the Revised 96523
Code, but limited to the aggregate amount of \$50,375,100. Nothing 96524
in this act shall be deemed to contravene the obligation of the 96525
state to pay, without necessity for further appropriation, from 96526
the sources pledged thereto, the bond service charges on 96527
obligations issued pursuant to section 154.22 of the Revised Code. 96528

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE 96529

The foregoing appropriation item 725-903, Natural Resources 96530
General Obligation Debt Service, shall be used to pay all debt 96531
service and related financing costs at the times they are required 96532
to be made pursuant to sections 151.01 and 151.05 of the Revised 96533
Code during the period from July 1, 2005, to June 30, 2007. The 96534
Office of the Sinking Fund or the Director of Budget and 96535
Management shall effectuate the required payments by an intrastate 96536
transfer voucher. 96537

Section 209.18.09. WILDLIFE LICENSE REIMBURSEMENT 96538

Notwithstanding the limits of the transfer from the General 96539
Revenue Fund to the Wildlife Fund, as adopted in section 1533.15 96540
of the Revised Code, up to the amount available in appropriation 96541
item 725-425, Wildlife License Reimbursement, may be transferred 96542
from the General Revenue Fund to the Wildlife Fund (Fund 015). 96543

Pursuant to the certification of the Director of Budget and Management of the amount of foregone revenue in accordance with section 1533.15 of the Revised Code, the foregoing appropriation item in the General Revenue Fund, appropriation item 725-425, Wildlife License Reimbursement, shall be used to reimburse the Wildlife Fund (Fund 015) for the cost of hunting and fishing licenses and permits issued after June 30, 1990, to individuals who are exempted under the Revised Code from license, permit, and stamp fees.

CANAL LANDS

The foregoing appropriation item 725-456, Canal Lands, shall be used to transfer funds to the Canal Lands Fund (Fund 430) to provide operating expenses for the State Canal Lands Program. The transfer shall be made using an intrastate transfer voucher and shall be subject to the approval of the Director of Budget and Management.

SOIL AND WATER DISTRICTS

In addition to state payments to soil and water conservation districts authorized by section 1515.10 of the Revised Code, the Department of Natural Resources may pay to any soil and water conservation district, from authority in appropriation item 725-502, Soil and Water Districts, an annual amount not to exceed \$30,000, upon receipt of a request and justification from the district and approval by the Ohio Soil and Water Conservation Commission. The county auditor shall credit the payments to the special fund established under section 1515.10 of the Revised Code for the local soil and water conservation district. Moneys received by each district shall be expended for the purposes of the district. The foregoing appropriation item 725-683, Soil and Water Districts, shall be expended for the purposes described above, except that the funding source for this appropriation shall be a fee applied on the disposal of construction and demolition

debris as provided in section 1515.14 of the Revised Code, as 96576
amended by this act. 96577

Of the foregoing appropriation item 725-502, Soil and Water 96578
Districts, \$25,000 in each fiscal year shall be used for the 96579
Conservation Action Project. 96580

Of the foregoing appropriation item, 725-683, Soil and Water 96581
Districts, \$200,000 in each fiscal year shall be used to support 96582
the Heidelberg College Water Quality Laboratory. 96583

Of the foregoing appropriation item 725-683, Soil and Water 96584
Districts, \$100,000 in each fiscal year shall be used to support 96585
the Muskingum Watershed Conservancy District. 96586

Of the foregoing appropriation item 725-683, Soil and Water 96587
Districts, \$100,000 in each fiscal year shall be used to support 96588
the Indian Lake Watershed in Logan County. 96589

DIVISION OF WATER 96590

Of the foregoing appropriation item 733-321, Division of 96591
Water, \$50,000 in fiscal year 2006 shall be used for the Fairport 96592
Harbor Port Authority boat launch in Lake County. 96593

FUND CONSOLIDATION 96594

The Director of Budget and Management shall transfer an 96595
amount certified by the Director of Natural Resources from the 96596
Central Support Indirect Fund (Fund 157) to the Law Enforcement 96597
Administration Fund (Fund 223) and the Information Services Fund 96598
(Fund 204) to implement a direct cost recovery plan. 96599

STATE PARK DEPRECIATION RESERVE 96600

The foregoing appropriation item 725-680, Parks Facilities 96601
Maintenance, shall be used by the Division of Parks and Recreation 96602
to maintain state park revenue producing facilities in the best 96603
economic operating condition and to repair and replace equipment 96604
used in the operation of state park revenue producing facilities. 96605

Upon certification of the Director of Natural Resources, the 96606
Director of Budget and Management shall transfer the cash balance 96607
in the Depreciation Reserve Fund (Fund 161), which is abolished in 96608
section 1541.221 of the Revised Code, as amended by this act, to 96609
the State Park Fund (Fund 512), which is created in section 96610
1541.22 of the Revised Code. All outstanding encumbrances shall be 96611
cancelled on October 1, 2005. 96612

OIL AND GAS WELL PLUGGING 96613

The foregoing appropriation item 725-677, Oil and Gas Well 96614
Plugging, shall be used exclusively for the purposes of plugging 96615
wells and to properly restore the land surface of idle and orphan 96616
oil and gas wells pursuant to section 1509.071 of the Revised 96617
Code. No funds from the appropriation item shall be used for 96618
salaries, maintenance, equipment, or other administrative 96619
purposes, except for those costs directly attributed to the 96620
plugging of an idle or orphan well. Appropriation authority from 96621
this appropriation item shall not be transferred to any other fund 96622
or line item. 96623

LITTER CONTROL AND RECYCLING 96624

Of the foregoing appropriation item, 725-644, Litter Control 96625
and Recycling, not more than \$1,500,000 may be used in each fiscal 96626
year for the administration of the Recycling and Litter Prevention 96627
program. 96628

CLEAN OHIO OPERATING EXPENSES 96629

The foregoing appropriation item 725-405, Clean Ohio 96630
Operating, shall be used by the Department of Natural Resources in 96631
administering section 1519.05 of the Revised Code. 96632

WATERCRAFT MARINE PATROL 96633

Of the foregoing appropriation item 739-401, Division of 96634
Watercraft, not more than \$200,000 in each fiscal year shall be 96635

expended for the purchase of equipment for marine patrols 96636
qualifying for funding from the Department of Natural Resources 96637
pursuant to section 1547.67 of the Revised Code. Proposals for 96638
equipment shall accompany the submission of documentation for 96639
receipt of a marine patrol subsidy pursuant to section 1547.67 of 96640
the Revised Code and shall be loaned to eligible marine patrols 96641
pursuant to a cooperative agreement between the Department of 96642
Natural Resources and the eligible marine patrol. 96643

WATERCRAFT REVOLVING LOAN PROGRAM 96644

Upon certification by the Director of Natural Resources, the 96645
Director of Budget and Management shall transfer an amount not to 96646
exceed \$3,000,000 in fiscal year 2006 and not to exceed \$1,000,000 96647
in fiscal year 2007 so certified from the Waterways Safety Fund 96648
(Fund 086) to the Watercraft Revolving Loans Fund (Fund 5AW). The 96649
moneys shall be used pursuant to section 1547.721 of the Revised 96650
Code. 96651

PARKS CAPITAL EXPENSES FUND 96652

There is hereby created in the state treasury the Parks 96653
Capital Expenses Fund (Fund 227). The fund shall be used to pay 96654
for design, engineering, and planning costs incurred by the 96655
Department of Natural Resources for capital parks projects. 96656

The Director of Natural Resources shall submit to the 96657
Director of Budget and Management the estimated design, 96658
engineering, and planning costs of capital-related work to be done 96659
by Department of Natural Resources staff for parks projects. If 96660
the Director of Budget and Management approves the estimated 96661
costs, the Director may release appropriations from appropriation 96662
item 725-406, Parks Projects Personnel, for those purposes. Upon 96663
release of the appropriations, the Department of Natural Resources 96664
shall pay for these expenses from the Parks Capital Expenses Fund 96665
(Fund 227). Expenses paid from Fund 227 shall be reimbursed by the 96666

Parks and Recreation Improvement Fund (Fund 035) using an 96667
 intrastate transfer voucher. 96668

Section 209.21. NUR STATE BOARD OF NURSING 96669

General Services Fund Group 96670

4K9 884-609 Operating Expenses \$ 5,661,280 \$ 5,661,280 96671

5P8 884-601 Nursing Special Issues \$ 5,000 \$ 5,000 96672

TOTAL GSF General Services 96673

Fund Group \$ 5,666,280 \$ 5,666,280 96674

TOTAL ALL BUDGET FUND GROUPS \$ 5,666,280 \$ 5,666,280 96675

NURSING SPECIAL ISSUES 96676

The foregoing appropriation item 884-601, Nursing Special 96677

Issues (Fund 5P8), shall be used to pay the costs the Board of 96678

Nursing incurs in implementing section 4723.062 of the Revised 96679

Code. 96680

Section 209.24. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY, 96681

AND ATHLETIC TRAINERS BOARD 96682

General Services Fund Group 96683

4K9 890-609 Operating Expenses \$ 824,057 \$ 0 96684

TOTAL GSF General Services Fund \$ 824,057 \$ 0 96685

Group

TOTAL ALL BUDGET FUND GROUPS \$ 824,057 \$ 0 96686

Section 209.27. OLA OHIOANA LIBRARY ASSOCIATION 96688

General Revenue Fund 96689

GRF 355-501 Library Subsidy \$ 200,000 \$ 200,000 96690

TOTAL GRF General Revenue Fund \$ 200,000 \$ 200,000 96691

TOTAL ALL BUDGET FUND GROUPS \$ 200,000 \$ 200,000 96692

Section 209.30. ODB OHIO OPTICAL DISPENSERS BOARD 96694

| | | | | |
|--------------------------------|----|---------|----|---------|
| General Services Fund Group | | | | 96695 |
| 4K9 894-609 Operating Expenses | \$ | 316,517 | \$ | 0 96696 |
| TOTAL GSF General Services | | | | 96697 |
| Fund Group | \$ | 316,517 | \$ | 0 96698 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 316,517 | \$ | 0 96699 |

Section 209.33. OPT STATE BOARD OF OPTOMETRY 96701

| | | | | |
|--------------------------------|----|---------|----|---------|
| General Services Fund Group | | | | 96702 |
| 4K9 885-609 Operating Expenses | \$ | 336,771 | \$ | 0 96703 |
| TOTAL GSF General Services | | | | 96704 |
| Fund Group | \$ | 336,771 | \$ | 0 96705 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 336,771 | \$ | 0 96706 |

Section 209.36. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS, 96708
AND PEDORTHICS 96709

| | | | | |
|--------------------------------|----|--------|----|---------|
| General Services Fund Group | | | | 96710 |
| 4K9 973-609 Operating Expenses | \$ | 99,571 | \$ | 0 96711 |
| TOTAL GSF General Services | | | | 96712 |
| Fund Group | \$ | 99,571 | \$ | 0 96713 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 99,571 | \$ | 0 96714 |

Section 209.39. PBR STATE PERSONNEL BOARD OF REVIEW 96715

| | | | | |
|----------------------------------|----|-----------|--------------|-------|
| General Revenue Fund | | | | 96716 |
| GRF 124-321 Operating | \$ | 1,116,170 | \$ 1,148,000 | 96717 |
| TOTAL GRF General Revenue Fund | \$ | 1,116,170 | \$ 1,148,000 | 96718 |
| General Services Fund Group | | | | 96719 |
| 636 124-601 Transcript and Other | \$ | 12,000 | \$ 15,000 | 96720 |
| TOTAL GSF General Services | | | | 96721 |
| Fund Group | \$ | 12,000 | \$ 15,000 | 96722 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 1,128,170 | \$ 1,163,000 | 96723 |

TRANSCRIPT AND OTHER 96724

The foregoing appropriation item 124-601, Transcript and 96725
 Other, may be used to defray the costs of producing an 96726
 administrative record. 96727

Section 209.42. PRX STATE BOARD OF PHARMACY 96728

General Services Fund Group 96729
 4A5 887-605 Drug Law Enforcement \$ 75,550 \$ 75,550 96730
 4K9 887-609 Operating Expenses \$ 5,650,537 \$ 5,400,537 96731
 TOTAL GSF General Services 96732
 Fund Group \$ 5,726,087 \$ 5,476,087 96733
 TOTAL ALL BUDGET FUND GROUPS \$ 5,726,087 \$ 5,476,087 96734

Section 209.45. PSY STATE BOARD OF PSYCHOLOGY 96736

General Services Fund Group 96737
 4K9 882-609 Operating Expenses \$ 566,112 \$ 0 96738
 TOTAL GSF General Services 96739
 Fund Group \$ 566,112 \$ 0 96740
 TOTAL ALL BUDGET FUND GROUPS \$ 566,112 \$ 0 96741

Section 209.48. PUB OHIO PUBLIC DEFENDER COMMISSION 96743

General Revenue Fund 96744
 GRF 019-321 Public Defender \$ 1,295,570 \$ 1,262,439 96745
 Administration
 GRF 019-401 State Legal Defense \$ 5,744,601 \$ 5,704,117 96746
 Services
 GRF 019-403 Multi-County: State \$ 823,620 \$ 823,620 96747
 Share
 GRF 019-404 Trumbull County - \$ 256,380 \$ 256,380 96748
 State Share
 GRF 019-405 Training Account \$ 31,324 \$ 31,324 96749
 GRF 019-501 County Reimbursement \$ 30,000,000 \$ 30,000,000 96750
 TOTAL GRF General Revenue Fund \$ 38,151,495 \$ 38,077,880 96751

| | | | | |
|--|----|------------|---------------|-------|
| General Services Fund Group | | | | 96752 |
| 101 019-602 Inmate Legal | \$ | 53,086 | \$ 32,338 | 96753 |
| Assistance | | | | |
| 406 019-603 Training and | \$ | 16,000 | \$ 16,000 | 96754 |
| Publications | | | | |
| 407 019-604 County Representation | \$ | 186,146 | \$ 188,810 | 96755 |
| 408 019-605 Client Payments | \$ | 614,027 | \$ 762,106 | 96756 |
| TOTAL GSF General Services | | | | 96757 |
| Fund Group | \$ | 869,259 | \$ 999,254 | 96758 |
| Federal Special Revenue Fund Group | | | | 96759 |
| 3S8 019-608 Federal Representation | \$ | 380,484 | \$ 315,287 | 96760 |
| TOTAL FED Federal Special Revenue | | | | 96761 |
| Fund Group | \$ | 380,484 | \$ 315,287 | 96762 |
| State Special Revenue Fund Group | | | | 96763 |
| 4C7 019-601 Multi-County: County | \$ | 2,028,309 | \$ 2,104,367 | 96764 |
| Share | | | | |
| 4X7 019-610 Trumbull County - | \$ | 642,106 | \$ 665,860 | 96765 |
| County Share | | | | |
| 574 019-606 Legal Services | \$ | 16,575,000 | \$ 21,300,000 | 96766 |
| Corporation | | | | |
| 5CX 019-617 Civil Case Filing Fee | \$ | 417,600 | \$ 556,800 | 96767 |
| TOTAL SSR State Special Revenue | | | | 96768 |
| Fund Group | \$ | 19,663,015 | \$ 24,627,027 | 96769 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 59,064,253 | \$ 64,019,448 | 96770 |
| INDIGENT DEFENSE OFFICE | | | | 96771 |
| The foregoing appropriation items 019-404, Trumbull County - | | | | 96772 |
| State Share, and 019-610, Trumbull County - County Share, shall be | | | | 96773 |
| used to support an indigent defense office for Trumbull County. | | | | 96774 |
| MULTI-COUNTY OFFICE | | | | 96775 |
| The foregoing appropriation items 019-403, Multi-County: | | | | 96776 |
| State Share, and 019-601, Multi-County: County Share, shall be | | | | 96777 |

used to support the Office of the Ohio Public Defender's 96778
 Multi-County Branch Office Program. 96779

TRAINING ACCOUNT 96780

The foregoing appropriation item 019-405, Training Account, 96781
 shall be used by the Ohio Public Defender to provide legal 96782
 training programs at no cost for private appointed counsel who 96783
 represent at least one indigent defendant at no cost and for state 96784
 and county public defenders and attorneys who contract with the 96785
 Ohio Public Defender to provide indigent defense services. 96786

FEDERAL REPRESENTATION 96787

The foregoing appropriation item 019-608, Federal 96788
 Representation, shall be used to receive reimbursements from the 96789
 federal courts when the Ohio Public Defender provides 96790
 representation in federal court cases and to support 96791
 representation in such cases. 96792

Section 209.51. DHS DEPARTMENT OF PUBLIC SAFETY 96793

General Revenue Fund 96794

GRF 763-403 Operating Expenses - \$ 4,164,697 \$ 4,164,697 96795

EMA

GRF 763-507 Individual and \$ 650,000 \$ 650,000 96796

Households Program -

State

GRF 768-424 Operating Expenses - \$ 965,899 \$ 1,276,192 96797

CJS

GRF 769-321 Food Stamp Trafficking \$ 752,000 \$ 752,000 96798

Enforcement Operations

TOTAL GRF General Revenue Fund \$ 6,532,596 \$ 6,842,889 96799

General Services Fund Group 96800

4P6 768-601 Justice Program \$ 100,000 \$ 100,000 96801

Services

| | | | | | |
|---|----|------------|----|------------|-------|
| TOTAL GSF General Services Fund | \$ | 100,000 | \$ | 100,000 | 96802 |
| Group | | | | | |
| Federal Special Revenue Fund Group | | | | | 96803 |
| 3AY 768-606 Federal Justice Grants | \$ | 11,200,000 | \$ | 11,500,000 | 96804 |
| 3L5 768-604 Justice Program | \$ | 31,019,750 | \$ | 25,214,623 | 96805 |
| 3V8 768-605 Federal Program | \$ | 50,000 | \$ | 0 | 96806 |
| Purposes FFY01 | | | | | |
| TOTAL FED Federal Special Revenue | \$ | 42,269,750 | \$ | 36,714,623 | 96807 |
| Fund Group | | | | | |
| State Special Revenue Fund Group | | | | | 96808 |
| 5BK 768-689 Family Violence | \$ | 500,000 | \$ | 650,000 | 96809 |
| Shelter Programs | | | | | |
| 5B9 766-632 PI & Security Guard | \$ | 1,188,716 | \$ | 1,188,716 | 96810 |
| Provider | | | | | |
| 5CC 768-607 Public Safety Services | \$ | 375,000 | \$ | 325,000 | 96811 |
| TOTAL SSR State Special Revenue | \$ | 2,063,716 | \$ | 2,163,716 | 96812 |
| Fund Group | | | | | |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 50,966,062 | \$ | 45,821,228 | 96813 |
| OHIO TASK FORCE ONE - URBAN SEARCH AND RESCUE UNIT | | | | | 96814 |
| Of the foregoing appropriation item 763-403, Operating | | | | | 96815 |
| Expenses - EMA, \$200,000 in each fiscal year shall be used to fund | | | | | 96816 |
| the Ohio Task Force One - Urban Search and Rescue Unit and other | | | | | 96817 |
| urban search and rescue programs around the state to create a | | | | | 96818 |
| stronger search and rescue capability statewide. | | | | | 96819 |
| INDIVIDUAL AND HOUSEHOLDS GRANTS STATE MATCH | | | | | 96820 |
| The foregoing appropriation item 763-507, Individual and | | | | | 96821 |
| Households Program - State, shall be used to fund the state share | | | | | 96822 |
| of costs to provide grants to individuals and households in cases | | | | | 96823 |
| of disaster. | | | | | 96824 |
| TRANSFER OF THE OFFICE OF CRIMINAL JUSTICE SERVICES TO THE | | | | | 96825 |
| DEPARTMENT OF PUBLIC SAFETY | | | | | 96826 |

(A) On July 1, 2005: 96827

(1) The Office of Criminal Justice Services shall cease to 96828
exist. Subject to the layoff provisions of sections 124.321 to 96829
124.328 of the Revised Code, the employees of the Office of 96830
Criminal Justice Services who were employed by that Office on June 96831
30, 2005, are transferred on that date to the Department of Public 96832
Safety. The vehicles and equipment assigned to those employees are 96833
transferred to the Department of Public Safety. 96834

(2) The assets, liabilities, other equipment not provided 96835
for, and records, irrespective of form or medium, of the Office of 96836
Criminal Justice Services are transferred to the Division of 96837
Criminal Justice Services. The Division of Criminal Justice 96838
Services is the successor to, assumes the obligations of, and 96839
otherwise constitutes the continuation of the Office of Criminal 96840
Justice Services. 96841

(3) Business commenced but not completed by the Office of 96842
Criminal Justice Services on July 1, 2005, shall be completed by 96843
the Division of Criminal Justice Services, in the same manner, and 96844
with the same effect, as if completed by the Office of Criminal 96845
Justice Services. No validation, cure, right, privilege, remedy, 96846
obligation, or liability is lost or impaired by reason of the 96847
transfer required by this section but shall be administered by the 96848
Division of Criminal Justice Services. 96849

(4) The rules, orders, and determinations pertaining to the 96850
Office of Criminal Justice Services continue in effect as rules, 96851
orders, and determinations of the Division of Criminal Justice 96852
Services until modified or rescinded by that Division. 96853

(5) No judicial or administrative action or proceeding 96854
pending on July 1, 2005, is affected by the transfer of functions 96855
from the Office of Criminal Justice Services to the Division of 96856
Criminal Justice Services and shall be prosecuted or defended in 96857

the name of the Executive Director or Division of Criminal Justice Services. On application to the court or other tribunal, the Executive Director or Division of Criminal Justice Services shall be substituted as a party in those actions and proceedings.

(6) When the Director or Office of Criminal Justice Services is referred to in any statute, rule, contract, grant, or other document, the reference is hereby deemed to refer to the Executive Director or Division of Criminal Justice Services.

(B) On and after July 1, 2005, if necessary to ensure the integrity of the numbering of the Administrative Code, the Director of the Legislative Service Commission shall renumber the rules of the Office of Criminal Justice Services to reflect their transfer to the Division of Criminal Justice Services in the Department of Public Safety.

(C) On and after July 1, 2005, notwithstanding any provision of law to the contrary, the Director of Budget and Management is authorized to take the actions described in this section with respect to budget changes made necessary by administrative reorganization, program transfers, the creation of new funds, and the consolidation of funds as authorized by this act. The Director may make any transfer of cash balances between funds. At the request of the Director of Budget and Management, the administering agency head shall certify to the Director an estimate of the amount of the cash balance to be transferred to the receiving fund. The Director may transfer the estimated amount when needed to make payments. Not more than thirty days after certifying the estimated amount, the administering agency head shall certify the final amount to the Director. The Director shall transfer the difference between any amount previously transferred and the certified final amount. The Director may cancel encumbrances and re-establish encumbrances or parts of encumbrances as needed in fiscal year 2006 in the appropriate fund

and appropriation item for the same purpose and to the same 96890
vendor. As determined by the Director, the appropriation authority 96891
necessary to re-establish those encumbrances in fiscal year 2006 96892
in a different fund or appropriation item within an agency or 96893
between agencies is hereby authorized. The Director shall reduce 96894
each year's appropriation balances by the amount of the 96895
encumbrances canceled in their respective funds and appropriation 96896
items. Any fiscal year 2005 unencumbered or unallocated 96897
appropriation balances may be transferred to the appropriate item 96898
to be used for the same purposes, as determined by the Director. 96899

(D) Any advisory committees appointed by the Governor to 96900
assist the Office of Criminal Justice Services pursuant to section 96901
181.53 and existing on June 30, 2005, shall continue to exist as 96902
advisory committees to the Division of Criminal Justice Services 96903
in the Department of Public Safety beginning on July 1, 2005, 96904
subject to section 121.13 of the Revised Code. 96905

TRANSFER OF FAMILY VIOLENCE PREVENTION CENTER 96906

The Family Violence Prevention Center is transferred from the 96907
Office of Criminal Justice Services to the Department of Public 96908
Safety. The Family Violence Prevention Center shall operate as 96909
part of the Division of Criminal Justice Services in the 96910
Department of Public Safety in the same manner as it operated 96911
under the Office of Criminal Justice Services. 96912

STATE FIRE MARSHAL'S FUND CASH TRANSFERS FOR PUBLIC SAFETY 96913
SERVICES 96914

Notwithstanding section 3737.71 of the Revised Code, in 96915
fiscal year 2006, the Director of Budget and Management shall 96916
transfer \$375,000 in cash from the Department of Commerce's State 96917
Fire Marshal's Fund (Fund 546) to the Department of Public 96918
Safety's Public Safety Services Fund (Fund 5CC), which is hereby 96919
created in the state treasury, and in fiscal year 2007, the 96920

Director of Budget and Management shall transfer \$325,000 in cash 96921
 from the Department of Commerce's State Fire Marshal's Fund (Fund 96922
 546) to the Department of Public Safety's Public Safety Services 96923
 Fund (Fund 5CC). 96924

Of the foregoing appropriation item 768-607, Public Safety 96925
 Services, \$100,000 in fiscal year 2006 and \$200,000 in fiscal year 96926
 2007 shall be distributed by the Department of Public Safety's 96927
 Division of Criminal Justice Services to the City of Warren to 96928
 assist the city in providing essential public safety services to 96929
 its citizens. 96930

Of the foregoing appropriation item 768-607, Public Safety 96931
 Services, \$125,000 in each fiscal year shall be distributed by the 96932
 Department of Public Safety's Division of Criminal Justice 96933
 Services directly to the Southern Ohio Drug Task Force. 96934

Of the foregoing appropriation item 768-607, Public Safety 96935
 Services, \$150,000 in fiscal year 2006 shall be distributed by the 96936
 Department of Public Safety's Division of Criminal Justice 96937
 Services to the City of Eastlake to assist the city in providing 96938
 essential public safety services to its citizens. 96939

Section 209.54. PUC PUBLIC UTILITIES COMMISSION OF OHIO 96940

General Services Fund Group 96941

5F6 870-622 Utility and Railroad \$ 31,272,222 \$ 31,272,223 96942

Regulation

5F6 870-624 NARUC/NRRI Subsidy \$ 167,233 \$ 167,233 96943

5F6 870-625 Motor Transportation \$ 5,361,239 \$ 5,361,238 96944

Regulation

TOTAL GSF General Services 96945

Fund Group \$ 36,800,694 \$ 36,800,694 96946

Federal Special Revenue Fund Group 96947

3V3 870-604 Commercial Vehicle \$ 300,000 \$ 300,000 96948

| | | | | | | |
|----------------------------------|---------|-------------------------|----|-----------|----|-----------------|
| | | Information | | | | |
| | | Systems/Networks | | | | |
| 333 | 870-601 | Gas Pipeline Safety | \$ | 597,957 | \$ | 597,957 96949 |
| 350 | 870-608 | Motor Carrier Safety | \$ | 7,027,712 | \$ | 7,027,712 96950 |
| TOTAL FED | | Federal Special Revenue | | | | 96951 |
| Fund Group | | | \$ | 7,925,669 | \$ | 7,925,669 96952 |
| State Special Revenue Fund Group | | | | | | 96953 |
| 4A3 | 870-614 | Grade Crossing | \$ | 1,349,757 | \$ | 1,349,757 96954 |
| | | Protection | | | | |
| | | Devices-State | | | | |
| 4L8 | 870-617 | Pipeline Safety-State | \$ | 187,621 | \$ | 187,621 96955 |
| 4S6 | 870-618 | Hazardous Material | \$ | 464,325 | \$ | 464,325 96956 |
| | | Registration | | | | |
| 4S6 | 870-621 | Hazardous Materials | \$ | 373,346 | \$ | 373,346 96957 |
| | | Base State | | | | |
| | | Registration | | | | |
| 4U8 | 870-620 | Civil Forfeitures | \$ | 284,986 | \$ | 284,986 96958 |
| 5BP | 870-623 | Wireless 911 | \$ | 650,000 | \$ | 375,000 96959 |
| | | Administration | | | | |
| 559 | 870-605 | Public Utilities | \$ | 4,000 | \$ | 4,000 96960 |
| | | Territorial | | | | |
| | | Administration | | | | |
| 560 | 870-607 | Special Assessment | \$ | 100,000 | \$ | 100,000 96961 |
| 561 | 870-606 | Power Siting Board | \$ | 337,210 | \$ | 337,210 96962 |
| 638 | 870-611 | Biomass Energy Program | \$ | 40,000 | \$ | 40,000 96963 |
| 661 | 870-612 | Hazardous Materials | \$ | 900,000 | \$ | 900,000 96964 |
| | | Transportation | | | | |
| TOTAL SSR | | State Special Revenue | | | | 96965 |
| Fund Group | | | \$ | 4,691,245 | \$ | 4,416,245 96966 |
| Agency Fund Group | | | | | | 96967 |
| 4G4 | 870-616 | Base State | \$ | 5,600,000 | \$ | 5,600,000 96968 |
| | | Registration Program | | | | |

| | | | | | |
|--|----|-------------|----|-------------|-------|
| TOTAL AGY Agency Fund Group | \$ | 5,600,000 | \$ | 5,600,000 | 96969 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 55,017,608 | \$ | 54,742,608 | 96970 |
| COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS PROJECT | | | | | 96971 |
| The Commercial Vehicle Information Systems and Networks Fund | | | | | 96972 |
| is hereby created in the state treasury. The fund shall receive | | | | | 96973 |
| funding from the United States Department of Transportation's | | | | | 96974 |
| Commercial Vehicle Intelligent Transportation System | | | | | 96975 |
| Infrastructure Deployment Program and shall be used to deploy the | | | | | 96976 |
| Ohio Commercial Vehicle Information Systems and Networks Project | | | | | 96977 |
| and to expedite and improve the safety of motor carrier operations | | | | | 96978 |
| through electronic exchange of data by means of on-highway | | | | | 96979 |
| electronic systems. | | | | | 96980 |
| ENHANCED AND WIRELESS ENHANCED 9-1-1 | | | | | 96981 |
| The foregoing appropriation item 870-623, Wireless 911 | | | | | 96982 |
| Administration, shall be used pursuant to section 4931.63 of the | | | | | 96983 |
| Revised Code. | | | | | 96984 |
| Section 209.57. PWC PUBLIC WORKS COMMISSION | | | | | 96985 |
| General Revenue Fund | | | | | 96986 |
| GRF 150-904 Conservation General | \$ | 13,687,300 | \$ | 17,168,800 | 96987 |
| Obligation Debt | | | | | |
| Service | | | | | |
| GRF 150-907 State Capital | \$ | 160,731,400 | \$ | 172,145,100 | 96988 |
| Improvements | | | | | |
| General Obligation | | | | | 96989 |
| Debt Service | | | | | |
| TOTAL GRF General Revenue Fund | \$ | 174,418,700 | \$ | 189,313,900 | 96990 |
| Clean Ohio Fund Group | | | | | 96991 |
| 056 150-403 Clean Ohio Operating | \$ | 298,245 | \$ | 311,509 | 96992 |
| Expenses | | | | | |
| TOTAL 056 Clean Ohio Fund Group | \$ | 298,245 | \$ | 311,509 | 96993 |

| | | | |
|--|----------------|----------------|-------|
| TOTAL ALL BUDGET FUND GROUPS | \$ 174,716,945 | \$ 189,625,409 | 96994 |
| CONSERVATION GENERAL OBLIGATION DEBT SERVICE | | | 96995 |
| The foregoing appropriation item 150-904, Conservation | | | 96996 |
| General Obligation Debt Service, shall be used to pay all debt | | | 96997 |
| service and related financing costs at the times they are required | | | 96998 |
| to be made under sections 151.01 and 151.09 of the Revised Code | | | 96999 |
| during the period from July 1, 2005, to June 30, 2007. The Office | | | 97000 |
| of the Sinking Fund or the Director of Budget and Management shall | | | 97001 |
| effectuate the required payments by intrastate transfer voucher. | | | 97002 |
| STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE | | | 97003 |
| The foregoing appropriation item 150-907, State Capital | | | 97004 |
| Improvements General Obligation Debt Service, shall be used to pay | | | 97005 |
| all debt service and related financing costs at the times they are | | | 97006 |
| required to be made under sections 151.01 and 151.08 of the | | | 97007 |
| Revised Code during the period from July 1, 2005, to June 30, | | | 97008 |
| 2007. The Office of the Sinking Fund or the Director of Budget and | | | 97009 |
| Management shall effectuate the required payments by intrastate | | | 97010 |
| transfer voucher. | | | 97011 |
| REIMBURSEMENT TO THE GENERAL REVENUE FUND | | | 97012 |
| (A) On or before June 1, 2007, the Director of the Public | | | 97013 |
| Works Commission shall certify to the Director of Budget and | | | 97014 |
| Management the following: | | | 97015 |
| (1) The total amount disbursed from appropriation item | | | 97016 |
| 700-409, Farmland Preservation, during the 2005-2007 biennium; and | | | 97017 |
| (2) The amount of interest earnings that have been credited | | | 97018 |
| to the Clean Ohio Conservation Fund (Fund 056) that are in excess | | | 97019 |
| of the amount needed for other purposes as calculated by the | | | 97020 |
| Director of the Public Works Commission. | | | 97021 |
| (B) If the Director of Budget and Management determines under | | | 97022 |
| division (A)(2) of this section that there are excess interest | | | 97023 |

earnings, the Director of Budget and Management shall, on or 97024
before June 1, 2007, transfer the excess interest earnings to the 97025
General Revenue Fund in an amount equal to the total amount 97026
disbursed under division (A)(1) of this section from the Clean 97027
Ohio Conservation Fund. 97028

CLEAN OHIO OPERATING EXPENSES 97029

The foregoing appropriation item 150-403, Clean Ohio 97030
Operating Expenses, shall be used by the Ohio Public Works 97031
Commission in administering sections 164.20 to 164.27 of the 97032
Revised Code. 97033

Section 209.60. RAC STATE RACING COMMISSION 97034

State Special Revenue Fund Group 97035

5C4 875-607 Simulcast Horse Racing \$ 17,061,489 \$ 17,063,948 97036

Purse

562 875-601 Thoroughbred Race Fund \$ 4,642,378 \$ 4,642,378 97037

563 875-602 Standardbred \$ 3,161,675 \$ 3,161,675 97038

Development Fund

564 875-603 Quarterhorse \$ 2,000 \$ 2,000 97039

Development Fund

565 875-604 Racing Commission \$ 4,000,000 \$ 4,000,000 97040

Operating

TOTAL SSR State Special Revenue 97041

Fund Group \$ 28,867,542 \$ 28,870,001 97042

Holding Account Redistribution Fund Group 97043

R21 875-605 Bond Reimbursements \$ 212,900 \$ 212,900 97044

TOTAL 090 Holding Account 97045

Redistribution

Fund Group \$ 212,900 \$ 212,900 97046

TOTAL ALL BUDGET FUND GROUPS \$ 29,080,442 \$ 29,082,901 97047

Section 209.63. BOR BOARD OF REGENTS 97049

| | | | | |
|---|----|---------------|------------------|-------|
| General Revenue Fund | | | | 97050 |
| GRF 235-321 Operating Expenses | \$ | 2,897,659 | \$ 2,966,351 | 97051 |
| GRF 235-401 Lease Rental Payments | \$ | 200,619,200 | \$ 200,795,300 | 97052 |
| GRF 235-402 Sea Grants | \$ | 231,925 | \$ 231,925 | 97053 |
| GRF 235-406 Articulation and Transfer | \$ | 2,900,000 | \$ 2,900,000 | 97054 |
| GRF 235-408 Midwest Higher Education Compact | \$ | 90,000 | \$ 90,000 | 97055 |
| GRF 235-409 Information System | \$ | 1,146,510 | \$ 1,175,172 | 97056 |
| GRF 235-414 State Grants and Scholarship Administration | \$ | 1,352,811 | \$ 1,382,881 | 97057 |
| GRF 235-415 Jobs Challenge | \$ | 9,348,300 | \$ 9,348,300 | 97058 |
| GRF 235-417 Ohio Learning Network | \$ | 3,119,496 | \$ 3,119,496 | 97059 |
| GRF 235-418 Access Challenge | \$ | 73,513,302 | \$ 73,004,671 | 97060 |
| GRF 235-420 Success Challenge | \$ | 52,601,934 | \$ 52,601,934 | 97061 |
| GRF 235-428 Appalachian New Economy Partnership | \$ | 1,176,068 | \$ 1,176,068 | 97062 |
| GRF 235-433 Economic Growth Challenge | \$ | 20,343,097 | \$ 23,186,194 | 97063 |
| GRF 235-434 College Readiness and Access | \$ | 6,375,975 | \$ 7,655,425 | 97064 |
| GRF 235-435 Teacher Improvement Initiatives | \$ | 2,697,506 | \$ 2,697,506 | 97065 |
| GRF 235-451 Eminent Scholars | \$ | 0 | \$ 1,370,988 | 97066 |
| GRF 235-455 EnterpriseOhio Network | \$ | 1,373,941 | \$ 1,373,941 | 97067 |
| GRF 235-474 Area Health Education Centers Program Support | \$ | 1,571,756 | \$ 1,571,756 | 97068 |
| GRF 235-501 State Share of Instruction | \$ | 1,559,096,031 | \$ 1,589,096,031 | 97069 |
| GRF 235-502 Student Support Services | \$ | 795,790 | \$ 795,790 | 97070 |

| | | | | | | |
|-------------|--|----|-------------|----|------------|-------|
| GRF 235-503 | Ohio Instructional Grants | \$ | 121,151,870 | \$ | 92,496,969 | 97071 |
| GRF 235-504 | War Orphans Scholarships | \$ | 4,672,321 | \$ | 4,672,321 | 97072 |
| GRF 235-507 | OhioLINK | \$ | 6,887,824 | \$ | 6,887,824 | 97073 |
| GRF 235-508 | Air Force Institute of Technology | \$ | 1,925,345 | \$ | 1,925,345 | 97074 |
| GRF 235-510 | Ohio Supercomputer Center | \$ | 4,271,195 | \$ | 4,271,195 | 97075 |
| GRF 235-511 | Cooperative Extension Service | \$ | 25,644,863 | \$ | 25,644,863 | 97076 |
| GRF 235-513 | Ohio University Voinovich Center | \$ | 336,082 | \$ | 336,082 | 97077 |
| GRF 235-515 | Case Western Reserve University School of Medicine | \$ | 3,011,271 | \$ | 3,011,271 | 97078 |
| GRF 235-518 | Capitol Scholarship Program | \$ | 125,000 | \$ | 125,000 | 97079 |
| GRF 235-519 | Family Practice | \$ | 4,548,470 | \$ | 4,548,470 | 97080 |
| GRF 235-520 | Shawnee State Supplement | \$ | 1,918,830 | \$ | 1,822,889 | 97081 |
| GRF 235-521 | The Ohio State University Glenn Institute | \$ | 286,082 | \$ | 286,082 | 97082 |
| GRF 235-524 | Police and Fire Protection | \$ | 171,959 | \$ | 171,959 | 97083 |
| GRF 235-525 | Geriatric Medicine | \$ | 750,110 | \$ | 750,110 | 97084 |
| GRF 235-526 | Primary Care Residencies | \$ | 2,245,688 | \$ | 2,245,688 | 97085 |
| GRF 235-527 | Ohio Aerospace Institute | \$ | 1,764,957 | \$ | 1,764,957 | 97086 |
| GRF 235-530 | Academic Scholarships | \$ | 7,800,000 | \$ | 7,800,000 | 97087 |
| GRF 235-531 | Student Choice Grants | \$ | 50,853,276 | \$ | 52,985,376 | 97088 |

| | | | | | | |
|-------------|---|----|------------|----|------------|-------|
| GRF 235-534 | Student Workforce Development Grants | \$ | 2,137,500 | \$ | 2,137,500 | 97089 |
| GRF 235-535 | Ohio Agricultural Research and Development Center | \$ | 35,955,188 | \$ | 35,955,188 | 97090 |
| GRF 235-536 | The Ohio State University Clinical Teaching | \$ | 13,565,885 | \$ | 13,565,885 | 97091 |
| GRF 235-537 | University of Cincinnati Clinical Teaching | \$ | 11,157,756 | \$ | 11,157,756 | 97092 |
| GRF 235-538 | Medical University of Ohio at Toledo Clinical Teaching | \$ | 8,696,866 | \$ | 8,696,866 | 97093 |
| GRF 235-539 | Wright State University Clinical Teaching | \$ | 4,225,107 | \$ | 4,225,107 | 97094 |
| GRF 235-540 | Ohio University Clinical Teaching | \$ | 4,084,540 | \$ | 4,084,540 | 97095 |
| GRF 235-541 | Northeastern Ohio Universities College of Medicine Clinical Teaching | \$ | 4,200,945 | \$ | 4,200,945 | 97096 |
| GRF 235-543 | Ohio College of Podiatric Medicine Clinic Subsidy | \$ | 250,000 | \$ | 250,000 | 97097 |
| GRF 235-547 | School of International Business | \$ | 450,000 | \$ | 450,000 | 97098 |
| GRF 235-549 | Part-time Student Instructional Grants | \$ | 14,457,721 | \$ | 10,534,617 | 97099 |
| GRF 235-552 | Capital Component | \$ | 19,058,863 | \$ | 19,058,863 | 97100 |
| GRF 235-553 | Dayton Area Graduate Studies Institute | \$ | 2,806,599 | \$ | 2,806,599 | 97101 |

| | | | | | | |
|-------------|--|----|---------------|----|---------------|-------|
| GRF 235-554 | Priorities in Collaborative Graduate Education | \$ | 2,355,548 | \$ | 2,355,548 | 97102 |
| GRF 235-555 | Library Depositories | \$ | 1,696,458 | \$ | 1,696,458 | 97103 |
| GRF 235-556 | Ohio Academic Resources Network | \$ | 3,727,223 | \$ | 3,727,223 | 97104 |
| GRF 235-558 | Long-term Care Research | \$ | 211,047 | \$ | 211,047 | 97105 |
| GRF 235-561 | Bowling Green State University Canadian Studies Center | \$ | 100,015 | \$ | 100,015 | 97106 |
| GRF 235-563 | Ohio College Opportunity Grant | \$ | 0 | \$ | 58,144,139 | 97107 |
| GRF 235-572 | The Ohio State University Clinic Support | \$ | 1,277,019 | \$ | 1,277,019 | 97108 |
| GRF 235-583 | Urban University Program | \$ | 4,992,937 | \$ | 4,992,937 | 97109 |
| GRF 235-587 | Rural University Projects | \$ | 1,147,889 | \$ | 1,147,889 | 97110 |
| GRF 235-596 | Hazardous Materials Program | \$ | 360,435 | \$ | 360,435 | 97111 |
| GRF 235-599 | National Guard Scholarship Program | \$ | 15,128,472 | \$ | 16,611,063 | 97112 |
| GRF 235-909 | Higher Education General Obligation Debt Service | \$ | 137,600,300 | \$ | 152,114,100 | 97113 |
| TOTAL GRF | General Revenue Fund | \$ | 2,469,260,757 | \$ | 2,548,147,869 | 97114 |
| | General Services Fund Group | | | | | 97115 |
| 220 235-614 | Program Approval and Reauthorization | \$ | 400,000 | \$ | 400,000 | 97116 |
| 456 235-603 | Sales and Services | \$ | 700,000 | \$ | 900,000 | 97117 |
| TOTAL GSF | General Services | | | | | 97118 |

| | | | | | | |
|------------------------------------|---|----|------------|----|------------|-------|
| Fund Group | | \$ | 1,100,000 | \$ | 1,300,000 | 97119 |
| Federal Special Revenue Fund Group | | | | | | 97120 |
| 3H2 235-608 | Human Services Project | \$ | 1,500,000 | \$ | 1,500,000 | 97121 |
| 3H2 235-622 | Medical Collaboration Network | \$ | 3,346,143 | \$ | 3,346,143 | 97122 |
| 3N6 235-605 | State Student Incentive Grants | \$ | 2,196,680 | \$ | 2,196,680 | 97123 |
| 3T0 235-610 | National Health Service Corps - Ohio Loan Repayment | \$ | 150,001 | \$ | 150,001 | 97124 |
| 312 235-609 | Tech Prep | \$ | 183,850 | \$ | 183,850 | 97125 |
| 312 235-611 | Gear-up Grant | \$ | 1,370,691 | \$ | 1,370,691 | 97126 |
| 312 235-612 | Carl D. Perkins Grant/Plan Administration | \$ | 112,960 | \$ | 112,960 | 97127 |
| 312 235-615 | Professional Development | \$ | 523,129 | \$ | 523,129 | 97128 |
| 312 235-617 | Improving Teacher Quality Grant | \$ | 2,900,000 | \$ | 2,900,000 | 97129 |
| 312 235-619 | Ohio Supercomputer Center | \$ | 6,000,000 | \$ | 6,000,000 | 97130 |
| 312 235-621 | Science Education Network | \$ | 1,686,970 | \$ | 1,686,970 | 97131 |
| 312 235-631 | Federal Grants | \$ | 250,590 | \$ | 250,590 | 97132 |
| TOTAL FED | Federal Special Revenue | | | | | 97133 |
| Fund Group | | \$ | 20,221,014 | \$ | 20,221,014 | 97134 |
| State Special Revenue Fund Group | | | | | | 97135 |
| 4E8 235-602 | Higher Educational Facility Commission Administration | \$ | 55,000 | \$ | 55,000 | 97136 |
| 4P4 235-604 | Physician Loan Repayment | \$ | 476,870 | \$ | 476,870 | 97137 |

| | | | | | | | |
|-----|---------|--|----|---------------|----|---------------|-------|
| 649 | 235-607 | The Ohio State University Highway/Transportation Research | \$ | 760,000 | \$ | 760,000 | 97138 |
| 682 | 235-606 | Nursing Loan Program | \$ | 893,000 | \$ | 893,000 | 97139 |
| | | TOTAL SSR State Special Revenue | | | | | 97140 |
| | | Fund Group | \$ | 2,184,870 | \$ | 2,184,870 | 97141 |
| | | TOTAL ALL BUDGET FUND GROUPS | \$ | 2,492,766,641 | \$ | 2,571,853,753 | 97142 |

Section 209.63.03. OPERATING EXPENSES 97144

Of the foregoing appropriation item 235-321, Operating Expenses, up to \$150,000 in each fiscal year shall be used in conjunction with funding provided in the Department of Education budget under appropriation item 200-427, Academic Standards, to create Ohio's Partnership for Continued Learning, in consultation with the Governor's Office. The Partnership, which replaces and broadens the former Joint Council of the Department of Education and the Board of Regents, shall advise and make recommendations to promote collaboration among relevant state entities in an effort to help local communities develop coherent and successful "P-16" learning systems. The Director of Budget and Management may transfer any unencumbered fiscal year 2006 balance to fiscal year 2007 to support the activities of the Partnership.

Section 209.63.06. LEASE RENTAL PAYMENTS 97158

The foregoing appropriation item 235-401, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2005, to June 30, 2007, by the Board of Regents under leases and agreements made under section 154.21 of the Revised Code, but limited to the aggregate amount of \$401,414,500. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged

thereto, the bond service charges on obligations issued pursuant 97167
to section 154.21 of the Revised Code. 97168

Section 209.63.09. SEA GRANTS 97169

The foregoing appropriation item 235-402, Sea Grants, shall 97170
be disbursed to the Ohio State University and shall be used to 97171
conduct research on fish in Lake Erie. 97172

Section 209.63.12. ARTICULATION AND TRANSFER 97173

The foregoing appropriation item 235-406, Articulation and 97174
Transfer, shall be used by the Board of Regents to maintain and 97175
expand the work of the Articulation and Transfer Council to 97176
develop a system of transfer policies to ensure that students at 97177
state institutions of higher education can transfer and have 97178
coursework apply to their majors and degrees at any other state 97179
institution of higher education without unnecessary duplication or 97180
institutional barriers under sections 3333.16, 3333.161, and 97181
3333.162 of the Revised Code. 97182

Of the foregoing appropriation item 235-406, Articulation and 97183
Transfer, \$200,000 in each fiscal year shall be used to support 97184
the work of the Articulation and Transfer Council under division 97185
(B) of section 3333.162 of the Revised Code. 97186

Section 209.63.15. MIDWEST HIGHER EDUCATION COMPACT 97187

The foregoing appropriation item 235-408, Midwest Higher 97188
Education Compact, shall be distributed by the Board of Regents 97189
under section 3333.40 of the Revised Code. 97190

Section 209.63.18. INFORMATION SYSTEM 97191

The foregoing appropriation item 235-409, Information System, 97192
shall be used by the Board of Regents to operate the higher 97193
education information data system known as the Higher Education 97194

Information System. 97195

Section 209.63.21. STATE GRANTS AND SCHOLARSHIP 97196
ADMINISTRATION 97197

The foregoing appropriation item 235-414, State Grants and 97198
Scholarship Administration, shall be used by the Board of Regents 97199
to administer the following student financial aid programs: Ohio 97200
Instructional Grant, Part-time Student Instructional Grant, Ohio 97201
College Opportunity Grant, Ohio Student Choice Grant, Ohio 97202
Academic Scholarship, Ohio War Orphans' Scholarship, Nurse 97203
Education Assistance Loan Program, Student Workforce Development 97204
Grant, Regents Graduate/Professional Fellowship, Ohio Safety 97205
Officers College Memorial Fund, Capitol Scholarship Program, and 97206
any other student financial aid programs created by the General 97207
Assembly. The appropriation item also shall be used to administer 97208
the federal Leveraging Educational Assistance Partnership (LEAP) 97209
and Special Leveraging Educational Assistance Partnership (SLEAP) 97210
programs and other student financial aid programs created by 97211
Congress and to provide fiscal services for the Ohio National 97212
Guard Scholarship Program and the Physician Loan Repayment 97213
Program. 97214

Section 209.63.24. JOBS CHALLENGE 97215

Funds appropriated to the foregoing appropriation item 97216
235-415, Jobs Challenge, shall be distributed to state-assisted 97217
community and technical colleges, regional campuses of 97218
state-assisted universities, and other organizationally distinct 97219
and identifiable member campuses of the EnterpriseOhio Network in 97220
support of noncredit job-related training. In each fiscal year, 97221
\$2,770,773 shall be distributed as performance grants to 97222
EnterpriseOhio Network campuses based upon each campus's 97223
documented performance according to criteria established by the 97224

Board of Regents for increasing training and related services to 97225
businesses, industries, and public sector organizations. 97226

Of the foregoing appropriation item 235-415, Jobs Challenge, 97227
\$2,819,345 in each fiscal year shall be allocated to the Targeted 97228
Industries Training Grant Program to attract, develop, and retain 97229
business and industry strategically important to the state's 97230
economy. 97231

Also, in each fiscal year, \$3,758,182 shall be allocated to 97232
the Higher Skills Incentives Program to promote and deliver 97233
coordinated, comprehensive training to local employers and to 97234
reward EnterpriseOhio Network campuses for increasing the amount 97235
of non-credit skill upgrading services provided to Ohio employers 97236
and employees. The funds shall be distributed to campuses in 97237
proportion to each campus's share of noncredit job-related 97238
training revenues received by all campuses for the previous fiscal 97239
year. It is the intent of the General Assembly that this Higher 97240
Skills Incentives component of the Jobs Challenge Program reward 97241
campus noncredit job-related training efforts in the same manner 97242
that the Research Incentive Program rewards campuses for their 97243
ability to obtain sponsored research revenues. 97244

Section 209.63.27. OHIO LEARNING NETWORK 97245

The foregoing appropriation item 235-417, Ohio Learning 97246
Network, shall be used by the Board of Regents to support the 97247
continued implementation of the Ohio Learning Network, a statewide 97248
electronic collaborative effort designed to promote degree 97249
completion of students, workforce training of employees, and 97250
professional development through the use of advanced 97251
telecommunications and distance education initiatives. 97252

Section 209.63.30. ACCESS CHALLENGE 97253

In each fiscal year, the foregoing appropriation item 97254

235-418, Access Challenge, shall be distributed to Ohio's 97255
state-assisted access colleges and universities. For the purposes 97256
of this allocation, "access campuses" includes state-assisted 97257
community colleges, state community colleges, technical colleges, 97258
Shawnee State University, Central State University, Cleveland 97259
State University, the regional campuses of state-assisted 97260
universities, and, where they are organizationally distinct and 97261
identifiable, the community-technical colleges located at the 97262
University of Cincinnati, Youngstown State University, and the 97263
University of Akron. 97264

The purpose of Access Challenge is to reduce the student 97265
share of costs for resident undergraduates enrolled in lower 97266
division undergraduate courses at Ohio's access campuses. The 97267
long-term goal is to make the student share of costs for these 97268
students equivalent to the student share of costs for resident 97269
undergraduate students enrolled throughout Ohio's public colleges 97270
and universities. Access Challenge appropriations shall be used in 97271
both years of the biennium to sustain, as much as possible, the 97272
tuition restraint or tuition reduction that was achieved with 97273
Access Challenge allocations in prior years. 97274

In fiscal year 2006, Access Challenge subsidies shall be 97275
distributed by the Board of Regents to eligible access campuses on 97276
the basis of the average of each campus's share of fiscal year 97277
2003 and 2004 all-terms subsidy-eligible General Studies FTEs. In 97278
fiscal year 2007, Access Challenge subsidies shall be distributed 97279
by the Board of Regents to eligible access campuses on the basis 97280
of the average of each campus's share of fiscal year 2004 and 2005 97281
all-terms subsidy-eligible General Studies FTEs. 97282

For purposes of this calculation, Cleveland State 97283
University's enrollments shall be adjusted by the ratio of the sum 97284
of subsidy-eligible lower-division FTE student enrollments 97285
eligible for access funding to the sum of subsidy-eligible General 97286

Studies FTE student enrollments at Central State University and 97287
Shawnee State University, and for the following universities and 97288
their regional campuses: the Ohio State University, Ohio 97289
University, Kent State University, Bowling Green State University, 97290
Miami University, the University of Cincinnati, the University of 97291
Akron, and Wright State University. 97292

Of the foregoing appropriation item 235-418, Access 97293
Challenge, \$10,172,626 in fiscal year 2006 and \$9,663,995 in 97294
fiscal year 2007 shall be used by Central State University to keep 97295
undergraduate fees below the statewide average, consistent with 97296
its mission of service to many first-generation college students 97297
from groups historically underrepresented in higher education and 97298
from families with limited incomes. 97299

Section 209.63.33. SUCCESS CHALLENGE 97300

The foregoing appropriation item 235-420, Success Challenge, 97301
shall be used by the Board of Regents to promote degree completion 97302
by students enrolled at a main campus of a state-assisted 97303
university. 97304

Of the foregoing appropriation item 235-420, Success 97305
Challenge, 66.67 per cent of the appropriation in each fiscal year 97306
shall be distributed to state-assisted university main campuses in 97307
proportion to each campus's share of the total statewide 97308
bachelor's degrees granted by university main campuses to 97309
"at-risk" students. In fiscal years 2006 and 2007, an "at-risk" 97310
student means any undergraduate student who was eligible to 97311
receive an Ohio need-based financial aid award during the past ten 97312
years. An eligible institution shall not receive its share of this 97313
distribution until it has submitted a plan that addresses how the 97314
subsidy will be used to better serve at-risk students and increase 97315
their likelihood of successful completion of a bachelor's degree 97316
program. The Board of Regents shall disseminate to all 97317

state-supported institutions of higher education all such plans 97318
submitted by institutions that received Success Challenge funds. 97319

Of the foregoing appropriation item 235-420, Success 97320
Challenge, 33.33 per cent of the appropriation in each fiscal year 97321
shall be distributed to university main campuses in proportion to 97322
each campus's share of the total bachelor's degrees granted by 97323
university main campuses to undergraduate students who completed 97324
their bachelor's degrees in a "timely manner" in the previous 97325
fiscal year. For purposes of this section, "timely manner" means 97326
the normal time it would take for a full-time degree-seeking 97327
undergraduate student to complete the student's degree. Generally, 97328
for such students pursuing a bachelor's degree, "timely manner" 97329
means four years. Exceptions to this general rule shall be 97330
permitted for students enrolled in programs specifically designed 97331
to be completed in a longer time period. The Board of Regents 97332
shall collect data to assess the timely completion statistics by 97333
university main campuses. 97334

Section 209.63.36. APPALACHIAN NEW ECONOMY PARTNERSHIP 97335

The foregoing appropriation item 235-428, Appalachian New 97336
Economy Partnership, shall be distributed to Ohio University to 97337
continue a multi-campus and multi-agency coordinated effort to 97338
link Appalachia to the new economy. Ohio University shall use 97339
these funds to provide leadership in the development and 97340
implementation of initiatives in the areas of entrepreneurship, 97341
management, education, and technology. 97342

Section 209.63.39. ECONOMIC GROWTH CHALLENGE 97343

The foregoing appropriation item 235-433, Economic Growth 97344
Challenge, shall be used to enhance the basic research 97345
capabilities of Ohio's public and private institutions of higher 97346
education, support improved graduate programs throughout the 97347

state, and promote the transfer of technology developed by 97348
colleges and universities to private industry to further the 97349
economic goals of the state. 97350

Of the foregoing appropriation item 235-433, Economic Growth 97351
Challenge, \$18,000,000 in each fiscal year shall be used for the 97352
Research Incentive Program to enhance the basic research 97353
capabilities of public colleges and universities and accredited 97354
Ohio institutions of higher education holding certificates of 97355
authorization issued under section 1713.02 of the Revised Code, in 97356
order to strengthen academic research for pursuing Ohio's economic 97357
development goals. The Board of Regents, in consultation with the 97358
colleges and universities, shall administer the Research Incentive 97359
Program and utilize a means of matching, on a fractional basis, 97360
external funds attracted in the previous year by institutions for 97361
basic research. The program may include incentives for increasing 97362
the amount of external research funds coming to eligible 97363
institutions and for focusing research efforts upon critical state 97364
needs. Colleges and universities shall submit for review and 97365
approval to the Board of Regents plans for the institutional 97366
allocation of state dollars received through the program. The 97367
institutional plans shall provide the rationale for the allocation 97368
in terms of the strategic targeting of funds for academic and 97369
state purposes, for strengthening research programs, for 97370
increasing the amount of external research funds, and shall 97371
include an evaluation process to provide results of the increased 97372
support. Institutional plans for the use of Research Incentive 97373
funding must demonstrate a significant investment in Third 97374
Frontier activities funded at the institution. For a college or 97375
university with multiple Third Frontier grants, as much as ten per 97376
cent of that institution's Research Incentive funding may be 97377
invested in Third Frontier Project-related activities. Each 97378
institutional plan for the investment of Research Incentive moneys 97379
shall report on existing, planned, or possible relationships with 97380

other state science and technology programs and funding recipients 97381
in order to further ongoing statewide science and technology 97382
collaboration objectives. The Board of Regents shall submit a 97383
biennial report of progress to the General Assembly. 97384

In fiscal year 2006, both those state-assisted doctoral 97385
degree-granting universities and those accredited Ohio 97386
institutions of higher education holding certificates of 97387
authorization under section 1713.02 of the Revised Code electing 97388
to participate in the Innovation Incentive Program shall initiate 97389
a comprehensive Innovation Incentive Plan designed to enhance 97390
doctoral programs and areas of research that have the greatest 97391
potential to attract preeminent researchers and build research 97392
capacity; enhance regional or state economic growth by creating 97393
new products and services to be commercialized; and complement 97394
Ohio's Third Frontier Project. 97395

Funding for the Innovation Incentive Program shall be 97396
generated from those state-assisted universities electing to set 97397
aside a portion of their allocation of the current doctoral 97398
reserve as provided in appropriation item 235-501, State Share of 97399
Instruction, and state matching funds provided in appropriation 97400
item 235-433, Economic Growth Challenge. Additionally, those 97401
accredited Ohio institutions of higher education holding 97402
certificates of authorization under section 1713.02 of the Revised 97403
Code electing to participate in the Innovation Incentive Program 97404
shall be required to set aside an amount comparable to the 97405
state-assisted universities. The criteria for the determination of 97406
this amount shall be developed by the Board of Regents. 97407

Of the foregoing appropriation item 235-433, Economic Growth 97408
Challenge, \$2,343,097 in fiscal year 2006 and \$4,686,194 in fiscal 97409
year 2007 shall match funds set aside by the state-assisted 97410
universities for the Innovation Incentive Program. The set aside 97411
begins in fiscal year 2006 and is intended to increase 97412

incrementally over a period of ten years with the goal of setting 97413
aside a total of fifteen per cent of the doctoral reserve from 97414
appropriation item 235-501, State Share of Instruction, by 2016. 97415

The Board of Regents shall use the combined amount of each 97416
participating state-assisted university's set aside of the 97417
doctoral reserve that has been withheld, the state matching funds 97418
earmarked under appropriation item 235-433, Economic Growth 97419
Challenge, and the amount set aside by each accredited Ohio 97420
institution of higher education holding a certificate of 97421
authorization under section 1713.02 of the Revised Code electing 97422
to participate in the Innovation Incentive Program to make awards 97423
through a competitive process under the Innovation Incentive 97424
Program. Only universities electing to set aside the prescribed 97425
amount shall be eligible to compete for and receive Innovation 97426
Incentive awards. The participating universities shall use these 97427
awards to restructure their array of doctoral programs. 97428

Of the foregoing appropriation item 235-433, Economic Growth 97429
Challenge, \$500,000 in fiscal year 2007 shall be distributed for 97430
the Technology Commercialization Incentive. The purpose of the 97431
Technology Commercialization Incentive is to reward public and 97432
private colleges and universities for successful technology 97433
transfer to Ohio-based business and industry resulting in the 97434
commercialization of new products, processes, and services and the 97435
establishment of new business start-ups within the state. The 97436
Third Frontier Commission, with counsel from the Third Frontier 97437
Advisory Board, shall establish the eligibility criteria for 97438
public and private colleges and universities interested in 97439
applying for Technology Commercialization Incentive funding. To 97440
qualify for the funds, public and private colleges and 97441
universities must maintain a significant investment in their own 97442
technology-transfer and commercialization operation and 97443
capabilities, and possess a significant history of successful 97444

research partnerships with Ohio-based business and industry. 97445

Section 209.63.42. COLLEGE READINESS AND ACCESS 97446

Appropriation item 235-434, College Readiness and Access, 97447
shall be used by the Board of Regents to support programs designed 97448
to improve the academic preparation and increase the number of 97449
students that enroll and succeed in higher education such as the 97450
Ohio College Access Network, the state match for the federal 97451
Gaining Early Awareness and Readiness for Undergraduate Program, 97452
and early awareness initiatives. The appropriation item shall also 97453
be used to support innovative statewide strategies to increase 97454
student access and retention for specialized populations, and to 97455
provide for pilot projects that will contribute to improving 97456
access to higher education by specialized populations. The funds 97457
may be used for projects that improve access for nonpublic 97458
secondary students. 97459

Of the foregoing appropriation item 235-434, College 97460
Readiness and Access, \$798,684 in fiscal year 2006 and \$822,645 in 97461
fiscal year 2007 shall be distributed to the Ohio Appalachian 97462
Center for Higher Education at Shawnee State University. The board 97463
of directors of the Center shall consist of the presidents of 97464
Shawnee State University, Ohio University, Belmont Technical 97465
College, Hocking College, Jefferson Community College, Zane State 97466
College, Rio Grande Community College, Southern State Community 97467
College, and Washington State Community College; the dean of one 97468
of the Salem, Tuscarawas, and East Liverpool regional campuses of 97469
Kent State University, as designated by the president of Kent 97470
State University; and a representative of the Board of Regents 97471
designated by the Chancellor. 97472

Of the foregoing appropriation item 235-434, College 97473
Readiness and Access, \$169,553 in fiscal year 2006 and \$174,640 in 97474
fiscal year 2007 shall be distributed to Miami University for the 97475

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| Student Achievement in Research and Scholarship (STARS) Program. | 97476 |
| Of the foregoing appropriation item 235-434, College | 97477 |
| Readiness and Access, \$1,574,535 in fiscal year 2006 and | 97478 |
| \$2,753,985 in fiscal year 2007 shall be used in conjunction with | 97479 |
| funding provided in the Ohio Department of Education budget under | 97480 |
| appropriation item 200-431, School Improvement Initiatives, to | 97481 |
| support the Early College High School Pilot Program. | 97482 |
| | |
| Section 209.63.45. TEACHER IMPROVEMENT INITIATIVES | 97483 |
| Appropriation item 235-435, Teacher Improvement Initiatives, | 97484 |
| shall be used by the Board of Regents to support programs such as | 97485 |
| OSI - Discovery and the Centers of Excellence in Mathematics and | 97486 |
| Science designed to raise the quality of mathematics and science | 97487 |
| teaching in primary and secondary education. | 97488 |
| Of the foregoing appropriation item 235-435, Teacher | 97489 |
| Improvement Initiatives, \$204,049 in each fiscal year shall be | 97490 |
| distributed to the Mathematics and Science Center in Lake County. | 97491 |
| Of the foregoing appropriation item 235-435, Teacher | 97492 |
| Improvement Initiatives, \$106,619 in each fiscal year shall be | 97493 |
| distributed to the Ohio Mathematics and Science Coalition. | 97494 |
| Of the foregoing appropriation item 234-435, Teacher | 97495 |
| Improvement Initiatives, \$100,000 in each fiscal year shall be | 97496 |
| distributed to the Teacher Quality Partnerships study. | 97497 |
| Of the foregoing appropriation item 235-435, Teacher | 97498 |
| Improvement Initiatives, \$874,871 in each fiscal year shall be | 97499 |
| distributed to the Ohio Resource Center for Mathematics, Science, | 97500 |
| and Reading. The funds shall be used to support a resource center | 97501 |
| for mathematics, science, and reading to be located at a | 97502 |
| state-assisted university for the purpose of identifying best | 97503 |
| educational practices in primary and secondary schools and | 97504 |
| establishing methods for communicating them to colleges of | 97505 |

education and school districts. The Ohio Resource Center for 97506
Mathematics, Science, and Reading shall not make available 97507
resources that are inconsistent with the K-12 science standards 97508
and policies as adopted by the State Board of Education. 97509

Section 209.63.48. EMINENT SCHOLARS 97510

The foregoing appropriation item 235-451, Eminent Scholars, 97511
shall be used by the Ohio Board of Regents to continue the Ohio 97512
Eminent Scholars Program, the purpose of which is to invest 97513
educational resources to address problems that are of vital 97514
statewide significance while fostering the growth in eminence of 97515
Ohio's academic programs. Ohio Eminent Scholars endowed chairs 97516
shall allow Ohio universities to recruit senior faculty members 97517
from outside Ohio who are nationally and internationally 97518
recognized scholars in areas of science and technology that 97519
provide the basic research platforms on which the state's 97520
technology and commercialization efforts are built. Endowment 97521
grants of approximately \$685,494 to state colleges and 97522
universities and nonprofit Ohio institutions of higher education 97523
holding certificates of authorization issued under section 1713.02 97524
of the Revised Code to match endowment gifts from nonstate sources 97525
may be made in accordance with a plan established by the Ohio 97526
Board of Regents. Matching nonstate endowment gifts shall be equal 97527
to the state's endowment grant of approximately \$685,494. The 97528
grants shall have as their purpose attracting and sustaining in 97529
Ohio scholar-leaders of national or international prominence; each 97530
grant shall assist in accelerating state economic growth through 97531
research that provides an essential basic science platform for 97532
commercialization efforts. Such scholar-leaders shall, among their 97533
duties, share broadly the benefits and knowledge unique to their 97534
fields of scholarship to the betterment of Ohio and its people and 97535
collaborate with other state technology programs and program 97536
recipients. 97537

All new Eminent Scholar awards made by the Board of Regents 97538
shall be associated with a Wright Center of Innovation, a 97539
Partnership Award from the Biomedical Research and Technology 97540
Transfer Trust Fund, or a Wright Capital Project. 97541

Section 209.63.51. ENTERPRISEOHIO NETWORK 97542

The foregoing appropriation item 235-455, EnterpriseOhio 97543
Network, shall be allocated by the Board of Regents to continue 97544
increasing the capabilities of the EnterpriseOhio Network to meet 97545
the ongoing training needs of Ohio employers. Funds shall support 97546
multicampus collaboration, best practice dissemination, and 97547
capacity building projects. The Regents Advisory Committee for 97548
Workforce Development, in its advisory role, shall advise in the 97549
development of plans and activities. 97550

Of the foregoing appropriation item 235-455, EnterpriseOhio 97551
Network, \$165,300 in each fiscal year shall be used by the Dayton 97552
Business/Sinclair College Jobs Profiling Program. 97553

Section 209.63.54. AREA HEALTH EDUCATION CENTERS 97554

The foregoing appropriation item 235-474, Area Health 97555
Education Centers Program Support, shall be used by the Board of 97556
Regents to support the medical school regional area health 97557
education centers' educational programs for the continued support 97558
of medical and other health professions education and for support 97559
of the Area Health Education Center Program. 97560

Of the foregoing appropriation item 235-474, Area Health 97561
Education Centers Program Support, \$159,158 in each fiscal year 97562
shall be disbursed to the Ohio University College of Osteopathic 97563
Medicine to operate a mobile health care unit to serve the 97564
southeastern area of the state. 97565

Of the foregoing appropriation item 235-474, Area Health 97566
Education Centers Program Support, \$119,369 in each fiscal year 97567

shall be used to support the Ohio Valley Community Health 97568
Information Network (OVCHIN) project. 97569

Section 209.63.57. STATE SHARE OF INSTRUCTION 97570

As soon as practicable during each fiscal year of the 97571
biennium ending June 30, 2007, in accordance with instructions of 97572
the Board of Regents, each state-assisted institution of higher 97573
education shall report its actual enrollment to the Board of 97574
Regents. 97575

The Board of Regents shall establish procedures required by 97576
the system of formulas set out below and for the assignment of 97577
individual institutions to categories described in the formulas. 97578
The system of formulas establishes the manner in which aggregate 97579
expenditure requirements shall be determined for each of the three 97580
components of institutional operations. In addition to other 97581
adjustments and calculations described below, the subsidy 97582
entitlement of an institution shall be determined by subtracting 97583
from the institution's aggregate expenditure requirements income 97584
to be derived from the local contributions assumed in calculating 97585
the subsidy entitlements. The local contributions for purposes of 97586
determining subsidy support shall not limit the authority of the 97587
individual boards of trustees to establish fee levels. 97588

The General Studies and Technical models shall be adjusted by 97589
the Board of Regents so that the share of state subsidy earned by 97590
those models is not altered by changes in the overall local share. 97591
A lower-division fee differential shall be used to maintain the 97592
relationship that would have occurred between these models and the 97593
baccalaureate models had an assumed share of 37.5 per cent been 97594
funded. 97595

In defining the number of full-time equivalent (FTE) students 97596
for state subsidy purposes, the Board of Regents shall exclude all 97597
undergraduate students who are not residents of Ohio, except those 97598

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| charged in-state fees in accordance with reciprocity agreements | | | 97599 |
| made under section 3333.17 of the Revised Code or employer | | | 97600 |
| contracts entered into under section 3333.32 of the Revised Code. | | | 97601 |
| (A) AGGREGATE EXPENDITURE PER FULL-TIME EQUIVALENT STUDENT | | | 97602 |
| (1) INSTRUCTION AND SUPPORT SERVICES | | | 97603 |
| MODEL | FY 2006 | FY 2007 | 97604 |
| General Studies I | \$ 4,655 | \$ 4,655 | 97605 |
| General Studies II | \$ 5,135 | \$ 5,135 | 97606 |
| General Studies III | \$ 6,365 | \$ 6,365 | 97607 |
| Technical I | \$ 5,926 | \$ 5,926 | 97608 |
| Technical III | \$ 9,107 | \$ 9,107 | 97609 |
| Baccalaureate I | \$ 7,160 | \$ 7,160 | 97610 |
| Baccalaureate II | \$ 8,235 | \$ 8,235 | 97611 |
| Baccalaureate III | \$ 11,841 | \$ 11,841 | 97612 |
| Masters and Professional I | \$ 19,088 | \$ 19,088 | 97613 |
| Masters and Professional II | \$ 20,984 | \$ 20,984 | 97614 |
| Masters and Professional III | \$ 27,234 | \$ 27,234 | 97615 |
| Medical I | \$ 29,143 | \$ 29,143 | 97616 |
| Medical II | \$ 37,172 | \$ 37,172 | 97617 |
| MPD I | \$ 13,645 | \$ 13,645 | 97618 |
| (2) STUDENT SERVICES | | | 97619 |
| For this purpose, FTE counts shall be weighted to reflect | | | 97620 |
| differences among institutions in the numbers of students enrolled | | | 97621 |
| on a part-time basis. The student services subsidy per FTE shall | | | 97622 |
| be \$890 in each fiscal year for all models. | | | 97623 |
| (B) PLANT OPERATION AND MAINTENANCE (POM) | | | 97624 |
| (1) DETERMINATION OF THE SQUARE-FOOT-BASED POM SUBSIDY | | | 97625 |
| Space undergoing renovation shall be funded at the rate | | | 97626 |
| allowed for storage space. | | | 97627 |
| In the calculation of square footage for each campus, square | | | 97628 |

footage shall be weighted to reflect differences in space utilization. 97629
97630

The space inventories for each campus shall be those determined in the fiscal year 2003 state share of instruction calculation, adjusted for changes attributable to the construction or renovation of facilities for which state appropriations were made or local commitments were made prior to January 1, 1995. 97631
97632
97633
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97635

Only 50 per cent of the space permanently taken out of operation in fiscal year 2006 or fiscal year 2007 that is not otherwise replaced by a campus shall be deleted from the plant operation and maintenance space inventory. 97636
97637
97638
97639

The square-foot-based plant operation and maintenance subsidy for each campus shall be determined as follows: 97640
97641

(a) For each standard room type category shown below, the subsidy-eligible net assignable square feet (NASF) for each campus shall be multiplied by the following rates, and the amounts summed for each campus to determine the total gross square-foot-based POM expenditure requirement: 97642
97643
97644
97645
97646

| | FY 2006 | FY 2007 | |
|------------------------------|---------|---------|----------------|
| Classrooms | \$5.86 | \$5.86 | 97647 97648 |
| Laboratories | \$7.31 | \$7.31 | 97649 |
| Offices | \$5.86 | \$5.86 | 97650 |
| Audio Visual Data Processing | \$7.31 | \$7.31 | 97651 |
| Storage | \$2.59 | \$2.59 | 97652 |
| Circulation | \$7.39 | \$7.39 | 97653 |
| Other | \$5.86 | \$5.86 | 97654 |

(b) The total gross square-foot POM expenditure requirement shall be allocated to models in proportion to each campus's activity-based POM weight multiplied by the two- or five-year average subsidy-eligible FTEs for all models. 97655
97656
97657
97658

(c) The amounts allocated to models in division (B)(1)(b) of 97659

this section shall be multiplied by the ratio of subsidy-eligible FTE students to total FTE students reported in each model, and the amounts summed for all models. To this total amount shall be added an amount to support roads and grounds expenditures, which shall also be multiplied by the ratio of subsidy-eligible FTE students to total FTEs reported for each model. From this total amount, the amounts for Doctoral I and Doctoral II shall be subtracted to produce the square-foot-based POM subsidy.

(2) DETERMINATION OF THE ACTIVITY-BASED POM SUBSIDY

(a) The number of subsidy-eligible FTE students in each model shall be multiplied by the following rates for each campus for each fiscal year.

| | FY 2006 | FY 2007 | |
|------------------------------|---------|---------|-------|
| General Studies I | \$ 512 | \$ 512 | 97673 |
| General Studies II | \$ 662 | \$ 662 | 97674 |
| General Studies III | \$1,464 | \$1,464 | 97675 |
| Technical I | \$ 752 | \$ 752 | 97676 |
| Technical III | \$1,343 | \$1,343 | 97677 |
| Baccalaureate I | \$ 639 | \$ 639 | 97678 |
| Baccalaureate II | \$1,149 | \$1,149 | 97679 |
| Baccalaureate III | \$1,262 | \$1,262 | 97680 |
| Masters and Professional I | \$1,258 | \$1,258 | 97681 |
| Masters and Professional II | \$2,446 | \$2,446 | 97682 |
| Masters and Professional III | \$3,276 | \$3,276 | 97683 |
| Medical I | \$1,967 | \$1,967 | 97684 |
| Medical II | \$3,908 | \$3,908 | 97685 |
| MPD I | \$1,081 | \$1,081 | 97686 |

(b) The sum of the products for each campus determined in division (B)(2)(a) of this section for all models except Doctoral I and Doctoral II for each fiscal year shall be weighted by a factor to reflect sponsored research activity and job training-related public services expenditures to determine the

| | |
|--|------------|
| total activity-based POM subsidy. | 97692 |
| (C) CALCULATION OF CORE SUBSIDY ENTITLEMENTS AND ADJUSTMENTS | 97693 |
| (1) CALCULATION OF CORE SUBSIDY ENTITLEMENTS | 97694 |
| The calculation of the core subsidy entitlement shall consist | 97695 |
| of the following components: | 97696 |
| (a) For each campus in each fiscal year, the core subsidy | 97697 |
| entitlement shall be determined by multiplying the amounts listed | 97698 |
| above in divisions (A)(1) and (2) and (B)(2) of this section less | 97699 |
| assumed local contributions, by (i) average subsidy-eligible FTEs | 97700 |
| for the two-year period ending in the prior year for all models | 97701 |
| except Doctoral I and Doctoral II; and (ii) average | 97702 |
| subsidy-eligible FTEs for the five-year period ending in the prior | 97703 |
| year for all models except Doctoral I and Doctoral II. | 97704 |
| (b) In calculating the core subsidy entitlements for Medical | 97705 |
| II models only, the Board of Regents shall use the following count | 97706 |
| of FTE students: | 97707 |
| (i) For those medical schools whose current year enrollment, | 97708 |
| including students repeating terms, is below the base enrollment, | 97709 |
| the Medical II FTE enrollment shall equal: 65 per cent of the base | 97710 |
| enrollment plus 35 per cent of the current year enrollment | 97711 |
| including students repeating terms, where the base enrollment is: | 97712 |
| The Ohio State University | 1010 97713 |
| University of Cincinnati | 833 97714 |
| Medical University of Ohio at Toledo | 650 97715 |
| Wright State University | 433 97716 |
| Ohio University | 433 97717 |
| Northeastern Ohio Universities College of | 433 97718 |
| Medicine | |
| (ii) For those medical schools whose current year enrollment, | 97719 |
| excluding students repeating terms, is equal to or greater than | 97720 |
| the base enrollment, the Medical II FTE enrollment shall equal the | 97721 |

base enrollment plus the FTE for repeating students. 97722

(iii) Students repeating terms may be no more than five per 97723
cent of current year enrollment. 97724

(c) The Board of Regents shall compute the sum of the two 97725
calculations listed in division (C)(1)(a) of this section and use 97726
the greater sum as the core subsidy entitlement. 97727

The POM subsidy for each campus shall equal the greater of 97728
the square-foot-based subsidy or the activity-based POM subsidy 97729
component of the core subsidy entitlement. 97730

(d) The state share of instruction provided for doctoral 97731
students shall be based on a fixed percentage of the total 97732
appropriation. In each fiscal year of the biennium not more than 97733
10.34 per cent of the total state share of instruction shall be 97734
reserved to implement the recommendations of the Graduate Funding 97735
Commission. It is the intent of the General Assembly that the 97736
doctoral reserve not exceed 10.34 per cent of the total state 97737
share of instruction to implement the recommendations of the 97738
Graduate Funding Commission. The Board of Regents may reallocate 97739
up to two per cent in each fiscal year of the reserve among the 97740
state-assisted universities on the basis of a quality review as 97741
specified in the recommendations of the Graduate Funding 97742
Commission. No such reallocation shall occur unless the Board of 97743
Regents, in consultation with representatives of state-assisted 97744
universities, determines that sufficient funds are available for 97745
this purpose. 97746

The amount so reserved shall be allocated to universities in 97747
proportion to their share of the total number of Doctoral I 97748
equivalent FTEs as calculated on an institutional basis using the 97749
greater of the two-year or five-year FTEs for the period fiscal 97750
year 1994 through fiscal year 1998 with annualized FTEs for fiscal 97751
years 1994 through 1997 and all-term FTEs for fiscal year 1998 as 97752

adjusted to reflect the effects of doctoral review and subsequent 97753
changes in Doctoral I equivalent enrollments. For the purposes of 97754
this calculation, Doctoral I equivalent FTEs shall equal the sum 97755
of Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs. 97756

If a university participates in the Innovation Incentive 97757
Program outlined in appropriation item 235-433, Economic Growth 97758
Challenge, then the Board of Regents shall withhold 1.5 per cent 97759
in fiscal year 2006 and three per cent in fiscal year 2007 of the 97760
participating university's allocation of the doctoral reserve. 97761
This withholding is intended to increase incrementally with a goal 97762
of setting aside 15 per cent of the total doctoral reserve by 97763
fiscal year 2016. 97764

The Board of Regents shall use the combined amount of each 97765
participating state-assisted university's set aside of the 97766
doctoral reserve that has been withheld, the state matching funds 97767
earmarked under appropriation item 235-433, Economic Growth 97768
Challenge, and the amount set aside by each accredited Ohio 97769
institution of higher education holding a certificate of 97770
authorization under section 1713.02 of the Revised Code electing 97771
to participate in the Innovation Incentive Program to make awards 97772
through a competitive process under the Innovation Incentive 97773
Program. Only universities electing to set aside the prescribed 97774
amount shall be eligible to compete for and receive Innovation 97775
Incentive awards. The participating universities shall use these 97776
awards to restructure their array of doctoral programs. 97777

(2) ANNUAL STATE SHARE OF INSTRUCTION FUNDING STOP LOSS 97778

In addition to and after the other adjustment noted above, in 97779
each fiscal year, no campus shall receive a state share of 97780
instruction allocation that is less than 97 per cent of the prior 97781
year's state share of instruction amount. 97782

(3) REDUCTIONS IN EARNINGS 97783

If the total state share of instruction earnings in any 97784
fiscal year exceeds the total appropriations available for such 97785
purposes, the Board of Regents shall proportionately reduce the 97786
state share of instruction earnings for all campuses by a uniform 97787
percentage so that the system wide sum equals available 97788
appropriations. 97789

(4) CAPITAL COMPONENT DEDUCTION 97790

After all other adjustments have been made, state share of 97791
instruction earnings shall be reduced for each campus by the 97792
amount, if any, by which debt service charged in Am. H.B. No. 748 97793
of the 121st General Assembly, Am. Sub. H.B. No. 850 of the 122nd 97794
General Assembly, Am. Sub. H.B. No. 640 of the 123rd General 97795
Assembly, and H.B. No. 675 of the 124th General Assembly, and Am. 97796
Sub. H.B. 16 of the 126th General Assembly for that campus exceeds 97797
that campus's capital component earnings. The sum of the amounts 97798
deducted shall be transferred to appropriation item 235-552, 97799
Capital Component, in each fiscal year. 97800

(D) EXCEPTIONAL CIRCUMSTANCES 97801

Adjustments may be made to the state share of instruction 97802
payments and other subsidies distributed by the Board of Regents 97803
to state-assisted colleges and universities for exceptional 97804
circumstances. No adjustments for exceptional circumstances may be 97805
made without the recommendation of the Chancellor and the approval 97806
of the Controlling Board. 97807

(E) MID-YEAR APPROPRIATION REDUCTIONS TO THE STATE SHARE OF 97808
INSTRUCTION 97809

The standard provisions of the state share of instruction 97810
calculation as described in the preceding sections of temporary 97811
law shall apply to any reductions made to appropriation item 97812
235-501, State Share of Instruction, before the Board of Regents 97813
has formally approved the final allocation of the state share of 97814

| | |
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| instruction funds for any fiscal year. | 97815 |
| Any reductions made to appropriation item 235-501, State | 97816 |
| Share of Instruction, after the Board of Regents has formally | 97817 |
| approved the final allocation of the state share of instruction | 97818 |
| funds for any fiscal year, shall be uniformly applied to each | 97819 |
| campus in proportion to its share of the final allocation. | 97820 |
| (F) DISTRIBUTION OF STATE SHARE OF INSTRUCTION | 97821 |
| The state share of instruction payments to the institutions | 97822 |
| shall be in substantially equal monthly amounts during the fiscal | 97823 |
| year, unless otherwise determined by the Director of Budget and | 97824 |
| Management pursuant to section 126.09 of the Revised Code. | 97825 |
| Payments during the first six months of the fiscal year shall be | 97826 |
| based upon the state share of instruction appropriation estimates | 97827 |
| made for the various institutions of higher education according to | 97828 |
| Board of Regents enrollment estimates. Payments during the last | 97829 |
| six months of the fiscal year shall be distributed after approval | 97830 |
| of the Controlling Board upon the request of the Board of Regents. | 97831 |
| (G) LAW SCHOOL SUBSIDY | 97832 |
| The state share of instruction to state-supported | 97833 |
| universities for students enrolled in law schools in fiscal year | 97834 |
| 2006 and fiscal year 2007 shall be calculated by using the number | 97835 |
| of subsidy-eligible FTE law school students funded by state | 97836 |
| subsidy in fiscal year 1995 or the actual number of | 97837 |
| subsidy-eligible FTE law school students at the institution in the | 97838 |
| fiscal year, whichever is less. | 97839 |
| (H) FUNDS REQUIRING CONTROLLING BOARD APPROVAL | 97840 |
| Of the foregoing appropriation item 235-501, State Share of | 97841 |
| Instruction, \$30,000,000 in fiscal year 2007 shall not be | 97842 |
| disbursed without approval of the Controlling Board. Within ten | 97843 |
| days after the issuance of the report of the Higher Education | 97844 |
| Funding Study Council required by Section 209.63.58 of this act, | 97845 |

the Board of Regents shall seek the Controlling Board's approval 97846
to disburse the \$30,000,000 appropriation. 97847

Section 209.63.58. HIGHER EDUCATION FUNDING STUDY COUNCIL 97848

(A) The Higher Education Funding Study Council is hereby 97849
created, consisting of the following members: 97850

(1) The Chancellor of the Ohio Board of Regents; 97851

(2) One member of the Ohio Board of Regents, appointed by the 97852
chairperson of the Board; 97853

(3) The Vice-Chancellor of Finance of the Ohio Board of 97854
Regents; 97855

(4) Three members of the House of Representatives, not more 97856
than two of whom are members of the same political party, 97857
appointed by the Speaker of the House of Representatives; 97858

(5) Three members of the Senate, not more than two of whom 97859
are members of the same political party, appointed by the 97860
President of the Senate; 97861

(6) A student attending a state institution of higher 97862
education as defined in section 3345.011 of the Revised Code, 97863
appointed by the Governor; 97864

(7) An employee of the Governor's office, appointed by the 97865
Governor; 97866

(8) One representative from each of the following 97867
organizations, appointed by their respective governing bodies: 97868

(a) The Inter-University Council of Ohio; 97869

(b) The Ohio Association of Community Colleges; 97870

(c) The Ohio Council of Medical School Deans; 97871

(d) The Association of Independent Colleges and Universities 97872
of Ohio. 97873

(B) Initial appointment of members shall be made not later than thirty days after the effective date of this section. The Speaker of the House of Representatives and the President of the Senate shall jointly appoint the chairperson of the Council. Members of the Council shall serve without compensation. The Council's first meeting shall be not later than August 15, 2005. Subsequent meetings shall be conducted at the discretion of the chair.

(C) The Council shall review all aspects of higher education funding contained in this act, including all appropriation items, and shall recommend any changes it determines are necessary. The Council shall also review the instructional and general fees as well as the room and board charges at the thirteen state universities, with the intent of setting limits on future increases in these fees and charges. The Council shall issue a report of its activities, findings, and recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate not later than May 31, 2006.

(D) The Council shall cease to exist January 1, 2007.

Section 209.63.60. HIGHER EDUCATION - BOARD OF TRUSTEES

Funds appropriated for instructional subsidies at colleges and universities may be used to provide such branch or other off-campus undergraduate courses of study and such master's degree courses of study as may be approved by the Board of Regents.

In providing instructional and other services to students, boards of trustees of state-assisted institutions of higher education shall supplement state subsidies by income from charges to students. Each board shall establish the fees to be charged to all students, including an instructional fee for educational and associated operational support of the institution and a general fee for noninstructional services, including locally financed

student services facilities used for the benefit of enrolled 97905
students. The instructional fee and the general fee shall 97906
encompass all charges for services assessed uniformly to all 97907
enrolled students. Each board may also establish special purpose 97908
fees, service charges, and fines as required; such special purpose 97909
fees and service charges shall be for services or benefits 97910
furnished individual students or specific categories of students 97911
and shall not be applied uniformly to all enrolled students. 97912
Except for the board of trustees of Miami University, in 97913
implementing the pilot tuition restructuring plan recognized in 97914
Section 89.05 of Am. Sub. H.B. 95 of the 125th General Assembly 97915
and again recognized by this act, a tuition surcharge shall be 97916
paid by all students who are not residents of Ohio. 97917

The boards of trustees of each state institution of higher 97918
education as defined in section 3345.011 of the Revised Code shall 97919
limit in-state undergraduate instructional and general fee 97920
increases for an academic year over the amounts charged in the 97921
prior academic year to not more than the lesser of six per cent 97922
or, for a full-time student, five hundred dollars. A board of 97923
trustees shall not authorize combined instructional and general 97924
fee increases of more than six per cent in a single vote. The 97925
limitations on fee increases prescribed in this section apply to 97926
an academic year even if, prior to the effective date of this 97927
section, a board of trustees has voted to increase fees beyond the 97928
amount permitted under this section. In such case, the board shall 97929
reduce the fees in an amount that results in combined in-state 97930
undergraduate instructional and general fees that comply with this 97931
section. These limitations shall not apply to increases required 97932
to comply with institutional covenants related to their 97933
obligations or to meet unfunded legal mandates or legally binding 97934
obligations incurred or commitments made prior to the effective 97935
date of this section with respect to which the institution had 97936
identified such fee increases as the source of funds. Any increase 97937

required by such covenants and any such mandates, obligations, or 97938
commitments shall be reported by the Board of Regents to the 97939
Controlling Board. These limitations may also be modified by the 97940
Board of Regents, with the approval of the Controlling Board, to 97941
respond to exceptional circumstances as identified by the Board of 97942
Regents. 97943

The board of trustees of a state-assisted institution of 97944
higher education shall not authorize a waiver or nonpayment of 97945
instructional fees or general fees for any particular student or 97946
any class of students other than waivers specifically authorized 97947
by law or approved by the Chancellor. This prohibition is not 97948
intended to limit the authority of boards of trustees to provide 97949
for payments to students for services rendered the institution, 97950
nor to prohibit the budgeting of income for staff benefits or for 97951
student assistance in the form of payment of such instructional 97952
and general fees. This prohibition is not intended to limit the 97953
authority of the board of trustees of Miami University in 97954
providing financial assistance to students in implementing the 97955
pilot tuition restructuring plan recognized in Section 89.05 of 97956
Am. Sub. H.B. 95 of the 125th General Assembly and again 97957
recognized by this act. 97958

Except for Miami University, in implementing the pilot 97959
tuition restructuring plan recognized in Section 89.05 of Am. Sub. 97960
H.B. 95 of the 125th General Assembly and again recognized by this 97961
act, each state-assisted institution of higher education in its 97962
statement of charges to students shall separately identify the 97963
instructional fee, the general fee, the tuition charge, and the 97964
tuition surcharge. Fee charges to students for instruction shall 97965
not be considered to be a price of service but shall be considered 97966
to be an integral part of the state government financing program 97967
in support of higher educational opportunity for students. 97968

In providing the appropriations in support of instructional 97969

services at state-assisted institutions of higher education and 97970
the appropriations for other instruction it is the intent of the 97971
General Assembly that faculty members shall devote a proper and 97972
judicious part of their work week to the actual instruction of 97973
students. Total class credit hours of production per quarter per 97974
full-time faculty member is expected to meet the standards set 97975
forth in the budget data submitted by the Board of Regents. 97976

The authority of government vested by law in the boards of 97977
trustees of state-assisted institutions of higher education shall 97978
in fact be exercised by those boards. Boards of trustees may 97979
consult extensively with appropriate student and faculty groups. 97980
Administrative decisions about the utilization of available 97981
resources, about organizational structure, about disciplinary 97982
procedure, about the operation and staffing of all auxiliary 97983
facilities, and about administrative personnel shall be the 97984
exclusive prerogative of boards of trustees. Any delegation of 97985
authority by a board of trustees in other areas of responsibility 97986
shall be accompanied by appropriate standards of guidance 97987
concerning expected objectives in the exercise of such delegated 97988
authority and shall be accompanied by periodic review of the 97989
exercise of this delegated authority to the end that the public 97990
interest, in contrast to any institutional or special interest, 97991
shall be served. 97992

Section 209.63.63. STUDENT SUPPORT SERVICES 97993

The foregoing appropriation item 235-502, Student Support 97994
Services, shall be distributed by the Board of Regents to Ohio's 97995
state-assisted colleges and universities that incur 97996
disproportionate costs in the provision of support services to 97997
disabled students. 97998

Section 209.63.66. OHIO INSTRUCTIONAL GRANTS 97999

In fiscal year 2006, instructional grants for all eligible full-time students shall be made using the tables under section 3333.12 of the Revised Code. In fiscal year 2007, instructional grants for all eligible full-time students who have attended a college, university, or proprietary school and have completed coursework for college credit, excluding early college high school and post-secondary enrollment option students, prior to academic year 2006-2007, shall be made using the tables under section 3333.12 of the Revised Code.

Of the foregoing appropriation item 235-503, Ohio Instructional Grants, an amount in each fiscal year shall be used to make the payments authorized by division (C) of section 3333.26 of the Revised Code to the institutions described in that division. In addition, an amount in each fiscal year shall be used to reimburse the institutions described in division (B) of section 3333.26 of the Revised Code for the cost of the waivers required by that division.

The unencumbered balance of appropriation item 235-503, Ohio Instructional Grants, at the end of fiscal year 2006 shall be transferred to fiscal year 2007 for use under the same appropriation item. The amounts transferred are hereby appropriated.

Section 209.63.69. WAR ORPHANS SCHOLARSHIPS

The foregoing appropriation item 235-504, War Orphans Scholarships, shall be used to reimburse state-assisted institutions of higher education for waivers of instructional fees and general fees provided by them, to provide grants to institutions that have received a certificate of authorization from the Ohio Board of Regents under Chapter 1713. of the Revised Code, in accordance with the provisions of section 5910.04 of the Revised Code, and to fund additional scholarship benefits provided

by section 5910.032 of the Revised Code. 98031

Section 209.63.72. OHIOLINK 98032

The foregoing appropriation item 235-507, OhioLINK, shall be 98033
used by the Board of Regents to support OhioLINK, the state's 98034
electronic library information and retrieval system, which 98035
provides access statewide to the library holdings of all of Ohio's 98036
public colleges and universities, 40 private colleges, and the 98037
State Library of Ohio. 98038

Section 209.63.75. AIR FORCE INSTITUTE OF TECHNOLOGY 98039

The foregoing appropriation item 235-508, Air Force Institute 98040
of Technology, shall be used to strengthen the research and 98041
educational linkages between the Wright Patterson Air Force Base 98042
and institutions of higher education in Ohio. Of the foregoing 98043
appropriation item 235-508, Air Force Institute of Technology, 98044
\$1,233,588 in each fiscal year shall be used for research projects 98045
that connect the Air Force Research Laboratories with university 98046
partners. The institute shall provide annual reports to the Third 98047
Frontier Commission, that discuss existing, planned, or possible 98048
collaborations between programs and funding recipients related to 98049
technology, research development, commercialization, and support 98050
for Ohio's economic development. 98051

Of the foregoing appropriation item 235-508, Air Force 98052
Institute of Technology, \$691,757 in each fiscal year shall be 98053
used to match federal dollars to support technology 98054
commercialization and job creation. The Development Research 98055
Corporation shall use the funds to create or expand Ohio-based 98056
technology and commercial development collaborations in areas that 98057
are a priority in Ohio's third frontier initiative between 98058
industry, academia, and government. 98059

Section 209.63.78. OHIO SUPERCOMPUTER CENTER 98060

The foregoing appropriation item 235-510, Ohio Supercomputer 98061
Center, shall be used by the Board of Regents to support the 98062
operation of the Ohio Super Computer Center, located at The Ohio 98063
State University, as a statewide resource available to Ohio 98064
research universities both public and private. It is also intended 98065
that the center be made accessible to private industry as 98066
appropriate. Policies of the center shall be established by a 98067
governance committee, representative of Ohio's research 98068
universities and private industry, to be appointed by the 98069
Chancellor of the Board of Regents and established for this 98070
purpose. 98071

The Ohio Supercomputer Center shall report on expanding 98072
solutions-oriented, computational science services to industrial 98073
and other customers, including alignment programs and recipients, 98074
and develop a plan for a computational science initiative in 98075
collaboration with the Wright Centers of Innovation Program. 98076

Of the foregoing appropriation item 235-510, Ohio 98077
Supercomputer Center, \$250,000 in each fiscal year shall be used 98078
to support the Super Computer Center in Beaver creek. 98079

Section 209.63.81. COOPERATIVE EXTENSION SERVICE 98080

The foregoing appropriation item 235-511, Cooperative 98081
Extension Service, shall be disbursed through the Board of Regents 98082
to The Ohio State University in monthly payments, unless otherwise 98083
determined by the Director of Budget and Management under section 98084
126.09 of the Revised Code. 98085

Of the foregoing appropriation item 235-511, Cooperative 98086
Extension Service, \$178,271 in each fiscal year shall be used for 98087
additional staffing for county agents for expanded 4-H activities. 98088
Of the foregoing appropriation item 235-511, Cooperative Extension 98089

Service, \$178,271 in each fiscal year shall be used by the 98090
Cooperative Extension Service, through the Enterprise Center for 98091
Economic Development in cooperation with other agencies, for a 98092
public-private effort to create and operate a small business 98093
economic development program to enhance the development of 98094
alternatives to the growing of tobacco, and implement, through 98095
applied research and demonstration, the production and marketing 98096
of other high-value crops and value-added products. Of the 98097
foregoing appropriation item 235-511, Cooperative Extension 98098
Service, \$55,179 in each fiscal year shall be used for farm labor 98099
mediation and education programs, \$182,515 in each fiscal year 98100
shall be used to support the Ohio State University Marion 98101
Enterprise Center, and \$772,931 in each fiscal year shall be used 98102
to support the Ohio Watersheds Initiative. 98103

Section 209.63.84. OHIO UNIVERSITY VOINOVICH CENTER 98104

The foregoing appropriation item 235-513, Ohio University 98105
Voinovich Center, shall be used by the Board of Regents to support 98106
the operations of Ohio University's Voinovich Center. 98107

Section 209.63.90. PERFORMANCE STANDARDS FOR MEDICAL 98108
EDUCATION 98109

The Board of Regents, in consultation with the state-assisted 98110
medical colleges, shall develop performance standards for medical 98111
education. Special emphasis in the standards shall be placed on 98112
attempting to ensure that at least 50 per cent of the aggregate 98113
number of students enrolled in state-assisted medical colleges 98114
continue to enter residency as primary care physicians. Primary 98115
care physicians are general family practice physicians, general 98116
internal medicine practitioners, and general pediatric care 98117
physicians. The Board of Regents shall monitor medical school 98118
performance in relation to their plans for reaching the 50 per 98119

cent systemwide standard for primary care physicians. 98120

Section 209.63.93. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF 98121
MEDICINE 98122

The foregoing appropriation item 235-515, Case Western 98123
Reserve University School of Medicine, shall be disbursed to Case 98124
Western Reserve University through the Board of Regents in 98125
accordance with agreements entered into under section 3333.10 of 98126
the Revised Code, provided that the state support per full-time 98127
medical student shall not exceed that provided to full-time 98128
medical students at state universities. 98129

Section 209.63.94. CAPITOL SCHOLARSHIP PROGRAM 98130

The foregoing appropriation item 235-518, Capitol Scholarship 98131
Program, shall be used by the Board of Regents to provide 98132
scholarships to undergraduates of Ohio's four-year public and 98133
private institutions of higher education participating in the 98134
Washington Center Internship Program. A scholarship of \$1,800 98135
shall be awarded to students enrolled in an institution operating 98136
on a quarter system, and a scholarship of \$2,300 shall be awarded 98137
to students enrolled in an institution operating on a semester 98138
system. The number of scholarships awarded shall be limited by the 98139
amounts appropriated in fiscal years 2006 and 2007. The Washington 98140
Center shall match the scholarships awarded to students as 98141
follows: \$1,200 for students enrolled in an institution operating 98142
on a quarter system, and \$1,700 for students enrolled in an 98143
institution operating on a semester system. 98144

Section 209.63.95. FAMILY PRACTICE 98145

The Board of Regents shall develop plans consistent with 98146
existing criteria and guidelines as may be required for the 98147
distribution of appropriation item 235-519, Family Practice. 98148

Section 209.63.96. SHAWNEE STATE SUPPLEMENT 98149

The foregoing appropriation item 235-520, Shawnee State 98150
Supplement, shall be used by Shawnee State University as detailed 98151
by both of the following: 98152

(A) To allow Shawnee State University to keep its 98153
undergraduate fees below the statewide average, consistent with 98154
its mission of service to an economically depressed Appalachian 98155
region; 98156

(B) To allow Shawnee State University to employ new faculty 98157
to develop and teach in new degree programs that meet the needs of 98158
Appalachians. 98159

Section 209.63.99. OSU GLENN INSTITUTE 98160

The foregoing appropriation item 235-521, The Ohio State 98161
University Glenn Institute, shall be used by the Board of Regents 98162
to support the operations of the Ohio State University's Glenn 98163
Institute. 98164

Section 209.64.03. POLICE AND FIRE PROTECTION 98165

The foregoing appropriation item 235-524, Police and Fire 98166
Protection, shall be used for police and fire services in the 98167
municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, 98168
Portsmouth, Xenia Township (Greene County), Rootstown Township, 98169
and the City of Nelsonville that may be used to assist these local 98170
governments in providing police and fire protection for the 98171
central campus of the state-affiliated university located therein. 98172
Each participating municipality and township shall receive at 98173
least \$5,000 in each fiscal year. Funds shall be distributed 98174
according to the method employed by the Board of Regents in the 98175
previous biennium. 98176

Section 209.64.06. GERIATRIC MEDICINE 98177

The Board of Regents shall develop plans consistent with 98178
existing criteria and guidelines as may be required for the 98179
distribution of appropriation item 235-525, Geriatric Medicine. 98180

Section 209.64.07. PRIMARY CARE RESIDENCIES 98181

The Board of Regents shall develop plans consistent with 98182
existing criteria and guidelines as may be required for the 98183
distribution of appropriation item 235-526, Primary Care 98184
Residencies. 98185

The foregoing appropriation item 235-526, Primary Care 98186
Residencies, shall be distributed in each fiscal year of the 98187
biennium, based on whether or not the institution has submitted 98188
and gained approval for a plan. If the institution does not have 98189
an approved plan, it shall receive five per cent less funding per 98190
student than it would have received from its annual allocation. 98191
The remaining funding shall be distributed among those 98192
institutions that meet or exceed their targets. 98193

Section 209.64.09. OHIO AEROSPACE INSTITUTE 98194

The foregoing appropriation item 235-527, Ohio Aerospace 98195
Institute, shall be distributed by the Board of Regents under 98196
section 3333.042 of the Revised Code. 98197

The Board of Regents, in consultation with the Third Frontier 98198
Commission, shall develop a plan for providing for appropriate, 98199
value-added participation of the Ohio Aerospace Institute in Third 98200
Frontier Project proposals and grants. 98201

Section 209.64.12. ACADEMIC SCHOLARSHIPS 98202

The foregoing appropriation item 235-530, Academic 98203
Scholarships, shall be used to provide academic scholarships to 98204

students under section 3333.22 of the Revised Code. 98205

Section 209.64.15. STUDENT CHOICE GRANTS 98206

The foregoing appropriation item 235-531, Student Choice 98207
Grants, shall be used to support the Student Choice Grant Program 98208
created by section 3333.27 of the Revised Code. The unencumbered 98209
balance of appropriation item 235-531, Student Choice Grants, at 98210
the end of fiscal year 2006 shall be transferred to fiscal year 98211
2007 for use under the same appropriation item to maintain grant 98212
award amounts in fiscal year 2007 equal to the awards provided in 98213
fiscal year 2006. The amounts transferred are hereby appropriated. 98214

Section 209.64.18. STUDENT WORKFORCE DEVELOPMENT GRANTS 98215

The foregoing appropriation item 235-534, Student Workforce 98216
Development Grants, shall be used to support the Student Workforce 98217
Development Grant Program. The Board of Regents shall distribute 98218
grants to each eligible student in an academic year. The size of 98219
each grant award shall be determined by the Board of Regents based 98220
on the amount of funds available for the program. The unencumbered 98221
balance of appropriation item 235-534, Student Workforce 98222
Development Grants, at the end of fiscal year 2006 shall be 98223
transferred to fiscal year 2007 for use under the same 98224
appropriation item. The amounts transferred are hereby 98225
appropriated. 98226

Section 209.64.21. OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT 98227
CENTER 98228

The foregoing appropriation item 235-535, Ohio Agricultural 98229
Research and Development Center, shall be disbursed through the 98230
Board of Regents to The Ohio State University in monthly payments, 98231
unless otherwise determined by the Director of Budget and 98232
Management under section 126.09 of the Revised Code. The Ohio 98233

Agricultural Research and Development Center shall not be required 98234
to remit payment to The Ohio State University during the biennium 98235
ending June 30, 2007, for cost reallocation assessments. The cost 98236
reallocation assessments include, but are not limited to, any 98237
assessment on state appropriations to the Center. 98238

The Ohio Agricultural Research and Development Center, an 98239
entity of the College of Food, Agricultural, and Environmental 98240
Sciences of The Ohio State University, shall further its mission 98241
of enhancing Ohio's economic development and job creation by 98242
continuing to internally allocate on a competitive basis 98243
appropriated funding of programs based on demonstrated 98244
performance. Academic units, faculty, and faculty-driven programs 98245
shall be evaluated and rewarded consistent with agreed-upon 98246
performance expectations as called for in the College's 98247
Expectations and Criteria for Performance Assessment. 98248

Of the foregoing appropriation item 235-535, Ohio 98249
Agricultural Research and Development Center, \$458,410 in each 98250
fiscal year shall be used to purchase equipment. 98251

Of the foregoing appropriation item 235-535, Ohio 98252
Agricultural Research and Development Center, \$806,463 in each 98253
fiscal year shall be distributed to the Piketon Agricultural 98254
Research and Extension Center. 98255

Of the foregoing appropriation item 235-535, Ohio 98256
Agricultural Research and Development Center, \$212,227 in each 98257
fiscal year shall be distributed to the 98258
Raspberry/Strawberry-Ellagic Acid Research program at The Ohio 98259
State University Medical College in cooperation with The Ohio 98260
State University College of Agriculture. 98261

Of the foregoing appropriation item 235-535, Ohio 98262
Agricultural Research and Development Center, \$42,445 in each 98263
fiscal year shall be used to support the Ohio Berry Administrator. 98264

Of the foregoing appropriation item 235-535, Ohio 98265
Agricultural Research and Development Center, \$84,890 in each 98266
fiscal year shall be used for the development of agricultural 98267
crops and products not currently in widespread production in Ohio, 98268
in order to increase the income and viability of family farmers. 98269

Of the foregoing appropriation item 235-535, Ohio 98270
Agricultural Research and Development Center, \$125,000 in each 98271
fiscal year shall be distributed to Wilmington College for the 98272
commercialization of agricultural products. 98273

Section 209.64.22. STATE UNIVERSITY CLINICAL TEACHING 98274

The foregoing appropriation items 235-536, The Ohio State 98275
University Clinical Teaching; 235-537, University of Cincinnati 98276
Clinical Teaching; 235-538, Medical University of Ohio at Toledo 98277
Clinical Teaching; 235-539, Wright State University Clinical 98278
Teaching; 235-540, Ohio University Clinical Teaching; and 235-541, 98279
Northeastern Ohio Universities College of Medicine Clinical 98280
Teaching, shall be distributed through the Board of Regents. 98281

Of the foregoing appropriation item 235-539, Wright State 98282
University Clinical Teaching, \$124,644 in each fiscal year of the 98283
biennium shall be for the use of Wright State University's Ellis 98284
Institute for Clinical Teaching Studies to operate the clinical 98285
facility to serve the Greater Dayton area. 98286

The Board of Regents, in consultation with representatives of 98287
each of the six state-assisted colleges of medicine, shall study 98288
and propose recommendations for a formula to allocate 98289
appropriations for clinical teaching support. The consultation 98290
shall consider factors that reward medical schools for serving 98291
Ohio's health care needs in an equitable and efficient manner. 98292
Recommendations shall be submitted to the Office of Budget and 98293
Management and the General Assembly for consideration by November 98294
15, 2006. A new method, approved by the Office of Budget and 98295

Management and the General Assembly, shall be implemented in 98296
fiscal years 2008 and 2009 for distributing funds for clinical 98297
teaching support. 98298

Section 209.64.23. SCHOOL OF INTERNATIONAL BUSINESS 98299

Of the foregoing appropriation item 235-547, School of 98300
International Business, \$250,000 in each fiscal year shall be used 98301
for the continued development and support of the School of 98302
International Business of the state universities of northeast 98303
Ohio. The money shall go to the University of Akron. These funds 98304
shall be used by the university to establish a School of 98305
International Business located at the University of Akron. It may 98306
confer with Kent State University, Youngstown State University, 98307
and Cleveland State University as to the curriculum and other 98308
matters regarding the school. 98309

Of the foregoing appropriation item 235-547, School of 98310
International Business, \$100,000 in each fiscal year shall be used 98311
by the University of Toledo College of Business for expansion of 98312
its international business programs. 98313

Of the foregoing appropriation item 235-547, School of 98314
International Business, \$100,000 in each fiscal year shall be used 98315
to support the Ohio State University BioMEMS program. 98316

Section 209.64.24. PART-TIME STUDENT INSTRUCTIONAL GRANTS 98317

The foregoing appropriation item 235-549, Part-time Student 98318
Instructional Grants, shall be used to support a grant program for 98319
part-time undergraduate students who are Ohio residents and who 98320
were enrolled in degree granting programs prior to academic year 98321
2006-2007. 98322

Eligibility for participation in the program shall include 98323
degree granting educational institutions that hold a certificate 98324
of registration from the State Board of Career Colleges and 98325

Schools, and nonprofit institutions that have a certificate of 98326
authorization issued under Chapter 1713. of the Revised Code, as 98327
well as state-assisted colleges and universities. Grants shall be 98328
given to students on the basis of need, as determined by the 98329
college, which, in making these determinations, shall give special 98330
consideration to single-parent heads-of-household and displaced 98331
homemakers who enroll in an educational degree program that 98332
prepares the individual for a career. In determining need, the 98333
college also shall consider the availability of educational 98334
assistance from a student's employer. It is the intent of the 98335
General Assembly that these grants not supplant such assistance. 98336

Section 209.64.27. CAPITAL COMPONENT 98337

The foregoing appropriation item 235-552, Capital Component, 98338
shall be used by the Board of Regents to implement the capital 98339
funding policy for state-assisted colleges and universities 98340
established in Am. H.B. No. 748 of the 121st General Assembly. 98341
Appropriations from this item shall be distributed to all campuses 98342
for which the estimated campus debt service attributable to new 98343
qualifying capital projects is less than the campus's 98344
formula-determined capital component allocation. Campus 98345
allocations shall be determined by subtracting the estimated 98346
campus debt service attributable to new qualifying capital 98347
projects from the campus's formula-determined capital component 98348
allocation. Moneys distributed from this appropriation item shall 98349
be restricted to capital-related purposes. 98350

Any campus for which the estimated campus debt service 98351
attributable to qualifying capital projects is greater than the 98352
campus's formula-determined capital component allocation shall 98353
have the difference subtracted from its State Share of Instruction 98354
allocation in each fiscal year. The sum of all such amounts shall 98355
be transferred from appropriation item 235-501, State Share of 98356

Instruction, to appropriation item 235-552, Capital Component. 98357

Section 209.64.30. DAYTON AREA GRADUATE STUDIES INSTITUTE 98358

The foregoing appropriation item 235-553, Dayton Area 98359
Graduate Studies Institute, shall be used by the Board of Regents 98360
to support the Dayton Area Graduate Studies Institute, an 98361
engineering graduate consortium of three universities in the 98362
Dayton area: Wright State University, the University of Dayton, 98363
and the Air Force Institute of Technology, with the participation 98364
of the University of Cincinnati and The Ohio State University. 98365

Of the foregoing appropriation item 235-553, Dayton Area 98366
Graduate Studies Institute, \$350,000 in each fiscal year shall be 98367
used by the Development Research Corporation to support 98368
collaborative research and technology commercialization 98369
initiatives in Ohio. 98370

Section 209.64.33. PRIORITIES IN COLLABORATIVE GRADUATE 98371
EDUCATION 98372

The foregoing appropriation item 235-554, Priorities in 98373
Collaborative Graduate Education, shall be used by the Board of 98374
Regents to support improvements in graduate programs at 98375
state-assisted universities that the Board of Regents identifies 98376
as vital to the state's economic strategy. Up to \$169,782 in each 98377
fiscal year shall be used to support collaborative efforts in 98378
graduate education in this program area. The collaborative program 98379
shall be coordinated by the Board of Regents. 98380

Section 209.64.36. OHIO ACADEMIC RESOURCES NETWORK (OARNET) 98381

The foregoing appropriation item 235-556, Ohio Academic 98382
Resources Network, shall be used to support the operations of the 98383
Ohio Academic Resources Network, which shall include support for 98384
Ohio's state-assisted colleges and universities in maintaining and 98385

enhancing network connections. The network shall give priority to 98386
supporting the Third Frontier Network and allocating bandwidth to 98387
programs directly supporting Ohio's economic development. 98388

Section 209.64.39. LONG-TERM CARE RESEARCH 98389

The foregoing appropriation item 235-558, Long-term Care 98390
Research, shall be disbursed to Miami University for long-term 98391
care research. 98392

**Section 209.64.45. BOWLING GREEN STATE UNIVERSITY CANADIAN 98393
STUDIES CENTER** 98394

The foregoing appropriation item 235-561, Bowling Green State 98395
University Canadian Studies Center, shall be used by the Canadian 98396
Studies Center at Bowling Green State University to study 98397
opportunities for Ohio and Ohio businesses to benefit from the 98398
Free Trade Agreement between the United States and Canada. 98399

Section 209.64.51. OHIO COLLEGE OPPORTUNITY GRANT PHASE-IN 98400

The foregoing appropriation item 235-563, Ohio College 98401
Opportunity Grant, shall be used by the Board of Regents to begin 98402
to award needs-based financial aid to students based on the United 98403
States Department of Education's method of determining financial 98404
need. Beginning in fiscal year 2007, students who enrolled in a 98405
public, private, or proprietary post-secondary institution of 98406
higher education for the first time in academic year 2006-2007, 98407
excluding early college high school and post-secondary enrollment 98408
option participants, shall be eligible to receive aid based on 98409
their expected family contributions as calculated by the United 98410
State Department of Education, according to section 3333.122 of 98411
the Revised Code. 98412

Section 209.64.54. THE OHIO STATE UNIVERSITY CLINIC SUPPORT 98413

The foregoing appropriation item 235-572, The Ohio State University Clinic Support, shall be distributed through the Board of Regents to The Ohio State University for support of dental and veterinary medicine clinics.

Section 209.64.57. URBAN UNIVERSITY PROGRAM

Universities receiving funds from the foregoing appropriation item 235-583, Urban University Program, that are used to support an ongoing university unit shall certify periodically in a manner approved by the Board of Regents that program funds are being matched on a one-to-one basis with equivalent resources. Overhead support may not be used to meet this requirement. Where Urban University Program funds are being used to support an ongoing university unit, matching funds shall come from continuing rather than one-time sources. At each participating state-assisted institution of higher education, matching funds shall be within the substantial control of the individual designated by the institution's president as the Urban University Program representative.

Of the foregoing appropriation item 235-583, Urban University Program, \$117,215 in each fiscal year shall be used to support the Center for the Interdisciplinary Study of Education and the Urban Child at Cleveland State University. These funds shall be distributed according to rules adopted by the Board of Regents and shall be used by the center for interdisciplinary activities targeted toward increasing the chance of lifetime success of the urban child, including interventions beginning with the prenatal period. The primary purpose of the center is to study issues in urban education and to systematically map directions for new approaches and new solutions by bringing together a cadre of researchers, scholars, and professionals representing the social, behavioral, education, and health disciplines.

Of the foregoing appropriation item 235-583, Urban University Program, \$1,433,037 in each fiscal year shall be distributed by the Board of Regents to Cleveland State University in support of the Maxine Goodman Levin College of Urban Affairs.

Of the foregoing appropriation item 235-583, Urban University Program, \$1,433,037 in each fiscal year shall be distributed to the Northeast Ohio Research Consortium, the Urban Linkages Program, and the Urban Research Technical Assistance Grant Program. The distribution among the three programs shall be determined by the chair of the Urban University Program.

Of the foregoing appropriation item 235-583, Urban University Program, \$247,453 in each fiscal year shall be used to support a public communication outreach program (WCPN). The primary purpose of the program shall be to develop a relationship between Cleveland State University and nonprofit communications entities.

Of the foregoing appropriation item 235-583, Urban University Program, \$169,310 in each fiscal year shall be used to support the Kent State University Learning and Technology Project. This project is a kindergarten through university collaboration between schools surrounding Kent State University's eight campuses in northeast Ohio and corporate partners who will assist in development and delivery.

The Kent State University Project shall provide a faculty member who has a full-time role in the development of collaborative activities and teacher instructional programming between Kent State University and the K-12th grade schools that surround its eight campuses; appropriate student support staff to facilitate these programs and joint activities; and hardware and software to schools that will make possible the delivery of instruction to pre-service and in-service teachers, and their students, in their own classrooms or school buildings. This shall involve the delivery of low-bandwidth streaming video and

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| web-based technologies in a distributed instructional model. | 98477 |
| Of the foregoing appropriation item 235-583, Urban University Program, \$65,119 in each fiscal year shall be used to support the Ameritech Classroom/Center for Research at Kent State University. | 98478 98479 98480 |
| Of the foregoing appropriation item 235-583, Urban University Program, \$723,547 in each fiscal year shall be used to support the Polymer Distance Learning Project at the University of Akron. | 98481 98482 98483 |
| Of the foregoing appropriation item 235-583, Urban University Program, \$32,560 in each fiscal year shall be distributed to the Kent State University/Cleveland Design Center program. | 98484 98485 98486 |
| Of the foregoing appropriation item 235-583, Urban University Program, \$180,886 in each fiscal year shall be used to support the Bliss Institute of Applied Politics at the University of Akron. | 98487 98488 98489 |
| Of the foregoing appropriation item 235-583, Urban University Program, \$10,851 in each fiscal year shall be used for the Advancing-Up Program at the University of Akron. | 98490 98491 98492 |
| Of the foregoing appropriation item 235-583, Urban University Program, \$139,777 in each fiscal year shall be used to support the Strategic Economic Research Collaborative at the University of Toledo Urban Affairs Center. | 98493 98494 98495 98496 |
| Of the foregoing appropriation item 235-583, Urban University Program, \$139,777 in each fiscal year shall be used to support the Institute for Collaborative Research and Public Humanities at The Ohio State University. | 98497 98498 98499 98500 |
| Of the foregoing appropriation item 235-583, Urban University Program, \$300,368 in each fiscal year shall be used to support the Medina County University Center. | 98501 98502 98503 |
| Section 209.64.60. RURAL UNIVERSITY PROJECTS | 98504 |
| Of the foregoing appropriation item 235-587, Rural University | 98505 |

Projects, Bowling Green State University shall receive \$263,783 in 98506
each fiscal year, Miami University shall receive \$245,320 in each 98507
fiscal year, and Ohio University shall receive \$575,015 in each 98508
fiscal year. These funds shall be used to support the Institute 98509
for Local Government Administration and Rural Development at Ohio 98510
University, the Center for Public Management and Regional Affairs 98511
at Miami University, and the Center for Policy Analysis and Public 98512
Service at Bowling Green State University. 98513

A small portion of the funds provided to Ohio University 98514
shall also be used for the Institute for Local Government 98515
Administration and Rural Development State and Rural Policy 98516
Partnership with the Governor's Office of Appalachia and the 98517
Appalachian delegation of the General Assembly. 98518

Of the foregoing appropriation item 235-587, Rural University 98519
Projects, \$15,942 in each fiscal year shall be used to support the 98520
Washington State Community College day care center. 98521

Of the foregoing appropriation item 235-587, Rural University 98522
Projects, \$47,829 in each fiscal year shall be used to support the 98523
COAD/ILGARD/GOA Appalachian Leadership Initiative. 98524

Section 209.64.63. HAZARDOUS MATERIALS PROGRAM 98525

The foregoing appropriation item 235-596, Hazardous Materials 98526
Program, shall be disbursed to Cleveland State University for the 98527
operation of a program to certify firefighters for the handling of 98528
hazardous materials. Training shall be available to all Ohio 98529
firefighters. 98530

Of the foregoing appropriation item 235-596, Hazardous 98531
Materials Program, \$177,337 in each fiscal year shall be used to 98532
support the Center for the Interdisciplinary Study of Education 98533
and Leadership in Public Service at Cleveland State University. 98534
These funds shall be distributed by the Board of Regents and shall 98535

be used by the center targeted toward increasing the role of 98536
special populations in public service and not-for-profit 98537
organizations. The primary purpose of the center is to study 98538
issues in public service and to guide strategies for attracting 98539
new communities into public service occupations by bringing 98540
together a cadre of researchers, scholars, and professionals 98541
representing the public administration, social behavioral, and 98542
education disciplines. 98543

Section 209.64.66. NATIONAL GUARD SCHOLARSHIP PROGRAM 98544

The Board of Regents shall disburse funds from appropriation 98545
item 235-599, National Guard Scholarship Program, at the direction 98546
of the Adjutant General. During each fiscal year, the Board of 98547
Regents, within ten days of cancellation, may certify to the 98548
Director of Budget and Management the amount of canceled 98549
prior-year encumbrances in appropriation item 235-599, National 98550
Guard Scholarship Program. Upon receipt of the certification, the 98551
Director of Budget and Management may transfer an amount up to the 98552
certified amount from the General Revenue Fund to the National 98553
Guard Scholarship Reserve Fund (Fund 5BM). Upon the request of the 98554
Adjutant General, the Board of Regents shall seek Controlling 98555
Board approval to establish appropriations in item 235-623, 98556
National Guard Scholarship Reserve Fund. The Board of Regents 98557
shall disburse funds from appropriation item 235-623, National 98558
Guard Scholarship Reserve Fund, at the direction of the Adjutant 98559
General. 98560

***Section 209.64.69. PLEDGE OF FEES** 98561

Any new pledge of fees, or new agreement for adjustment of 98562
fees, made in the biennium ending June 30, 2007, to secure bonds 98563
or notes of a state-assisted institution of higher education for a 98564
project for which bonds or notes were not outstanding on the 98565

effective date of this section shall be effective only after 98566
approval by the Board of Regents, unless approved in a previous 98567
biennium. 98568

Section 209.64.72. HIGHER EDUCATION GENERAL OBLIGATION DEBT 98569
SERVICE 98570

The foregoing appropriation item 235-909, Higher Education 98571
General Obligation Debt Service, shall be used to pay all debt 98572
service and related financing costs at the times they are required 98573
to be made under sections 151.01 and 151.04 of the Revised Code 98574
during the period from July 1, 2005, to June 30, 2007. The Office 98575
of the Sinking Fund or the Director of Budget and Management shall 98576
effectuate the required payments by intrastate transfer voucher. 98577

Section 209.64.75. SALES AND SERVICES 98578

The Board of Regents is authorized to charge and accept 98579
payment for the provision of goods and services. Such charges 98580
shall be reasonably related to the cost of producing the goods and 98581
services. No charges may be levied for goods or services that are 98582
produced as part of the routine responsibilities or duties of the 98583
Board. All revenues received by the Board of Regents shall be 98584
deposited into Fund 456, and may be used by the Board of Regents 98585
to pay for the costs of producing the goods and services. 98586

Section 209.64.76. OHIO HIGHER EDUCATIONAL FACILITY 98587
COMMISSION SUPPORT 98588

The foregoing appropriation item 235-602, Higher Educational 98589
Facility Commission Administration, shall be used by the Board of 98590
Regents for operating expenses related to the Board of Regents' 98591
support of the activities of the Ohio Higher Educational Facility 98592
Commission. Upon the request of the chancellor, the Director of 98593
Budget and Management shall transfer up to \$55,000 cash from Fund 98594

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| 461 to Fund 4E8 in each fiscal year of the biennium. | 98595 |
| Section 209.64.78. PHYSICIAN LOAN REPAYMENT | 98596 |
| The foregoing appropriation item 235-604, Physician Loan Repayment, shall be used in accordance with sections 3702.71 to 3702.81 of the Revised Code. | 98597 98598 98599 |
| Section 209.64.81. NURSING LOAN PROGRAM | 98600 |
| The foregoing appropriation item 235-606, Nursing Loan Program, shall be used to administer the nurse education assistance program. Up to \$159,600 in fiscal year 2006 and \$167,580 in fiscal year 2007 may be used for operating expenses associated with the program. Any additional funds needed for the administration of the program are subject to Controlling Board approval. | 98601 98602 98603 98604 98605 98606 98607 |
| Section 209.64.84. SCIENCE AND TECHNOLOGY COLLABORATION | 98608 |
| The Board of Regents shall work in close collaboration with the Department of Development, the Air Quality Development Authority, and the Third Frontier Commission in relation to appropriation items and programs referred to as Alignment Programs in the following paragraph, and other technology-related appropriations and programs in the Department of Development, Air Quality Development Authority, and the Board of Regents as these agencies may designate, to ensure implementation of a coherent state strategy with respect to science and technology. | 98609 98610 98611 98612 98613 98614 98615 98616 98617 |
| "Alignment Programs" means: appropriation items 195-401, Thomas Edison Program; 898-402, Coal Development Office; 195-422, Third Frontier Action Fund; 898-604, Coal Research and Development Fund; 235-433, Economic Growth Challenge; 235-451, Eminent Scholars; 235-508, Air Force Institute of Technology; 235-510, Ohio Supercomputer Center; 235-527, Ohio Aerospace Institute; | 98618 98619 98620 98621 98622 98623 |

235-535, Ohio Agricultural Research and Development Center; 98624
235-553, Dayton Area Graduate Studies Institute; 235-554, 98625
Priorities in Collaborative Graduate Education; 235-556, Ohio 98626
Academic Resources Network; and 195-435, Biomedical Research and 98627
Technology Transfer Trust. 98628

Consistent with the recommendations of the Governor's 98629
Commission on Higher Education and the Economy, Alignment Programs 98630
shall be managed and administered (1) to build on existing 98631
competitive research strengths; (2) to encourage new and emerging 98632
discoveries and commercialization of products and ideas that will 98633
benefit the Ohio economy; and (3) to assure improved collaboration 98634
among Alignment Programs, with programs administered by the Third 98635
Frontier Commission, and with other state programs that are 98636
intended to improve economic growth and job creation. 98637

If requested by the Third Frontier Commission, Alignment 98638
Programs managers shall report to the Commission or the Third 98639
Frontier Advisory Board, as directed by the Commission, on the 98640
contributions of their programs to achieving the objectives stated 98641
in the preceding paragraph of this section. 98642

Each alignment program shall be reviewed annually by the 98643
Third Frontier Commission with respect to its development of 98644
complementary relationships within a combined state science and 98645
technology investment portfolio and its overall contribution to 98646
the state's science and technology strategy, including the 98647
adoption of appropriately consistent criteria for: (1) the 98648
scientific merit of activities supported by the program; (2) the 98649
relevance of the program's activities to commercial opportunities 98650
in the private sector; (3) the private sector's involvement in a 98651
process that continually evaluates commercial opportunities to use 98652
the work supported by the program; and (4) the ability of the 98653
program and recipients of grant funding from the program to engage 98654
in activities that are collaborative, complementary, and efficient 98655

with respect to the expenditure of state funds. All programs 98656
listed above shall provide annual reports to the Third Frontier 98657
Commission discussing existing, planned, or possible 98658
collaborations between programs and recipients of grant funding 98659
related to technology, development, commercialization, and 98660
supporting Ohio's economic development. The annual review by the 98661
Third Frontier Commission shall be a comprehensive review of the 98662
entire state science and technology program portfolio rather than 98663
a review of individual programs. 98664

Applicants for Third Frontier and Alignment Programs funding 98665
shall identify their requirements for high-performance computing 98666
facilities and services, including both hardware and software, in 98667
the proposals. If an applicant's requirements exceed approximately 98668
\$100,000 for a proposal, the Ohio Supercomputer Center shall 98669
convene a panel of experts. The panel shall review the proposal to 98670
determine whether the proposal's requirements can be met through 98671
Ohio Supercomputer Center facilities or through other means and 98672
report such information to the Third Frontier Commission. 98673

To ensure that the state receives the maximum benefit from 98674
its investment in the Third Frontier Project and the Third 98675
Frontier Network, organizations receiving Third Frontier awards 98676
and Alignment Programs awards shall, as appropriate, be expected 98677
to have a connection to the Third Frontier Network that enables 98678
them and their collaborators to achieve award objectives through 98679
the Third Frontier Network. 98680

Section 209.64.87. REPAYMENT OF RESEARCH FACILITY INVESTMENT 98681
FUND MONEYS 98682

Notwithstanding any provision of law to the contrary, all 98683
repayments of Research Facility Investment Fund loans shall be 98684
made to the Bond Service Trust Fund. All Research Facility 98685
Investment Fund loan repayments made prior to the effective date 98686

of this section shall be transferred by the Director of Budget and Management to the Bond Service Trust Fund within sixty days after the effective date of this section.

Campuses shall make timely repayments of Research Facility Investment Fund loans, according to the schedule established by the Board of Regents. In the case of late payments, the Board of Regents may deduct from an institution's periodic subsidy distribution an amount equal to the amount of the overdue payment for that institution, transfer such amount to the Bond Service Trust Fund, and credit the appropriate institution for the repayment.

Section 209.64.90. VETERANS' PREFERENCES

The Board of Regents shall work with the Governor's Office of Veterans' Affairs to develop specific veterans' preference guidelines for higher education institutions. These guidelines shall ensure that the institutions' hiring practices are in accordance with the intent of Ohio's veterans' preference laws.

Section 209.64.93. STATE NEED-BASED FINANCIAL AID RECONCILIATION

By the first day of August in each fiscal year, or as soon thereafter as possible, the Ohio Board of Regents shall certify to the Director of Budget and Management the amount necessary to pay any outstanding prior year obligations to higher education institutions for the state's need-based financial aid programs. The amounts certified are hereby appropriated to appropriation item 235-618, State Need-based Financial Aid Reconciliation, from revenues received in the State Need-based Financial Aid Reconciliation Fund (Fund 5Y5).

Section 209.64.96. STUDY ON DISTRIBUTING STATE SHARE OF

INSTRUCTION FUNDS BASED ON CAMPUS ADMINISTRATIVE AND OPERATIONAL 98716
EFFICIENCY 98717

The Board of Regents, in consultation with representatives of 98718
the higher education community, shall conduct a study on the 98719
feasibility of distributing a portion of GRF appropriation item 98720
235-501, State Share of Instruction, based on campus 98721
administrative and operational efficiency. The Board of Regents 98722
shall consider what statistic or statistics would be appropriate 98723
to measure administrative and operational efficiency and also 98724
shall consider what an adequate level of administrative support 98725
should be. The Board of Regents shall submit the results of the 98726
study to the Higher Education Funding Study Council not later than 98727
April 15, 2006. 98728

Section 209.64.99. STUDY ON DISTRIBUTING STATE SHARE OF 98729
INSTRUCTION FUNDS BASED ON THE NUMBER OF DEGREES AND CERTIFICATES 98730
AWARDED 98731

The Board of Regents, in consultation with representatives 98732
from the higher education community, shall conduct a study on the 98733
feasibility of distributing a portion of GRF appropriation item 98734
235-501, State Share of Instruction, based on the number of 98735
Ohioans who are awarded certificates or associate's, 98736
baccalaureate, master's, or doctoral degrees. The study shall 98737
examine whether it is feasible to retain a portion of the State 98738
Share of Instruction distributed to the campuses until such times 98739
as the certificates or degrees are conferred, whether the existing 98740
appropriation is sufficient to fund such an initiative, and how 98741
much in additional funds might be necessary to significantly 98742
increase the number of certificates and degrees earned by Ohioans 98743
each year. The Board of Regents shall submit the results of the 98744
study to the Higher Education Funding Study Council not later than 98745
April 15, 2006. 98746

Section 209.65.03. STUDY ON PROVIDING INCENTIVES FOR 98747
CERTIFICATE AND ASSOCIATE DEGREES 98748

The Board of Regents, in consultation with representatives 98749
from the higher education community, shall conduct a study on the 98750
feasibility of devising a performance-based grant to provide 98751
incentives to university branch campuses, community colleges, 98752
state community colleges, technical colleges, and the community 98753
and technical colleges at Youngstown State University, the 98754
University of Cincinnati, and The University of Akron to increase 98755
the number and proportion of Ohio students who receive a 98756
certificate or an associate degree, or who transfer to a four-year 98757
institution of higher education. In consultation with 98758
representatives from the higher education community, the Board of 98759
Regents shall develop measures of certification and degree 98760
completion, as well as transferal to a four-year institution of 98761
higher education. The Board of Regents shall recommend a formula, 98762
using the Success Challenge formula as a model, that will reward 98763
the public two-year campuses for the academic success of their 98764
undergraduate students. The Board of Regents shall submit the 98765
results of the study to the Higher Education Funding Study Council 98766
not later than April 15, 2006. 98767

Section 209.69. DRC DEPARTMENT OF REHABILITATION AND 98768
CORRECTION 98769
General Revenue Fund 98770
GRF 501-321 Institutional \$ 857,371,490 \$ 873,888,880 98771
Operations
GRF 501-403 Prisoner Compensation \$ 8,599,255 \$ 8,599,255 98772
GRF 501-405 Halfway House \$ 38,104,924 \$ 38,105,128 98773
GRF 501-406 Lease Rental Payments \$ 132,370,500 \$ 120,600,600 98774
GRF 501-407 Community \$ 15,383,471 \$ 15,404,522 98775
Nonresidential

| | | | | | | |
|-------|---------|-----------------------------|----|---------------|----|---------------------|
| | | Programs | | | | |
| GRF | 501-408 | Community Misdemeanor | \$ | 8,041,489 | \$ | 8,041,489 98776 |
| | | Programs | | | | |
| GRF | 501-501 | Community Residential | \$ | 55,054,445 | \$ | 55,054,445 98777 |
| | | Programs - CBCF | | | | |
| GRF | 502-321 | Mental Health Services | \$ | 64,897,564 | \$ | 66,055,754 98778 |
| GRF | 503-321 | Parole and Community | \$ | 78,887,219 | \$ | 80,708,911 98779 |
| | | Operations | | | | |
| GRF | 504-321 | Administrative | \$ | 27,559,389 | \$ | 28,147,730 98780 |
| | | Operations | | | | |
| GRF | 505-321 | Institution Medical | \$ | 159,926,575 | \$ | 176,500,628 98781 |
| | | Services | | | | |
| GRF | 506-321 | Institution Education | \$ | 22,727,366 | \$ | 23,114,615 98782 |
| | | Services | | | | |
| GRF | 507-321 | Institution Recovery | \$ | 6,946,286 | \$ | 7,090,212 98783 |
| | | Services | | | | |
| TOTAL | GRF | General Revenue Fund | \$ | 1,475,869,973 | \$ | 1,501,312,169 98784 |
| | | General Services Fund Group | | | | 98785 |
| 148 | 501-602 | Services and | \$ | 95,207,653 | \$ | 95,207,653 98786 |
| | | Agricultural | | | | |
| 200 | 501-607 | Ohio Penal Industries | \$ | 38,000,000 | \$ | 38,000,000 98787 |
| 4B0 | 501-601 | Penitentiary Sewer | \$ | 1,758,177 | \$ | 1,758,177 98788 |
| | | Treatment Facility | | | | |
| | | Services | | | | |
| 4D4 | 501-603 | Prisoner Programs | \$ | 20,967,703 | \$ | 20,967,703 98789 |
| 4L4 | 501-604 | Transitional Control | \$ | 1,593,794 | \$ | 1,593,794 98790 |
| 4S5 | 501-608 | Education Services | \$ | 4,564,072 | \$ | 4,564,072 98791 |
| 483 | 501-605 | Property Receipts | \$ | 393,491 | \$ | 393,491 98792 |
| 5AF | 501-609 | State and Non-Federal | \$ | 262,718 | \$ | 262,718 98793 |
| | | Awards | | | | |
| 5H8 | 501-617 | Offender Financial | \$ | 2,000,000 | \$ | 2,000,000 98794 |
| | | Responsibility | | | | |
| 5L6 | 501-611 | Information Technology | \$ | 3,741,980 | \$ | 3,741,980 98795 |

| | | | |
|--|---------|-------------------------|---|
| Services | | | |
| 571 | 501-606 | Training Academy | \$ 75,190 \$ 75,190 98796 |
| Receipts | | | |
| 593 | 501-618 | Laboratory Services | \$ 5,799,999 \$ 5,799,999 98797 |
| TOTAL GSF | | General Services Fund | \$ 174,364,777 \$ 174,364,777 98798 |
| Group | | | |
| Federal Special Revenue Fund Group | | | 98799 |
| 3S1 | 501-615 | Truth-In-Sentencing | \$ 26,127,427 \$ 26,127,427 98800 |
| Grants | | | |
| 323 | 501-619 | Federal Grants | \$ 12,198,353 \$ 12,198,353 98801 |
| TOTAL FED | | Federal Special Revenue | 98802 |
| Fund Group | | | \$ 38,325,780 \$ 38,325,780 98803 |
| State Special Revenue Fund Group | | | 98804 |
| 5CL | 501-616 | Sex Offender | \$ 100,000 \$ 75,000 98805 |
| Supervision | | | |
| Total SSR | | State Special Revenue | \$ 100,000 \$ 75,000 98806 |
| Fund Group | | | |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ 1,688,660,530 \$ 1,714,077,726 98807 |
| HALFWAY HOUSE TRANSFERS | | | 98808 |
| The Department of Rehabilitation and Correction shall seek | | | 98809 |
| the approval of the Controlling Board to transfer in each of | | | 98810 |
| fiscal years 2006 and 2007 from the unexpended, unobligated GRF | | | 98811 |
| appropriations made to the Department for fiscal years 2006 and | | | 98812 |
| 2007 at least \$500,000 per fiscal year in appropriation authority | | | 98813 |
| to appropriation item 501-405, Halfway House. | | | 98814 |
| OHIO BUILDING AUTHORITY LEASE PAYMENTS | | | 98815 |
| The foregoing appropriation item 501-406, Lease Rental | | | 98816 |
| Payments, shall be used for payments to the Ohio Building | | | 98817 |
| Authority for the period July 1, 2005, to June 30, 2007, under the | | | 98818 |
| primary leases and agreements for those buildings made under | | | 98819 |
| Chapter 152. of the Revised Code but limited to the aggregate | | | 98820 |

amount of \$252,971,100. This appropriation amount is the source of 98821
funds pledged for bond service charges on related obligations 98822
issued under Chapter 152. of the Revised Code. 98823

PRISONER COMPENSATION 98824

Money from the foregoing appropriation item 501-403, Prisoner 98825
Compensation, shall be transferred on a quarterly basis by 98826
intrastate transfer voucher to the Services and Agricultural Fund 98827
(Fund 148) for the purposes of paying prisoner compensation. 98828

SEX OFFENDER SUPERVISION 98829

On July 1, 2005, or as soon as practicable thereafter, the 98830
Director of Budget and Management shall transfer \$100,000 in cash 98831
from the Reparations Fund (Fund 402) to the Sex Offender 98832
Supervision Fund (Fund 5CL). On July 1, 2006, or as soon as 98833
practicable thereafter, the Director of Budget and Management 98834
shall transfer \$75,000 in cash from the Reparations Fund (Fund 98835
402) to the Sex Offender Supervision Fund (Fund 5CL). 98836

The foregoing appropriation item 501-616, Sex Offender 98837
Supervision, shall be used by the Department of Rehabilitation and 98838
Correction solely to pay for the costs incurred by the Adult 98839
Parole Authority in supervising sexually violent predators 98840
released from prison as required by section 2971.05 of the Revised 98841
Code. At the end of each fiscal year, or as soon as possible 98842
thereafter, the Director of Budget and Management shall transfer 98843
back to the Reparations Fund any unexpended, unencumbered cash in 98844
the Sex Offender Supervision Fund not needed in that fiscal year 98845
for the sole purpose of paying for the costs of supervising 98846
sexually violent predators released from prison. 98847

Section 209.72. RSC REHABILITATION SERVICES COMMISSION 98848

General Revenue Fund 98849

GRF 415-100 Personal Services \$ 8,851,468 \$ 8,851,468 98850

| | | | | | | |
|-------------|---|----|------------|----|------------|-------|
| GRF 415-402 | Independent Living Council | \$ | 12,280 | \$ | 12,280 | 98851 |
| GRF 415-403 | Mental Health Services | \$ | 717,221 | \$ | 717,221 | 98852 |
| GRF 415-404 | MR/DD Services | \$ | 1,260,816 | \$ | 1,260,816 | 98853 |
| GRF 415-405 | Vocational Rehabilitation/Job and Family Services | \$ | 536,912 | \$ | 536,912 | 98854 |
| GRF 415-406 | Assistive Technology | \$ | 47,531 | \$ | 47,531 | 98855 |
| GRF 415-431 | Office for People with Brain Injury | \$ | 226,012 | \$ | 226,012 | 98856 |
| GRF 415-506 | Services for People with Disabilities | \$ | 12,185,215 | \$ | 12,185,215 | 98857 |
| GRF 415-508 | Services for the Deaf | \$ | 50,000 | \$ | 50,000 | 98858 |
| GRF 415-509 | Services for the Elderly | \$ | 359,377 | \$ | 359,377 | 98859 |
| GRF 415-520 | Independent Living Services | \$ | 50,000 | \$ | 50,000 | 98860 |
| TOTAL GRF | General Revenue Fund | \$ | 24,296,832 | \$ | 24,296,832 | 98861 |
| | General Services Fund Group | | | | | 98862 |
| 4W5 415-606 | Program Management Expenses | \$ | 18,557,040 | \$ | 18,557,040 | 98863 |
| 467 415-609 | Business Enterprise Operating Expenses | \$ | 1,632,082 | \$ | 1,632,082 | 98864 |
| TOTAL GSF | General Services Fund Group | \$ | 20,189,122 | \$ | 20,189,122 | 98865 |
| | Federal Special Revenue Fund Group | | | | | 98866 |
| 3L1 415-601 | Social Security Personal Care Assistance | \$ | 3,743,740 | \$ | 3,743,740 | 98867 |
| 3L1 415-605 | Social Security Community Centers for the Deaf | \$ | 1,100,488 | \$ | 1,100,488 | 98868 |

| | | | | | | | |
|---|---------|--|----|-------------|----|-------------|-------|
| 3L1 | 415-607 | Social Security Administration Cost | \$ | 175,860 | \$ | 175,860 | 98870 |
| 3L1 | 415-608 | Social Security Special Programs/Assistance | \$ | 2,246,991 | \$ | 131,716 | 98871 |
| 3L1 | 415-610 | Social Security Vocational Rehabilitation | \$ | 1,336,324 | \$ | 1,338,324 | 98872 |
| 3L1 | 415-614 | Social Security Independent Living | \$ | 154,942 | \$ | 0 | 98873 |
| 3L4 | 415-612 | Federal Independent Living Centers or Services | \$ | 894,662 | \$ | 686,520 | 98874 |
| 3L4 | 415-615 | Federal - Supported Employment | \$ | 1,338,191 | \$ | 1,338,191 | 98875 |
| 3L4 | 415-617 | Independent Living/Vocational Rehabilitation Programs | \$ | 1,508,885 | \$ | 1,608,885 | 98876 |
| 317 | 415-620 | Disability Determination | \$ | 82,870,347 | \$ | 87,999,369 | 98877 |
| 379 | 415-616 | Federal - Vocational Rehabilitation | \$ | 123,565,158 | \$ | 119,998,470 | 98878 |
| TOTAL FED Federal Special Revenue Fund Group | | | | | | | 98879 |
| State Special Revenue Fund Group | | | | | | | 98881 |
| 4L1 | 415-619 | Services for Rehabilitation | \$ | 4,500,000 | \$ | 4,500,000 | 98882 |
| 468 | 415-618 | Third Party Funding | \$ | 1,055,407 | \$ | 1,105,407 | 98883 |
| TOTAL SSR State Special Revenue Fund Group | | | | | | | 98884 |
| TOTAL ALL BUDGET FUND GROUPS | | | | | | | 98885 |
| INDEPENDENT LIVING COUNCIL | | | | | | | 98886 |
| | | | | | | | 98887 |

The foregoing appropriation item 415-402, Independent Living Council, shall be used to fund the operations of the State Independent Living Council. 98888
98889
98890

MENTAL HEALTH SERVICES 98891

The foregoing appropriation item 415-403, Mental Health Services, shall be used for the provision of vocational rehabilitation services to mutually eligible consumers of the Rehabilitation Services Commission and the Department of Mental Health. 98892
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The Rehabilitation Services Commission shall provide the Department of Mental Health a quarterly report stating the numbers served, numbers placed in employment, average hourly wage, and average hours worked. 98897
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98899
98900

MR/DD SERVICES 98901

The foregoing appropriation item 415-404, MR/DD Services, shall be used as state matching funds to provide vocational rehabilitation services to mutually eligible clients between the Rehabilitation Services Commission and the Department of Mental Retardation and Developmental Disabilities. The Rehabilitation Services Commission shall report to the Department of Mental Retardation and Developmental Disabilities, as outlined in an interagency agreement, on the number and status of mutually eligible clients and the status of the funds and expenditures for these clients. 98902
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VOCATIONAL REHABILITATION/JOB AND FAMILY SERVICES 98912

The foregoing appropriation item 415-405, Vocational Rehabilitation/Job and Family Services, shall be used as state matching funds to provide vocational rehabilitation services to mutually eligible clients between the Rehabilitation Services Commission and the Department of Job and Family Services. The Rehabilitation Services Commission shall report to the Department 98913
98914
98915
98916
98917
98918

of Job and Family Services, as outlined in an interagency 98919
agreement, on the number and status of mutually eligible clients 98920
and the status of the funds and expenditures for these clients. 98921

ASSISTIVE TECHNOLOGY 98922

The foregoing appropriation item 415-406, Assistive 98923
Technology, shall be provided to Assistive Technology of Ohio and 98924
shall be used only to provide grants under that program. No amount 98925
of the appropriation may be used for administrative costs. 98926

OFFICE FOR PEOPLE WITH BRAIN INJURY 98927

Of the foregoing appropriation item 415-431, Office for 98928
People with Brain Injury, up to \$50,000 in each fiscal year shall 98929
be used for the state match for a federal grant awarded through 98930
the Traumatic Brain Injury Act, Pub. L. No. 104-166, and up to 98931
\$50,000 in each fiscal year shall be provided to the Brain Injury 98932
Trust Fund. The remaining appropriation shall be used to plan and 98933
coordinate head-injury-related services provided by state agencies 98934
and other government or private entities, to assess the needs for 98935
such services, and to set priorities in this area. 98936

SERVICES FOR THE DEAF 98937

The foregoing appropriation item 415-508, Services for the 98938
Deaf, shall be used to supplement Social Security reimbursement 98939
funds used to provide grants to community centers for the deaf. 98940
These funds shall not be used in lieu of Social Security 98941
reimbursement funds. 98942

SERVICES FOR THE ELDERLY 98943

The foregoing appropriation item 415-509, Services for the 98944
Elderly, shall be used as matching funds for vocational 98945
rehabilitation services for eligible elderly citizens with a 98946
disability. 98947

INDEPENDENT LIVING SERVICES 98948

The foregoing appropriation items 415-520, Independent Living Services, and 415-612, Federal - Independent Living Centers or Services, shall be used to support state independent living centers or independent living services under Title VII of the Independent Living Services and Centers for Independent Living of the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 U.S.C. 796d.

PROGRAM MANAGEMENT EXPENSES

The foregoing appropriation item 415-606, Program Management Expenses, shall be used to support the administrative functions of the commission related to the provision of vocational rehabilitation, disability determination services, and ancillary programs.

INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS

The foregoing appropriation item 415-617, Independent Living/Vocational Rehabilitation Programs, shall be used to support vocational rehabilitation programs, including, but not limited to, high tech high schools, training, and brain injury grants.

SOCIAL SECURITY REIMBURSEMENT FUNDS

Reimbursement funds received from the Social Security Administration, United States Department of Health and Human Services, for the costs of providing services and training to return disability recipients to gainful employment shall be used in the Social Security Reimbursement Fund (Fund 3L1), as follows:

(A) Appropriation item 415-601, Social Security Personal Care Assistance, to provide personal care services in accordance with section 3304.41 of the Revised Code;

(B) Appropriation item 415-605, Social Security Community Centers for the Deaf, to provide grants to community centers for

| | |
|--|-------|
| the deaf in Ohio for services to individuals with hearing | 98979 |
| impairments; | 98980 |
| (C) Appropriation item 415-607, Social Security | 98981 |
| Administration Cost, to provide administrative services needed to | 98982 |
| administer the Social Security reimbursement program; | 98983 |
| (D) Appropriation item 415-608, Social Security Special | 98984 |
| Programs/Assistance, to provide vocational rehabilitation services | 98985 |
| to individuals with severe disabilities who are Social Security | 98986 |
| beneficiaries, to enable them to achieve competitive employment. | 98987 |
| This appropriation item also includes funds to assist the Personal | 98988 |
| Care Assistance, Community Centers for the Deaf, and Independent | 98989 |
| Living Programs to pay their share of indirect costs as mandated | 98990 |
| by federal OMB Circular A-87. | 98991 |
| (E) Appropriation item 415-610, Social Security Vocational | 98992 |
| Rehabilitation, to provide vocational rehabilitation services to | 98993 |
| older blind individuals with severe disabilities to enable them to | 98994 |
| achieve a noncompetitive employment goal. | 98995 |
| PILOT PROGRAM FOR VOCATIONAL REHABILITATION | 98996 |
| During fiscal years 2006 and 2007, the Rehabilitation | 98997 |
| Services Commission may conduct a pilot program to provide | 98998 |
| vocational rehabilitation and related services to entities, | 98999 |
| employers, or individuals that are not eligible for state- or | 99000 |
| federally-supported services through the commission. The | 99001 |
| commission shall propose fees to be collected from the entities, | 99002 |
| employers, or individuals served by the pilot program to support | 99003 |
| the costs for vocational rehabilitation and related services | 99004 |
| provided under the pilot program. Fee revenues collected under the | 99005 |
| program shall be credited to Fund 468 (Third Party Funding). | 99006 |
| During implementation of the pilot program, the Rehabilitation | 99007 |
| Services Commission shall investigate and determine the | 99008 |
| possibility of utilizing this source of revenue to match federal | 99009 |

funds. The Rehabilitation Services Commission shall evaluate the progress of the pilot program and issue a report of its findings to the Governor not later than December 15, 2007. The report shall include a recommendation to either continue or discontinue the pilot program in the next biennium.

Section 209.75. RCB RESPIRATORY CARE BOARD

General Services Fund Group

| | | | | |
|---------------------------------------|----|---------|----|---|
| 4K9 872-609 Operating Expenses | \$ | 441,987 | \$ | 0 |
| TOTAL GSF General Services Fund Group | \$ | 441,987 | \$ | 0 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 441,987 | \$ | 0 |

Section 209.78. REVENUE DISTRIBUTION FUNDS

Volunteer Firefighters' Dependents Fund

| | | | | |
|---|----|---------|----|---------|
| 085 800-900 Volunteer Firefighters' Dependents Fund | \$ | 280,000 | \$ | 280,000 |
| TOTAL 085 Volunteer Firefighters' Dependents Fund | \$ | 280,000 | \$ | 280,000 |

Agency Fund Group

| | | | | |
|--|----|---------------|----|---------------|
| 062 110-900 Resort Area Excise Tax | \$ | 1,000,000 | \$ | 1,075,000 |
| 063 110-900 Permissive Tax Distribution | \$ | 1,627,628,631 | \$ | 1,706,969,960 |
| 067 110-900 School District Income Tax | \$ | 185,000,000 | \$ | 195,000,000 |
| 4P8 001-698 Cash Management Improvement Fund | \$ | 2,500,000 | \$ | 3,000,000 |
| 608 001-699 Investment Earnings | \$ | 85,000,000 | \$ | 85,000,000 |
| TOTAL AGY Agency Fund Group | \$ | 1,901,128,631 | \$ | 1,991,044,960 |

Holding Account Redistribution

| | | | | |
|------------------------------------|----|-----------|----|---|
| R45 110-617 International Fuel Tax | \$ | 6,292,029 | \$ | 0 |
|------------------------------------|----|-----------|----|---|

| | | | | |
|-----------------------------------|----|-------------|----------------|---------|
| Distribution | | | | |
| TOTAL 090 Holding Account | \$ | 6,292,029 | \$ | 0 99036 |
| Redistribution Fund | | | | |
| Revenue Distribution Fund Group | | | | 99037 |
| 049 038-900 Indigent Drivers | \$ | 1,865,000 | \$ 1,865,000 | 99038 |
| Alcohol Treatment | | | | |
| 050 762-900 International | \$ | 55,000,000 | \$ 55,000,000 | 99039 |
| Registration Plan | | | | |
| Distribution | | | | |
| 051 762-901 Auto Registration | \$ | 475,000,000 | \$ 475,000,000 | 99040 |
| Distribution | | | | |
| 054 110-900 Local Government | \$ | 90,000,000 | \$ 90,000,000 | 99041 |
| Property Tax | | | | |
| Replacement - Utility | | | | |
| 060 110-900 Gasoline Excise Tax | \$ | 325,000,000 | \$ 349,000,000 | 99042 |
| Fund | | | | |
| 064 110-900 Local Government | \$ | 94,605,130 | \$ 94,605,130 | 99043 |
| Revenue Assistance | | | | |
| 065 110-900 Library/Local | \$ | 458,510,155 | \$ 458,510,155 | 99044 |
| Government Support | | | | |
| Fund | | | | |
| 066 800-900 Undivided Liquor | \$ | 14,300,000 | \$ 14,300,000 | 99045 |
| Permits | | | | |
| 068 110-900 State and Local | \$ | 231,076,000 | \$ 235,542,000 | 99046 |
| Government Highway | | | | |
| Distribution | | | | |
| 069 110-900 Local Government Fund | \$ | 662,137,898 | \$ 662,137,898 | 99047 |
| 081 110-900 Local Government | \$ | 21,150,000 | \$ 158,166,000 | 99048 |
| Property Tax | | | | |
| Replacement-Business | | | | |
| 082 110-900 Horse Racing Tax | \$ | 130,000 | \$ 130,000 | 99049 |
| 083 700-900 Ohio Fairs Fund | \$ | 2,450,000 | \$ 2,450,000 | 99050 |
| TOTAL RDF Revenue Distribution | | | | 99051 |

| | | | |
|---|------------------|------------------|-------|
| Fund Group | \$ 2,431,224,183 | \$ 2,596,706,183 | 99052 |
| TOTAL ALL BUDGET FUND GROUPS | \$ 4,338,924,843 | \$ 4,588,031,143 | 99053 |
| ADDITIONAL APPROPRIATIONS | | | 99054 |
| Appropriation items in this section shall be used for the | | | 99055 |
| purpose of administering and distributing the designated revenue | | | 99056 |
| distribution funds according to the Revised Code. If it is | | | 99057 |
| determined that additional appropriations are necessary for this | | | 99058 |
| purpose, such amounts are appropriated. | | | 99059 |
| Section 209.78.03. GENERAL REVENUE FUND TRANSFERS TO LOCAL | | | 99060 |
| GOVERNMENT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 081) | | | 99061 |
| Notwithstanding any provision of law to the contrary, the | | | 99062 |
| Director of Budget and Management shall transfer \$4,290,000 in | | | 99063 |
| fiscal year 2006 and \$30,090,000 in fiscal year 2007 from the | | | 99064 |
| General Revenue Fund to appropriation item 110-900, Local | | | 99065 |
| Government Property Tax Replacement - Business (Fund 081) in the | | | 99066 |
| Revenue Distribution Fund. The funds shall be used to reimburse | | | 99067 |
| local taxing units under section 5751.22 of the Revised Code. | | | 99068 |
| Section 209.81. SAN BOARD OF SANITARIAN REGISTRATION | | | 99069 |
| General Services Fund Group | | | 99070 |
| 4K9 893-609 Operating Expenses | \$ 134,279 | \$ 0 | 99071 |
| TOTAL GSF General Services | | | 99072 |
| Fund Group | \$ 134,279 | \$ 0 | 99073 |
| TOTAL ALL BUDGET FUND GROUPS | \$ 134,279 | \$ 0 | 99074 |
| Section 209.84. OSB OHIO STATE SCHOOL FOR THE BLIND | | | 99076 |
| General Revenue Fund | | | 99077 |
| GRF 226-100 Personal Services | \$ 6,469,841 | \$ 6,594,261 | 99078 |
| GRF 226-200 Maintenance | \$ 704,162 | \$ 704,162 | 99079 |
| GRF 226-300 Equipment | \$ 113,289 | \$ 113,289 | 99080 |
| TOTAL GRF General Revenue Fund | \$ 7,287,292 | \$ 7,411,712 | 99081 |

| | | | | |
|---|----|-----------|--------------|-------|
| General Services Fund Group | | | | 99082 |
| 4H8 226-602 Education Reform | \$ | 21,620 | \$ 21,620 | 99083 |
| Grants | | | | |
| TOTAL GSF General Services | | | | 99084 |
| Fund Group | \$ | 21,620 | \$ 21,620 | 99085 |
| Federal Special Revenue Fund Group | | | | 99086 |
| 3P5 226-643 Medicaid Professional | \$ | 180,000 | \$ 210,000 | 99087 |
| Services Reimbursement | | | | |
| 310 226-626 Coordinating Unit | \$ | 1,639,000 | \$ 1,639,000 | 99088 |
| TOTAL FED Federal Special | | | | 99089 |
| Revenue Fund Group | \$ | 1,819,000 | \$ 1,849,000 | 99090 |
| State Special Revenue Fund Group | | | | 99091 |
| 4M5 226-601 Student Activity and | \$ | 217,397 | \$ 217,397 | 99092 |
| Work Study | | | | |
| TOTAL SSR State Special Revenue | | | | 99093 |
| Fund Group | \$ | 217,397 | \$ 217,397 | 99094 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 9,345,309 | \$ 9,499,729 | 99095 |
| | | | | |
| Section 209.87. OSD OHIO STATE SCHOOL FOR THE DEAF | | | | 99097 |
| General Revenue Fund | | | | 99098 |
| GRF 221-100 Personal Services | \$ | 8,401,704 | \$ 8,401,704 | 99099 |
| GRF 221-200 Maintenance | \$ | 1,032,751 | \$ 1,032,751 | 99100 |
| GRF 221-300 Equipment | \$ | 222,500 | \$ 222,500 | 99101 |
| TOTAL GRF General Revenue Fund | \$ | 9,656,955 | \$ 9,656,955 | 99102 |
| General Services Fund Group | | | | 99103 |
| 4M1 221-602 Education Reform | \$ | 27,575 | \$ 27,575 | 99104 |
| Grants | | | | |
| TOTAL GSF General Services | | | | 99105 |
| Fund Group | \$ | 27,575 | \$ 27,575 | 99106 |
| Federal Special Revenue Fund Group | | | | 99107 |
| 3AD 221-604 VREAL Ohio | \$ | 1,000,000 | \$ 1,000,000 | 99108 |

| | | | | | | | |
|---|---------|------------------------|----|-------------|----|-------------|-------|
| 3R0 | 221-684 | Medicaid Professional | \$ | 35,000 | \$ | 35,000 | 99109 |
| | | Services Reimbursement | | | | | 99110 |
| 3Y1 | 221-686 | Early Childhood Grant | \$ | 250,000 | \$ | 250,000 | 99111 |
| 311 | 221-625 | Coordinating Unit | \$ | 1,062,426 | \$ | 1,062,426 | 99112 |
| TOTAL FED Federal Special | | | | | | | 99113 |
| Revenue Fund Group | | | \$ | 2,347,426 | \$ | 2,347,426 | 99114 |
| State Special Revenue Fund Group | | | | | | | 99115 |
| 4M0 | 221-601 | Educational Program | \$ | 32,688 | \$ | 32,688 | 99116 |
| | | Expenses | | | | | 99117 |
| 5H6 | 221-609 | Even Start Fees & | \$ | 59,800 | \$ | 59,800 | 99118 |
| | | Gifts | | | | | |
| TOTAL SSR State Special Revenue | | | | | | | 99119 |
| Fund Group | | | \$ | 92,488 | \$ | 92,488 | 99120 |
| TOTAL ALL BUDGET FUND GROUPS | | | \$ | 12,124,444 | \$ | 12,124,444 | 99121 |
| EQUIPMENT | | | | | | | 99122 |
| Of the foregoing appropriation item 221-300, Equipment, up to | | | | | | | 99123 |
| \$15,000 in fiscal year 2006 may be used by the Ohio School for the | | | | | | | 99124 |
| Deaf to purchase software for the documentation and tracking of | | | | | | | 99125 |
| students for increased accountability and data analysis for | | | | | | | 99126 |
| quality instruction. | | | | | | | 99127 |
| Section 209.90. SFC SCHOOL FACILITIES COMMISSION | | | | | | | 99128 |
| General Revenue Fund | | | | | | | 99129 |
| GRF | 230-428 | Lease Rental Payments | \$ | 31,691,700 | \$ | 31,603,200 | 99130 |
| GRF | 230-908 | Common Schools General | \$ | 188,724,700 | \$ | 224,911,500 | 99131 |
| | | Obligation Debt | | | | | |
| | | Service | | | | | |
| TOTAL GRF General Revenue Fund | | | \$ | 220,416,400 | \$ | 256,514,700 | 99132 |
| State Special Revenue Fund Group | | | | | | | 99133 |
| 5E3 | 230-644 | Operating Expenses | \$ | 7,319,617 | \$ | 7,691,485 | 99134 |
| TOTAL SSR State Special Revenue | | | | | | | 99135 |

| | | | | | |
|--------------------------------------|----|-------------|----|-------------|-------|
| Fund Group | \$ | 7,319,617 | \$ | 7,691,485 | 99136 |
| Lottery Profits Education Fund Group | | | | | 99137 |
| 020 230-620 Career-Tech School | \$ | 2,000,000 | \$ | 2,000,000 | 99138 |
| Building Assistance | | | | | |
| TOTAL LPE Lottery Profits | | | | | 99139 |
| Education Fund Group | \$ | 2,000,000 | \$ | 2,000,000 | 99140 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 229,736,017 | \$ | 266,206,185 | 99141 |

Section 209.90.03. LEASE RENTAL PAYMENTS 99143

The foregoing appropriation item 230-428, Lease Rental 99144
 Payments, shall be used to meet all payments at the times they are 99145
 required to be made during the period from July 1, 2005, to June 99146
 30, 2007, by the School Facilities Commission under leases and 99147
 agreements made under section 3318.26 of the Revised Code, but 99148
 limited to the aggregate amount of \$63,294,900. Nothing in this 99149
 act shall be deemed to contravene the obligation of the state to 99150
 pay, without necessity for further appropriation, from the sources 99151
 pledged thereto, the bond service charges on obligations issued 99152
 under Chapter 3318. of the Revised Code. 99153

COMMON SCHOOLS GENERAL OBLIGATION DEBT SERVICE 99154

The foregoing appropriation item 230-908, Common Schools 99155
 General Obligation Debt Service, shall be used to pay all debt 99156
 service and related financing costs at the times they are required 99157
 to be made under sections 151.01 and 151.03 of the Revised Code 99158
 during the period from July 1, 2005, to June 30, 2007. The Office 99159
 of the Sinking Fund or the Director of Budget and Management shall 99160
 effectuate the required payments by an intrastate transfer 99161
 voucher. 99162

OPERATING EXPENSES 99163

The foregoing appropriation item 230-644, Operating Expenses, 99164
 shall be used by the Ohio School Facilities Commission to carry 99165

out its responsibilities under this section and Chapter 3318. of 99166
the Revised Code. 99167

In both fiscal years 2006 and 2007, the Executive Director of 99168
the Ohio School Facilities Commission shall certify on a quarterly 99169
basis to the Director of Budget and Management the amount of cash 99170
from interest earnings to be transferred from the School Building 99171
Assistance Fund (Fund 032), the Public School Building Fund (Fund 99172
021), and the Educational Facilities Trust Fund (Fund N87) to the 99173
Ohio School Facilities Commission Fund (Fund 5E3). The amount 99174
transferred may not exceed investment earnings credited to the 99175
School Building Assistance Fund (Fund 032), less any amount 99176
required to be paid for federal arbitrage rebate purposes. 99177

SCHOOL FACILITIES ENCUMBRANCES AND REAPPROPRIATION 99178

At the request of the Executive Director of the Ohio School 99179
Facilities Commission, the Director of Budget and Management may 99180
cancel encumbrances for school district projects from a previous 99181
biennium if the district has not raised its local share of project 99182
costs within one year of receiving Controlling Board approval 99183
under section 3318.05 of the Revised Code. The Executive Director 99184
of the Ohio School Facilities Commission shall certify the amounts 99185
of the canceled encumbrances to the Director of Budget and 99186
Management on a quarterly basis. The amounts of the canceled 99187
encumbrances are hereby appropriated. 99188

Section 209.90.06. EXTREME ENVIRONMENTAL CONTAMINATION OF 99189
SCHOOL FACILITIES 99190

Notwithstanding any other provision of law to the contrary, 99191
the School Facilities Commission may provide assistance under the 99192
Exceptional Needs School Facilities Program established in section 99193
3318.37 of the Revised Code to any school district, and not 99194
exclusively to a school district in the lowest fifty per cent of 99195
adjusted valuation per pupil on the current ranking of school 99196

districts established under section 3317.02 of the Revised Code, 99197
for the purpose of the relocation or replacement of school 99198
facilities required as a result of extreme environmental 99199
contamination. 99200

The School Facilities Commission shall contract with an 99201
independent environmental consultant to conduct a study and to 99202
report to the commission as to the seriousness of the 99203
environmental contamination, whether the contamination violates 99204
applicable state and federal standards, and whether the facilities 99205
are no longer suitable for use as school facilities. The 99206
commission then shall make a determination regarding funding for 99207
the relocation or replacement of the school facilities. If the 99208
federal government or other public or private entity provides 99209
funds for restitution of costs incurred by the state or school 99210
district in the relocation or replacement of the school 99211
facilities, the school district shall use such funds in excess of 99212
the school district's share to refund the state for the state's 99213
contribution to the environmental contamination portion of the 99214
project. The school district may apply an amount of such 99215
restitution funds up to an amount equal to the school district's 99216
portion of the project, as defined by the commission, toward 99217
paying its portion of that project to reduce the amount of bonds 99218
the school district otherwise must issue to receive state 99219
assistance under sections 3318.01 to 3318.20 of the Revised Code. 99220

Section 209.90.09. CANTON CITY SCHOOL DISTRICT PROJECT 99221

(A) The Ohio School Facilities Commission may commit up to 99222
thirty-five million dollars to the Canton City School District for 99223
construction of a facility described in this section, in lieu of a 99224
high school that would otherwise be authorized under Chapter 3318. 99225
of the Revised Code. The Commission shall not commit funds under 99226
this section unless all of the following conditions are met: 99227

| | |
|--|--|
| (1) The District has entered into a cooperative agreement with a state-assisted technical college. | 99228 99229 |
| (2) The District has received an irrevocable commitment of additional funding from nonpublic sources. | 99230 99231 |
| (3) The facility is intended to serve both secondary and postsecondary instructional purposes. | 99232 99233 |
| (B) The Commission shall enter into an agreement with the District for the construction of the facility authorized under this section that is separate from and in addition to the agreement required for the District's participation in the Classroom Facilities Assistance Program under section 3318.08 of the Revised Code. Notwithstanding that section and sections 3318.03, 3318.04, and 3318.083 of the Revised Code, the additional agreement shall provide, but not be limited to, the following: | 99234 99235 99236 99237 99238 99239 99240 99241 |
| (1) The Commission shall not have any oversight responsibilities over the construction of the facility. | 99242 99243 |
| (2) The facility need not comply with the specifications for plans and materials for high schools adopted by the Commission. | 99244 99245 |
| (3) The Commission may decrease the basic project cost that would otherwise be calculated for a high school under Chapter 3318. of the Revised Code. | 99246 99247 99248 |
| (4) The state shall not share in any increases in the basic project cost for the facility above the amount authorized under this section. | 99249 99250 99251 |
| All other provisions of Chapter 3318. of the Revised Code apply to the approval and construction of a facility authorized under this section. | 99252 99253 99254 |
| The state funds committed to the facility authorized by this section shall be part of the total amount the state commits to the Canton City School District under Chapter 3318. of the Revised | 99255 99256 99257 |

| | | | | |
|---|----|------------|---------------|-------|
| Code. All additional state funds committed to the Canton City | | | | 99258 |
| School District for classroom facilities assistance shall be | | | | 99259 |
| subject to all provisions of Chapter 3318. of the Revised Code. | | | | 99260 |
| Section 209.93. SOS SECRETARY OF STATE | | | | 99261 |
| General Revenue Fund | | | | 99262 |
| GRF 050-321 Operating Expenses | \$ | 2,585,000 | \$ 2,585,000 | 99263 |
| GRF 050-403 Election Statistics | \$ | 103,936 | \$ 103,936 | 99264 |
| GRF 050-407 Pollworkers Training | \$ | 277,997 | \$ 277,997 | 99265 |
| GRF 050-409 Litigation | \$ | 4,652 | \$ 4,652 | 99266 |
| Expenditures | | | | |
| TOTAL GRF General Revenue Fund | \$ | 2,971,585 | \$ 2,971,585 | 99267 |
| General Services Fund Group | | | | 99268 |
| 4S8 050-610 Board of Voting | \$ | 7,200 | \$ 7,200 | 99269 |
| Machine Examiners | | | | |
| 412 050-609 Notary Commission | \$ | 685,250 | \$ 685,249 | 99270 |
| 413 050-601 Information Systems | \$ | 169,955 | \$ 169,955 | 99271 |
| 414 050-602 Citizen Education Fund | \$ | 75,700 | \$ 55,712 | 99272 |
| TOTAL General Services Fund Group | \$ | 938,105 | \$ 918,116 | 99273 |
| Federal Special Revenue Fund Group | | | | 99274 |
| 3AS 050-616 2005 HAVA Voting | \$ | 37,436,203 | \$ 0 | 99275 |
| Machines | | | | |
| 3X4 050-612 Ohio Center/Law | \$ | 41,000 | \$ 41,000 | 99276 |
| Related Educational Grant | | | | |
| TOTAL FED Federal Special Revenue | | | | 99277 |
| Fund Group | \$ | 37,477,203 | \$ 41,000 | 99278 |
| State Special Revenue Fund Group | | | | 99279 |
| 5N9 050-607 Technology | \$ | 129,565 | \$ 129,565 | 99280 |
| Improvements | | | | |
| 599 050-603 Business Services | \$ | 13,741,745 | \$ 13,761,734 | 99281 |

| Operating Expenses | | | |
|---|---------------|---------------|-------|
| TOTAL SSR State Special Revenue | | | 99282 |
| Fund Group | \$ 13,871,310 | \$ 13,891,299 | 99283 |
| Holding Account Redistribution Fund Group | | | 99284 |
| R01 050-605 Uniform Commercial | \$ 65,000 | \$ 65,000 | 99285 |
| Code Refunds | | | |
| R02 050-606 Corporate/Business | \$ 100,000 | \$ 100,000 | 99286 |
| Filing Refunds | | | |
| TOTAL 090 Holding Account | | | 99287 |
| Redistribution Fund Group | \$ 165,000 | \$ 165,000 | 99288 |
| TOTAL ALL BUDGET FUND GROUPS | \$ 55,423,203 | \$ 17,987,000 | 99289 |
| BOARD OF VOTING MACHINE EXAMINERS | | | 99290 |
| The foregoing appropriation item 050-610, Board of Voting | | | 99291 |
| Machine Examiners, shall be used to pay for the services and | | | 99292 |
| expenses of the members of the Board of Voting Machine Examiners, | | | 99293 |
| and for other expenses that are authorized to be paid from the | | | 99294 |
| Board of Voting Machine Examiners Fund, which is created in | | | 99295 |
| section 3506.05 of the Revised Code. Moneys not used shall be | | | 99296 |
| returned to the person or entity submitting the equipment for | | | 99297 |
| examination. If it is determined that additional appropriations | | | 99298 |
| are necessary, such amounts are appropriated. | | | 99299 |
| 2005 HAVA VOTING MACHINES | | | 99300 |
| On July 1, 2005, or as soon as possible thereafter, the | | | 99301 |
| Secretary of State shall certify to the Director of Budget and | | | 99302 |
| Management the cash balance in Fund 3AR, appropriation item | | | 99303 |
| 050-615, 2004 HAVA Voting Machines. The Director of Budget and | | | 99304 |
| Management shall transfer the certified amount of cash to Fund | | | 99305 |
| 3AS, 050-616, 2005 HAVA Voting Machines, for use in fiscal year | | | 99306 |
| 2006. The transferred amount is hereby appropriated. | | | 99307 |
| On July 1, 2006, or as soon as possible thereafter, the | | | 99308 |
| Director of Budget and Management shall transfer any remaining | | | 99309 |

unexpended, unencumbered appropriations in Fund 3AS, appropriation 99310
item 050-616, 2005 HAVA Voting Machines, at the end of fiscal year 99311
2006 to fiscal year 2007 for use under the same appropriation 99312
item. 99313

HOLDING ACCOUNT REDISTRIBUTION GROUP 99314

The foregoing appropriation items 050-605 and 050-606, 99315
Holding Account Redistribution Fund Group, shall be used to hold 99316
revenues until they are directed to the appropriate accounts or 99317
until they are refunded. If it is determined that additional 99318
appropriations are necessary, such amounts are appropriated. 99319

Section 209.96. SEN THE OHIO SENATE 99320

General Revenue Fund 99321

GRF 020-321 Operating Expenses \$ 11,546,357 \$ 11,661,821 99322

TOTAL GRF General Revenue Fund \$ 11,546,357 \$ 11,661,821 99323

General Services Fund Group 99324

102 020-602 Senate Reimbursement \$ 444,025 \$ 444,025 99325

409 020-601 Miscellaneous Sales \$ 34,155 \$ 34,155 99326

TOTAL GSF General Services 99327

Fund Group \$ 478,180 \$ 478,180 99328

TOTAL ALL BUDGET FUND GROUPS \$ 12,024,537 \$ 12,140,001 99329

OPERATING EXPENSES 99330

On July 1, 2005, or as soon as possible thereafter, the Clerk 99331
of the Senate shall certify to the Director of Budget and 99332
Management the total fiscal year 2005 unencumbered appropriations 99333
in appropriation item 020-321, Operating Expenses. The Clerk may 99334
direct the Director of Budget and Management to transfer an amount 99335
not to exceed the total fiscal year 2005 unencumbered 99336
appropriations to fiscal year 2006 for use within appropriation 99337
item 020-321, Operating Expenses. Additional appropriation 99338
authority equal to the amount certified by the Clerk is hereby 99339

appropriated to appropriation item 020-321, Operating Expenses, in 99340
fiscal year 2006. 99341

On July 1, 2006, or as soon as possible thereafter, the Clerk 99342
of the Senate shall certify to the Director of Budget and 99343
Management the total fiscal year 2006 unencumbered appropriations 99344
in appropriation item 020-321, Operating Expenses. The Clerk may 99345
direct the Director of Budget and Management to transfer an amount 99346
not to exceed the total fiscal year 2006 unencumbered 99347
appropriations to fiscal year 2007 for use within appropriation 99348
item 020-321, Operating Expenses. Additional appropriation 99349
authority equal to the amount certified by the Clerk is hereby 99350
appropriated to appropriation item 020-321, Operating Expenses, in 99351
fiscal year 2007. 99352

Section 209.99. CSF COMMISSIONERS OF THE SINKING FUND 99353

Debt Service Fund Group 99354

072 155-902 Highway Capital \$ 180,620,600 \$ 196,464,900 99355

Improvements Bond

Retirement Fund

073 155-903 Natural Resources Bond \$ 26,166,000 \$ 24,659,100 99356

Retirement Fund

074 155-904 Conservation Projects \$ 14,687,300 \$ 17,668,800 99357

Bond Service Fund

076 155-906 Coal Research and \$ 7,071,100 \$ 8,980,800 99358

Development Bond

Retirement Fund

077 155-907 State Capital \$ 163,131,400 \$ 174,545,100 99359

Improvements Bond

Retirement Fund

078 155-908 Common Schools Bond \$ 200,724,700 \$ 236,911,500 99360

Retirement Fund

079 155-909 Higher Education Bond \$ 140,600,300 \$ 158,114,100 99361

Retirement Fund

| | | | | | |
|-----------------------------------|----|-------------|----|-------------|-------|
| TOTAL DSF Debt Service Fund Group | \$ | 733,001,400 | \$ | 817,344,300 | 99362 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 733,001,400 | \$ | 817,344,300 | 99363 |

ADDITIONAL APPROPRIATIONS 99364

Appropriation items in this section are for the purpose of 99365
 paying debt service and financing costs on bonds or notes of the 99366
 state issued under the Ohio Constitution and acts of the General 99367
 Assembly. If it is determined that additional appropriations are 99368
 necessary for this purpose, such amounts are appropriated. 99369

COMMISSIONER OF THE SINKING FUND HIGHWAY BOND TRANSFER 99370
 AUTHORIZATION 99371

Notwithstanding any other provision of law to the contrary, 99372
 the Commissioners of the Sinking Fund shall certify to the 99373
 Director of Budget and Management, and the director shall then 99374
 transfer, the cash balance remaining after provision for the 99375
 payment of all outstanding bonds, notes, coupons, and charges from 99376
 the Highway Obligation Bond Retirement Fund (Fund 071) to the 99377
 Highway Capital Improvements Bond Service Fund (Fund 072), created 99378
 by section 151.06 of the Revised Code, as expeditiously as 99379
 possible after the effective date of this section. 99380

Section 212.03. SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY & 99381
 AUDIOLOGY 99382

| | | | | | |
|--------------------------------|----|---------|----|---|-------|
| General Services Fund Group | | | | | 99383 |
| 4K9 886-609 Operating Expenses | \$ | 408,864 | \$ | 0 | 99384 |
| TOTAL GSF General Services | | | | | 99385 |
| Fund Group | \$ | 408,864 | \$ | 0 | 99386 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 408,864 | \$ | 0 | 99387 |

Section 212.06. BTA BOARD OF TAX APPEALS 99389

General Revenue Fund 99390

| | | | | | |
|--------------------------------|----|-----------|----|-----------|-------|
| GRF 116-321 Operating Expenses | \$ | 2,155,055 | \$ | 2,211,035 | 99391 |
| TOTAL GRF General Revenue Fund | \$ | 2,155,055 | \$ | 2,211,035 | 99392 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 2,155,055 | \$ | 2,211,035 | 99393 |

Section 212.09. TAX DEPARTMENT OF TAXATION 99395

| | | | | | |
|--|----|-------------|----|-------------|-------|
| General Revenue Fund | | | | | 99396 |
| GRF 110-321 Operating Expenses | \$ | 91,439,754 | \$ | 91,439,754 | 99397 |
| GRF 110-412 Child Support Administration | \$ | 71,988 | \$ | 71,988 | 99398 |
| GRF 110-901 Property Tax Allocation - Taxation | \$ | 430,102,680 | \$ | 409,946,241 | 99399 |
| GRF 110-906 Tangible Tax Exemption - Taxation | \$ | 18,355,923 | \$ | 13,766,942 | 99400 |
| TOTAL GRF General Revenue Fund | \$ | 539,970,345 | \$ | 515,224,925 | 99401 |
| General Services Fund Group | | | | | 99402 |
| 228 110-628 Tax Reform System Implementation | \$ | 7,000,000 | \$ | 7,000,000 | 99403 |
| 433 110-602 Tape File Account | \$ | 96,165 | \$ | 96,165 | 99404 |
| 5BW 110-630 Tax Amnesty Promotion and Administration | \$ | 2,000,000 | \$ | 0 | 99405 |
| 5W4 110-625 Centralized Tax Filing and Payment | \$ | 2,500,000 | \$ | 2,000,000 | 99406 |
| 5W7 110-627 Exempt Facility Administration | \$ | 36,000 | \$ | 36,000 | 99407 |
| TOTAL GSF General Services Fund Group | \$ | 11,632,165 | \$ | 9,132,165 | 99408 |
| Federal Special Revenue Fund Group | | | | | 99410 |
| 3J6 110-601 Motor Fuel Compliance | \$ | 25,000 | \$ | 25,000 | 99411 |
| TOTAL FED Federal Special Revenue Fund Group | \$ | 25,000 | \$ | 25,000 | 99412 |
| State Special Revenue Fund Group | | | | | 99414 |
| 4C6 110-616 International | \$ | 706,855 | \$ | 706,855 | 99415 |

| | | | | | | | |
|-------------------|---------|------------------------|----|---------------|----|---------------|-------|
| | | Registration Plan | | | | | |
| 4R6 | 110-610 | Tire Tax | \$ | 65,000 | \$ | 65,000 | 99416 |
| | | Administration | | | | | |
| 435 | 110-607 | Local Tax | \$ | 15,880,987 | \$ | 16,394,879 | 99417 |
| | | Administration | | | | | |
| 436 | 110-608 | Motor Vehicle Audit | \$ | 1,350,000 | \$ | 1,350,000 | 99418 |
| 437 | 110-606 | Litter Tax and Natural | \$ | 625,232 | \$ | 625,232 | 99419 |
| | | Resource Tax | | | | | |
| | | Administration | | | | | |
| 438 | 110-609 | School District Income | \$ | 2,599,999 | \$ | 2,599,999 | 99420 |
| | | Tax | | | | | |
| 5BQ | 110-629 | Commercial Activity | \$ | 6,000,000 | \$ | 500,000 | 99421 |
| | | Tax Administration | | | | | |
| 5N5 | 110-605 | Municipal Income Tax | \$ | 265,000 | \$ | 265,000 | 99422 |
| | | Administration | | | | | |
| 5N6 | 110-618 | Kilowatt Hour Tax | \$ | 85,000 | \$ | 85,000 | 99423 |
| | | Administration | | | | | |
| 5V7 | 110-622 | Motor Fuel Tax | \$ | 4,268,345 | \$ | 4,397,263 | 99424 |
| | | Administration | | | | | |
| 5V8 | 110-623 | Property Tax | \$ | 12,758,643 | \$ | 12,967,102 | 99425 |
| | | Administration | | | | | |
| 639 | 110-614 | Cigarette Tax | \$ | 168,925 | \$ | 168,925 | 99426 |
| | | Enforcement | | | | | |
| 642 | 110-613 | Ohio Political Party | \$ | 600,000 | \$ | 600,000 | 99427 |
| | | Distributions | | | | | |
| 688 | 110-615 | Local Excise Tax | \$ | 300,000 | \$ | 300,000 | 99428 |
| | | Administration | | | | | |
| TOTAL SSR | | State Special Revenue | | | | | 99429 |
| Fund Group | | | \$ | 45,673,986 | \$ | 41,025,255 | 99430 |
| Agency Fund Group | | | | | | | 99431 |
| 095 | 110-901 | Municipal Income Tax | \$ | 21,000,000 | \$ | 21,000,000 | 99432 |
| 425 | 110-635 | Tax Refunds | \$ | 1,483,900,000 | \$ | 1,582,700,000 | 99433 |
| TOTAL AGY | | Agency Fund Group | \$ | 1,504,900,000 | \$ | 1,603,700,000 | 99434 |

| | | | | |
|---|----|---------------|------------------|-------|
| Holding Account Redistribution Fund Group | | | | 99435 |
| R10 110-611 Tax Distributions | \$ | 50,000 | \$ 50,000 | 99436 |
| R11 110-612 Miscellaneous Income | \$ | 50,000 | \$ 50,000 | 99437 |
| Tax Receipts | | | | |
| TOTAL 090 Holding Account | | | | 99438 |
| Redistribution Fund Group | \$ | 100,000 | \$ 100,000 | 99439 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 2,102,301,496 | \$ 2,169,207,345 | 99440 |

HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK, AND TANGIBLE TAX EXEMPTION 99441
EXEMPTION 99442

The foregoing appropriation item 110-901, Property Tax Allocation - Taxation, is hereby appropriated to pay for the state's costs incurred because of the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback. The Tax Commissioner shall distribute these funds directly to the appropriate local taxing districts, except for school districts, notwithstanding the provisions in sections 321.24 and 323.156 of the Revised Code, which provide for payment of the Homestead Exemption, the Manufactured Home Property Tax Rollback, and Property Tax Rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor. 99443
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The foregoing appropriation item 110-906, Tangible Tax Exemption - Taxation, is hereby appropriated to pay for the state's costs incurred because of the tangible personal property tax exemption required by division (C)(3) of section 5709.01 of the Revised Code. The Tax Commissioner shall distribute to each county treasurer the total amount appearing in the notification from the county treasurer under division (G) of section 321.24 of the Revised Code for all local taxing districts located in the county except for school districts, notwithstanding the provision in section 321.24 of the Revised Code which provides for payment 99456
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of the \$10,000 tangible personal property tax exemption by the Tax 99466
Commissioner to the appropriate county treasurer for all local 99467
taxing districts located in the county including school districts. 99468
The county auditor shall distribute the amount paid by the Tax 99469
Commissioner among the appropriate local taxing districts except 99470
for school districts under division (G) of section 321.24 of the 99471
Revised Code. 99472

Upon receipt of these amounts, each local taxing district 99473
shall distribute the amount among the proper funds as if it had 99474
been paid as real or tangible personal property taxes. Payments 99475
for the costs of administration shall continue to be paid to the 99476
county treasurer and county auditor as provided for in sections 99477
319.54, 321.26, and 323.156 of the Revised Code. 99478

Any sums, in addition to the amounts specifically 99479
appropriated in appropriation items 110-901, Property Tax 99480
Allocation - Taxation, for the Homestead Exemption, the 99481
Manufactured Home Property Tax Rollback, and the Property Tax 99482
Rollback payments, and 110-906, Tangible Tax Exemption - Taxation, 99483
for the \$10,000 tangible personal property tax exemption payments, 99484
which are determined to be necessary for these purposes, are 99485
hereby appropriated. 99486

MUNICIPAL INCOME TAX 99487

The foregoing appropriation item 110-901, Municipal Income 99488
Tax, shall be used to make payments to municipal corporations 99489
under section 5745.05 of the Revised Code. If it is determined 99490
that additional appropriations are necessary to make these 99491
payments, such amounts are hereby appropriated. 99492

TAX REFUNDS 99493

The foregoing appropriation item 110-635, Tax Refunds, shall 99494
be used to pay refunds under section 5703.052 of the Revised Code. 99495
If it is determined that additional appropriations are necessary 99496

for this purpose, such amounts are hereby appropriated. 99497

TAX REFORM SYSTEM IMPLEMENTATION FUND 99498

Notwithstanding section 3734.9010, division (B)(2)(c) of 99499
section 4505.09, division (B) of section 5703.12, section 5703.80, 99500
division (C)(6) of section 5727.81, sections 5733.122 and 99501
5735.053, division (C) of section 5739.21, section 5745.03, 99502
division (C) of section 5747.03, and section 5747.113 of the 99503
Revised Code and any other statutory provision to the contrary, 99504
any residual cash balances determined and certified by the Tax 99505
Commissioner to the Director of Budget and Management shall be 99506
transferred on July 1, 2005, or as soon as possible thereafter, to 99507
the Tax Reform System Implementation Fund (Fund 228), which is 99508
hereby created in the State Treasury. The fund shall be used to 99509
pay expenses incurred by the Department of Taxation in providing 99510
an integrated tax system that will accommodate the needs of tax 99511
reform and allow for improved customer service, processing 99512
efficiency, compliance enforcement, and reporting. 99513

INTERNATIONAL REGISTRATION PLAN AUDIT 99514

The foregoing appropriation item 110-616, International 99515
Registration Plan, shall be used under section 5703.12 of the 99516
Revised Code for audits of persons with vehicles registered under 99517
the International Registration Plan. 99518

TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT 99519

Of the foregoing appropriation item 110-607, Local Tax 99520
Administration, the Tax Commissioner may disburse funds, if 99521
available, for the purposes of paying travel expenses incurred by 99522
members of Ohio's delegation to the Streamlined Sales Tax Project, 99523
as appointed under section 5740.02 of the Revised Code. Any travel 99524
expense reimbursement paid for by the Department of Taxation shall 99525
be done in accordance with applicable state laws and guidelines. 99526

LITTER CONTROL TAX ADMINISTRATION FUND 99527

Notwithstanding section 5733.12 of the Revised Code, during 99528
the period from July 1, 2005, to June 30, 2006, the amount of 99529
\$625,232, and during the period from July 1, 2006, to June 30, 99530
2007, the amount of \$625,232, received by the Tax Commissioner 99531
under Chapter 5733. of the Revised Code, shall be credited to the 99532
Litter Control Tax Administration Fund (Fund 437). 99533

TAX AMNESTY PROMOTION AND ADMINISTRATION 99534

The foregoing appropriation item 110-630, Tax Amnesty 99535
Promotion and Administration, shall be used to pay expenses 99536
incurred to promote and administer the tax amnesty program run 99537
from January 1, 2006, through February 15, 2006, by the Department 99538
of Taxation. The Department of Taxation and Attorney General's 99539
Office shall work in close collaboration on promotion activities 99540
in relation to the Tax Amnesty Promotion and Administration 99541
program. 99542

CENTRALIZED TAX FILING AND PAYMENT FUND 99543

The Director of Budget and Management, under a plan submitted 99544
by the Tax Commissioner, or as otherwise determined by the 99545
Director of Budget and Management, shall set a schedule to 99546
transfer cash from the General Revenue Fund to the credit of the 99547
Centralized Tax Filing and Payment Fund (Fund 5W4). The transfers 99548
of cash shall not exceed \$4,500,000 in the biennium. 99549

COMMERCIAL ACTIVITY TAX ADMINISTRATION 99550

The foregoing appropriation item 110-629, Commercial Activity 99551
Tax Administration, shall be used to pay expenses incurred by the 99552
Department of Taxation to implement and administer the Commercial 99553
Activity Tax under Chapter 5751. of the Revised Code. 99554

Section 212.12. DOT DEPARTMENT OF TRANSPORTATION 99555

Transportation Modes 99556

General Revenue Fund 99557

| | | | | | | |
|------------------------------|---|----|------------|----|------------|-------|
| GRF 775-451 | Public Transportation | \$ | 16,300,000 | \$ | 16,300,000 | 99558 |
| | - State | | | | | |
| GRF 776-465 | Ohio Rail Development | \$ | 2,700,000 | \$ | 2,700,000 | 99559 |
| | Commission | | | | | |
| GRF 776-466 | Railroad | \$ | 789,600 | \$ | 789,600 | 99560 |
| | Crossing/Grade | | | | | |
| | Separation | | | | | |
| GRF 777-471 | Airport Improvements - | \$ | 1,793,985 | \$ | 1,793,985 | 99561 |
| | State | | | | | |
| GRF 777-473 | Rickenbacker Lease | \$ | 594,500 | \$ | 320,300 | 99562 |
| | Payments - State | | | | | |
| TOTAL GRF | General Revenue Fund | \$ | 22,178,085 | \$ | 21,903,885 | 99563 |
| | Federal Special Revenue Fund Group | | | | | 99564 |
| 3B9 776-662 | Rail Transportation - | \$ | 10,000 | \$ | 10,000 | 99565 |
| | Federal | | | | | |
| TOTAL FED | Federal Special Revenue | | | | | 99566 |
| Fund Group | | \$ | 10,000 | \$ | 10,000 | 99567 |
| | State Special Revenue Fund Group | | | | | 99568 |
| 4N4 776-663 | Panhandle Lease | \$ | 764,400 | \$ | 764,400 | 99569 |
| | Reserve Payments | | | | | |
| 4N4 776-664 | Rail Transportation - | \$ | 2,111,500 | \$ | 2,111,500 | 99570 |
| | Other | | | | | |
| 5CF 776-667 | Rail Transload | \$ | 500,000 | \$ | 0 | 99571 |
| | Facilities | | | | | |
| 5W9 777-615 | Airport Assistance | \$ | 570,000 | \$ | 570,000 | 99572 |
| TOTAL SSR | State Special Revenue | | | | | 99573 |
| Fund Group | | \$ | 3,945,900 | \$ | 3,445,900 | 99574 |
| TOTAL ALL BUDGET FUND GROUPS | | \$ | 26,133,985 | \$ | 25,359,785 | 99575 |
| | ELDERLY AND DISABLED FARE ASSISTANCE | | | | | 99576 |
| | Of the foregoing appropriation item 775-451, Public | | | | | 99577 |
| | Transportation - State, up to \$6,000,000 in fiscal year 2006 and | | | | | 99578 |
| | \$7,000,000 in fiscal year 2007 may be used to make grants to | | | | | 99579 |

county transit boards, regional transit authorities, regional 99580
transit commissions, counties, municipal corporations, and private 99581
nonprofit organizations that operate or will operate public 99582
transportation systems, for the purpose of reducing the transit 99583
fares of elderly or disabled persons. The Director of 99584
Transportation shall establish criteria for the distribution of 99585
these grants under division (B) of section 5501.07 of the Revised 99586
Code. 99587

AVIATION LEASE PAYMENTS 99588

The foregoing appropriation item 777-473, Rickenbacker Lease 99589
Payments - State, shall be used to meet scheduled payments for the 99590
Rickenbacker Port Authority. The Director of Transportation shall 99591
certify to the Director of Budget and Management any 99592
appropriations in appropriation item 777-473, Rickenbacker Lease 99593
Payments - State, that are not needed to make lease payments for 99594
the Rickenbacker Port Authority. Notwithstanding section 127.14 of 99595
the Revised Code, the amount certified may be transferred by the 99596
Director of Budget and Management to appropriation item 777-471, 99597
Airport Improvements - State. 99598

RAIL TRANSLOAD FACILITIES 99599

The foregoing appropriation item 776-667, Rail Transload 99600
Facilities, shall be used to fund the Rail Transload Initiative, a 99601
statewide pilot program administered by the Ohio Rail Development 99602
Commission, to provide grants to assist communities and railroads 99603
and other businesses to develop facilities that will enhance the 99604
ability of railroads to work with other transport modes to move 99605
bulk commodities more efficiently and safely. 99606

Section 212.15. TOS TREASURER OF STATE 99607

General Revenue Fund 99608

GRF 090-321 Operating Expenses \$ 9,041,937 \$ 9,041,937 99609

| | | | | | | |
|--------------|----------------------------------|----|------------|----|------------|-------|
| GRF 090-401 | Office of the Sinking | \$ | 521,576 | \$ | 521,576 | 99610 |
| | Fund | | | | | 99611 |
| GRF 090-402 | Continuing Education | \$ | 435,770 | \$ | 435,770 | 99612 |
| GRF 090-524 | Police and Fire | \$ | 25,000 | \$ | 20,000 | 99613 |
| | Disability Pension | | | | | 99614 |
| | Fund | | | | | |
| GRF 090-534 | Police & Fire Ad Hoc | \$ | 180,000 | \$ | 150,000 | 99615 |
| | Cost | | | | | |
| | of Living | | | | | 99616 |
| GRF 090-554 | Police and Fire | \$ | 1,100,000 | \$ | 1,000,000 | 99617 |
| | Survivor | | | | | |
| | Benefits | | | | | 99618 |
| GRF 090-575 | Police and Fire Death | \$ | 20,000,000 | \$ | 20,000,000 | 99619 |
| | Benefits | | | | | 99620 |
| TOTAL GRF | General Revenue Fund | \$ | 31,304,283 | \$ | 31,169,283 | 99621 |
| | General Services Fund Group | | | | | 99622 |
| 4E9 090-603 | Securities Lending | \$ | 2,721,800 | \$ | 2,814,000 | 99623 |
| | Income | | | | | |
| 577 090-605 | Investment Pool | \$ | 550,000 | \$ | 550,000 | 99624 |
| | Reimbursement | | | | | 99625 |
| 605 090-609 | Treasurer of State | \$ | 700,000 | \$ | 700,000 | 99626 |
| | Administrative Fund | | | | | 99627 |
| TOTAL GSF | General Services | | | | | 99628 |
| | Fund Group | \$ | 3,971,800 | \$ | 4,064,000 | 99629 |
| | State Special Revenue Fund Group | | | | | 99630 |
| 5C5 090-602 | County Treasurer | \$ | 135,000 | \$ | 135,000 | 99631 |
| | Education | | | | | |
| TOTAL SSR | State Special Revenue | | | | | 99632 |
| | Fund Group | \$ | 135,000 | \$ | 135,000 | 99633 |
| | Agency Fund Group | | | | | 99634 |
| 425 090-635 | Tax Refunds | \$ | 31,000,000 | \$ | 31,000,000 | 99635 |
| TOTAL Agency | Fund Group | \$ | 31,000,000 | \$ | 31,000,000 | 99636 |

| | | | | |
|--|----|------------|---------------|-------|
| TAX REFUNDS | | | | 99669 |
| The foregoing appropriation item 090-635, Tax Refunds, shall | | | | 99670 |
| be used to pay refunds under section 5703.052 of the Revised Code. | | | | 99671 |
| If the Director of Budget and Management determines that | | | | 99672 |
| additional amounts are necessary for this purpose, such amounts | | | | 99673 |
| are hereby appropriated. | | | | 99674 |
| Section 212.18. UST PETROLEUM UNDERGROUND STORAGE TANK | | | | 99675 |
| Agency Fund Group | | | | 99676 |
| 691 810-632 PUSTRCB Staff | \$ | 1,075,158 | \$ 1,116,658 | 99677 |
| TOTAL AGY Agency Fund Group | \$ | 1,075,158 | \$ 1,116,658 | 99678 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 1,075,158 | \$ 1,116,658 | 99679 |
| Section 212.21. TTA OHIO TUITION TRUST AUTHORITY | | | | 99681 |
| State Special Revenue Fund Group | | | | 99682 |
| 5AM 095-603 Index Savings Plan | \$ | 2,866,240 | \$ 3,104,865 | 99683 |
| 5P3 095-602 Variable College | \$ | 2,042,486 | \$ 2,118,568 | 99684 |
| Savings Fund | | | | |
| 645 095-601 Operating Expenses | \$ | 807,260 | \$ 891,173 | 99685 |
| TOTAL SSR State Special Revenue | | | | 99686 |
| Fund Group | \$ | 5,715,986 | \$ 6,114,606 | 99687 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 5,715,986 | \$ 6,114,606 | 99688 |
| Section 212.24. OVH OHIO VETERANS' HOME | | | | 99690 |
| General Revenue Fund | | | | 99691 |
| GRF 430-100 Personal Services | \$ | 20,629,914 | \$ 21,030,031 | 99692 |
| GRF 430-200 Maintenance | \$ | 6,396,200 | \$ 6,396,200 | 99693 |
| TOTAL GRF General Revenue Fund | \$ | 27,026,114 | \$ 27,426,231 | 99694 |
| General Services Fund Group | | | | 99695 |
| 484 430-603 Rental and Service | \$ | 882,737 | \$ 882,737 | 99696 |
| Revenue | | | | |

| | | | | | |
|--|----|------------|----|------------|-------|
| TOTAL GSF General Services Fund | \$ | 882,737 | \$ | 882,737 | 99697 |
| Group | | | | | |
| Federal Special Revenue Fund Group | | | | | 99698 |
| 3L2 430-601 Federal VA Per Diem | \$ | 14,990,510 | \$ | 15,290,320 | 99699 |
| Grant | | | | | |
| TOTAL FED Federal Special Revenue | | | | | 99700 |
| Fund Group | \$ | 14,990,510 | \$ | 15,290,320 | 99701 |
| State Special Revenue Fund Group | | | | | 99702 |
| 4E2 430-602 Veterans Home | \$ | 8,322,731 | \$ | 8,530,800 | 99703 |
| Operating | | | | | |
| 604 430-604 Veterans Home | \$ | 770,096 | \$ | 770,096 | 99704 |
| Improvement | | | | | |
| TOTAL SSR State Special Revenue | | | | | 99705 |
| Fund Group | \$ | 9,092,827 | \$ | 9,300,896 | 99706 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 51,992,188 | \$ | 52,900,184 | 99707 |
| | | | | | |
| Section 212.27. VET VETERANS' ORGANIZATIONS | | | | | 99709 |
| General Revenue Fund | | | | | 99710 |
| VAP AMERICAN EX-PRISONERS OF WAR | | | | | 99711 |
| GRF 743-501 State Support | \$ | 25,030 | \$ | 25,030 | 99712 |
| VAN ARMY AND NAVY UNION, USA, INC. | | | | | 99713 |
| GRF 746-501 State Support | \$ | 55,012 | \$ | 55,012 | 99714 |
| VKW KOREAN WAR VETERANS | | | | | 99715 |
| GRF 747-501 State Support | \$ | 49,453 | \$ | 49,453 | 99716 |
| VJW JEWISH WAR VETERANS | | | | | 99717 |
| GRF 748-501 State Support | \$ | 29,715 | \$ | 29,715 | 99718 |
| VCW CATHOLIC WAR VETERANS | | | | | 99719 |
| GRF 749-501 State Support | \$ | 57,990 | \$ | 57,990 | 99720 |
| VPH MILITARY ORDER OF THE PURPLE HEART | | | | | 99721 |
| GRF 750-501 State Support | \$ | 56,377 | \$ | 56,377 | 99722 |
| VVV VIETNAM VETERANS OF AMERICA | | | | | 99723 |
| GRF 751-501 State Support | \$ | 185,954 | \$ | 185,954 | 99724 |

| | | | | |
|------------------------------|---|--------------|--------------|-------|
| | VAL AMERICAN LEGION OF OHIO | | | 99725 |
| GRF 752-501 | State Support | \$ 302,328 | \$ 302,328 | 99726 |
| | VII AMVETS | | | 99727 |
| GRF 753-501 | State Support | \$ 287,919 | \$ 287,919 | 99728 |
| | VAV DISABLED AMERICAN VETERANS | | | 99729 |
| GRF 754-501 | State Support | \$ 216,308 | \$ 216,308 | 99730 |
| | VMC MARINE CORPS LEAGUE | | | 99731 |
| GRF 756-501 | State Support | \$ 115,972 | \$ 115,972 | 99732 |
| | V37 37TH DIVISION AEF VETERANS' ASSOCIATION | | | 99733 |
| GRF 757-501 | State Support | \$ 5,946 | \$ 5,946 | 99734 |
| | VFW VETERANS OF FOREIGN WARS | | | 99735 |
| GRF 758-501 | State Support | \$ 246,615 | \$ 246,615 | 99736 |
| TOTAL GRF | General Revenue Fund | \$ 1,634,619 | \$ 1,634,619 | 99737 |
| TOTAL ALL BUDGET FUND GROUPS | | \$ 1,634,619 | \$ 1,634,619 | 99738 |
| | RELEASE OF FUNDS | | | 99739 |
| | The foregoing appropriation items 743-501, 746-501, 747-501, | | | 99740 |
| | 748-501, 749-501, 750-501, 751-501, 752-501, 753-501, 754-501, | | | 99741 |
| | 756-501, 757-501, and 758-501, State Support, shall be released | | | 99742 |
| | upon approval by the Director of Budget and Management. | | | 99743 |
| | CENTRAL OHIO UNITED SERVICES ORGANIZATION | | | 99744 |
| | Of the foregoing appropriation item 751-501, State Support, | | | 99745 |
| | Vietnam Veterans of America, \$50,000 in each fiscal year shall be | | | 99746 |
| | used to support the activities of the Central Ohio USO. | | | 99747 |
| | VAL AMERICAN LEGION OF OHIO | | | 99748 |
| | Of the foregoing appropriation item 752-501, State Support, | | | 99749 |
| | VAL American Legion, at least \$50,000 in each fiscal year shall be | | | 99750 |
| | used to fund service officer expenses. | | | 99751 |
| | VETERANS SERVICE COMMISSION EDUCATION | | | 99752 |
| | Of the foregoing appropriation item 753-501, State Support, | | | 99753 |
| | AMVETS, up to \$20,000 in each fiscal year may be used to provide | | | 99754 |
| | moneys to the Association of County Veterans Service Commissioners | | | 99755 |

to reimburse its member county veterans service commissions for 99756
costs incurred in carrying out educational and outreach duties 99757
required under divisions (E) and (F) of section 5901.03 of the 99758
Revised Code. Additionally, at least \$50,000 shall be used in each 99759
fiscal year to fund service officer expenses. The Director of 99760
Budget and Management shall release these funds upon the 99761
presentation of an itemized receipt, approved by the Governor's 99762
Office of Veterans Affairs, from the association for reasonable 99763
and appropriate expenses incurred while performing these duties. 99764
The association shall establish uniform procedures for reimbursing 99765
member commissions. 99766

VAV DISABLED AMERICAN VETERANS 99767

Of the foregoing appropriation item 754-501, State Support, 99768
VAV Disabled American Veterans, at least \$50,000 in each fiscal 99769
year shall be used to fund service officer expenses. 99770

VMC MARINE CORPS LEAGUE 99771

Of the foregoing appropriation item 756-501, State Support, 99772
VMC Marine Corps League, at least \$30,000 in each fiscal year 99773
shall be used to fund service officer expenses. 99774

VFW VETERANS OF FOREIGN WARS 99775

Of the foregoing appropriation item 758-501, State Support, 99776
VFW Veterans of Foreign Wars, at least \$50,000 in each fiscal year 99777
shall be used to fund service officer expenses. 99778

Section 212.30. DVM STATE VETERINARY MEDICAL BOARD 99779

General Services Fund Group 99780

| | | | | | |
|--------------------------------|----|---------|----|---|-------|
| 4K9 888-609 Operating Expenses | \$ | 293,691 | \$ | 0 | 99781 |
|--------------------------------|----|---------|----|---|-------|

| | | | | | |
|--------------------------------|----|--------|----|---|-------|
| 5BU 888-602 Veterinary Student | \$ | 60,000 | \$ | 0 | 99782 |
|--------------------------------|----|--------|----|---|-------|

Loan Program

TOTAL GSF General Services 99783

| | | | | | |
|------------|----|---------|----|---|-------|
| Fund Group | \$ | 353,691 | \$ | 0 | 99784 |
|------------|----|---------|----|---|-------|

| | | | | | |
|--|----|-------------|----|-------------|---|
| TOTAL ALL BUDGET FUND GROUPS | \$ | 353,691 | \$ | 0 | 99785 |
| CASH TRANSFER TO VETERINARY STUDENT LOAN PROGRAM FUND (FUND 5BU) | | | | | 99786 99787 |
| On July 1, 2005, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$60,000 in cash from the Occupational Licensing and Regulatory Fund (Fund 4K9) to the Veterinary Student Loan Program Fund (Fund 5BU), which is hereby created. The amount of the transfer is hereby appropriated. | | | | | 99788 99789 99790 99791 99792 |
| VETERINARY STUDENT LOAN PROGRAM | | | | | 99793 |
| The foregoing appropriation item 888-602, Veterinary Student Loan Program, shall be used by the Veterinary Medical Licensing Board to implement a student loan repayment program for veterinary students focusing on large animal populations, public health, or regulatory veterinary medicine. | | | | | 99794 99795 99796 99797 99798 |
| Section 212.33. DYS DEPARTMENT OF YOUTH SERVICES | | | | | 99799 |
| General Revenue Fund | | | | | 99800 |
| GRF 470-401 RECLAIM Ohio | \$ | 177,016,683 | \$ | 182,084,588 | 99801 |
| GRF 470-412 Lease Rental Payments | \$ | 20,267,500 | \$ | 21,882,700 | 99802 |
| GRF 470-510 Youth Services | \$ | 18,608,587 | \$ | 18,608,587 | 99803 |
| GRF 472-321 Parole Operations | \$ | 14,358,995 | \$ | 14,962,871 | 99804 |
| GRF 477-321 Administrative Operations | \$ | 14,239,494 | \$ | 14,754,420 | 99805 |
| TOTAL GRF General Revenue Fund | \$ | 244,491,259 | \$ | 252,293,166 | 99806 |
| General Services Fund Group | | | | | 99807 |
| 175 470-613 Education Reimbursement | \$ | 10,112,529 | \$ | 9,450,598 | 99808 |
| 4A2 470-602 Child Support | \$ | 320,641 | \$ | 328,657 | 99809 |
| 4G6 470-605 General Operational Funds | \$ | 10,000 | \$ | 10,000 | 99810 |
| 479 470-609 Employee Food Service | \$ | 141,466 | \$ | 137,666 | 99811 |

Am. Sub. H. B. No. 66
As Reported by the Committee of Conference, Part I

| | | | | | | | |
|------------------------------------|---------|---|----|------------|----|------------|-------|
| 523 | 470-621 | Wellness Program | \$ | 46,937 | \$ | 0 | 99812 |
| 6A5 | 470-616 | Building Demolition | \$ | 31,100 | \$ | 0 | 99813 |
| TOTAL GSF General Services | | | | | | | 99814 |
| Fund Group | | | \$ | 10,662,673 | \$ | 9,926,921 | 99815 |
| Federal Special Revenue Fund Group | | | | | | | 99816 |
| 3V5 | 470-604 | Juvenile Justice/Delinquency Prevention | \$ | 4,254,745 | \$ | 4,254,746 | 99817 |
| 3W0 | 470-611 | Federal Juvenile Programs FFY 02 | \$ | 222,507 | \$ | 0 | 99818 |
| 3Z8 | 470-625 | Federal Juvenile Programs FFY 04 | \$ | 1,500,001 | \$ | 773,812 | 99819 |
| 3Z9 | 470-626 | Federal Juvenile Programs FFY 05 | \$ | 465,000 | \$ | 0 | 99820 |
| 321 | 470-601 | Education | \$ | 1,422,580 | \$ | 1,465,399 | 99821 |
| 321 | 470-603 | Juvenile Justice Prevention | \$ | 1,981,169 | \$ | 2,006,505 | 99822 |
| 321 | 470-606 | Nutrition | \$ | 2,471,550 | \$ | 2,470,655 | 99823 |
| 321 | 470-614 | Title IV-E Reimbursements | \$ | 4,960,589 | \$ | 6,012,361 | 99824 |
| 321 | 470-617 | Americorps Programs | \$ | 456,000 | \$ | 463,700 | 99825 |
| TOTAL FED Federal Special Revenue | | | | | | | 99826 |
| Fund Group | | | \$ | 17,734,141 | \$ | 17,447,178 | 99827 |
| State Special Revenue Fund Group | | | | | | | 99828 |
| 147 | 470-612 | Vocational Education | \$ | 1,937,784 | \$ | 2,009,866 | 99829 |
| 4W3 | 470-618 | Help Me Grow | \$ | 11,000 | \$ | 11,000 | 99830 |
| 5BH | 470-628 | Partnerships for Success | \$ | 1,500,000 | \$ | 1,500,000 | 99831 |
| TOTAL SSR State Special Revenue | | | | | | | 99832 |
| Fund Group | | | \$ | 3,448,784 | \$ | 3,520,866 | 99833 |
| TOTAL ALL BUDGET FUND GROUPS | | | | | | | 99834 |
| RECLAIM OHIO | | | | | | | 99835 |

Of the foregoing appropriation item 470-401, RECLAIM Ohio, 99836
\$25,000 in each fiscal year shall be distributed directly to the 99837
Lighthouse Youth Services Wrap-Around Program. 99838

OHIO BUILDING AUTHORITY LEASE PAYMENTS 99839

The foregoing appropriation item 470-412, Lease Rental 99840
Payments, in the Department of Youth Services, shall be used for 99841
payments to the Ohio Building Authority for the period from July 99842
1, 2005, to June 30, 2007, under the primary leases and agreements 99843
for facilities made under Chapter 152. of the Revised Code, but 99844
limited to the aggregate amount of \$42,150,200. This appropriation 99845
is the source of funds pledged for bond service charges on related 99846
obligations issued pursuant to Chapter 152. of the Revised Code. 99847

EDUCATION REIMBURSEMENT 99848

The foregoing appropriation item 470-613, Education 99849
Reimbursement, shall be used to fund the operating expenses of 99850
providing educational services to youth supervised by the 99851
Department of Youth Services. Operating expenses include, but are 99852
not limited to, teachers' salaries, maintenance costs, and 99853
educational equipment. This appropriation item may be used for 99854
capital expenses related to the education program. 99855

EMPLOYEE FOOD SERVICE AND EQUIPMENT 99856

Notwithstanding section 125.14 of the Revised Code, the 99857
foregoing appropriation item 470-609, Employee Food Service, may 99858
be used to purchase any food operational items with funds received 99859
into the fund from reimbursement for state surplus property. 99860

PARTNERSHIPS FOR SUCCESS 99861

In fiscal year 2006, the foregoing appropriation item 99862
470-628, Partnerships for Success, shall be used to support the 99863
Partnerships for Success Project. On or before January 1, 2007, 99864
the Director of Budget and Management shall transfer any amount of 99865

cash that remains unspent in the Partnerships for Success Fund 99866
(Fund 5BH) to the Children's Trust Fund (Fund 198). 99867

FEDERAL JUVENILE JUSTICE PROGRAM TRANSFER FROM THE OFFICE OF 99868
CRIMINAL JUSTICE SERVICES TO THE DEPARTMENT OF YOUTH SERVICES 99869

Any business relating to the funds associated with the Office 99870
of Criminal Justice Services' appropriation item 196-602, Criminal 99871
Justice Federal Programs, commenced but not completed by the 99872
Office of Criminal Justice Services or its director shall be 99873
completed by the Department of Youth Services or its director in 99874
the same manner, and with the same effect, as if completed by the 99875
Office of Criminal Justice Services or its director. No 99876
validation, cure, right, privilege, remedy, obligation, or 99877
liability is lost or impaired by reason of the transfer and shall 99878
be administered by the Department of Youth Services. 99879

Any action or proceeding against the Office of Criminal 99880
Justice Services pending on the effective date of this section 99881
shall not be affected by the transfer of responsibility to the 99882
Department of Youth Services, and shall be prosecuted or defended 99883
in the name of the Department of Youth Services or its director. 99884
In all such actions and proceedings, the Department of Youth 99885
Services or its director upon application of the court shall be 99886
substituted as party. 99887

Section 303.03. EXPENDITURES AND APPROPRIATION INCREASES 99888
APPROVED BY THE CONTROLLING BOARD 99889

Any money that the Controlling Board approves for expenditure 99890
or any increase in appropriation authority that the Controlling 99891
Board approves under sections 127.14, 131.35, and 131.39 of the 99892
Revised Code or any other provision of law is hereby appropriated 99893
for the period ending June 30, 2007. 99894

Section 303.06. PERSONAL SERVICE EXPENSES 99895

Unless otherwise prohibited by law, any appropriation from 99896
which personal service expenses are paid shall bear the employer's 99897
share of public employees' retirement, workers' compensation, 99898
disabled workers' relief, and all group insurance programs; the 99899
costs of centralized accounting, centralized payroll processing, 99900
and related personnel reports and services; the cost of the Office 99901
of Collective Bargaining; the cost of the Personnel Board of 99902
Review; the cost of the Employee Assistance Program; the cost of 99903
the affirmative action and equal employment opportunity programs 99904
administered by the Department of Administrative Services; the 99905
costs of interagency information management infrastructure; and 99906
the cost of administering the state employee merit system as 99907
required by section 124.07 of the Revised Code. These costs shall 99908
be determined in conformity with the appropriate sections of law 99909
and paid in accordance with procedures specified by the Office of 99910
Budget and Management. Expenditures from appropriation item 99911
070-601, Public Audit Expense - Local Government, in Fund 422 may 99912
be exempted from the requirements of this section. 99913

Section 303.09. RE-ISSUANCE OF VOIDED WARRANTS 99914

In order to provide funds for the reissuance of voided 99915
warrants under section 117.47 of the Revised Code, there is hereby 99916
appropriated, out of moneys in the state treasury from the fund 99917
credited as provided in section 117.47 of the Revised Code, that 99918
amount sufficient to pay such warrants when approved by the Office 99919
of Budget and Management. 99920

Section 303.12. SATISFACTION OF JUDGMENTS AND SETTLEMENTS 99921
AGAINST THE STATE 99922

Except as otherwise provided in this section, an 99923
appropriation in this act or any other act may be used for the 99924
purpose of satisfying judgments, settlements, or administrative 99925

awards ordered or approved by the Court of Claims or by any other 99926
court of competent jurisdiction in connection with civil actions 99927
against the state. This authorization does not apply to 99928
appropriations to be applied to or used for payment of guarantees 99929
by or on behalf of the state, or for payments under lease 99930
agreements relating to, or debt service on, bonds, notes, or other 99931
obligations of the state. Notwithstanding any other statute to the 99932
contrary, this authorization includes appropriations from funds 99933
into which proceeds of direct obligations of the state are 99934
deposited only to the extent that the judgment, settlement, or 99935
administrative award is for, or represents, capital costs for 99936
which the appropriation may otherwise be used and is consistent 99937
with the purpose for which any related obligations were issued or 99938
entered into. Nothing contained in this section is intended to 99939
subject the state to suit in any forum in which it is not 99940
otherwise subject to suit, and is not intended to waive or 99941
compromise any defense or right available to the state in any suit 99942
against it. 99943

Section 303.13. CAPITAL PROJECT SETTLEMENTS 99944

This section specifies an additional and supplemental 99945
procedure to provide for payments of judgments and settlements if 99946
the Director of Budget and Management determines, pursuant to 99947
division (C)(4) of section 2743.19 of the Revised Code, that 99948
sufficient unencumbered moneys do not exist in the particular 99949
appropriation to pay the amount of a final judgment rendered 99950
against the state or a state agency, including the settlement of a 99951
claim approved by a court, in an action upon and arising out of a 99952
contractual obligation for the construction or improvement of a 99953
capital facility if the costs under the contract were payable in 99954
whole or in part from a state capital projects appropriation. In 99955
such a case, the director may either proceed pursuant to division 99956
(C)(4) of section 2743.19 of the Revised Code or apply to the 99957

Controlling Board to increase an appropriation or create an 99958
appropriation out of any unencumbered moneys in the state treasury 99959
to the credit of the capital projects fund from which the initial 99960
state appropriation was made. The Controlling Board may approve or 99961
disapprove the application as submitted or modified. The amount of 99962
an increase in appropriation or new appropriation specified in an 99963
application approved by the Controlling Board is hereby 99964
appropriated from the applicable capital projects fund and made 99965
available for the payment of the judgment or settlement. 99966

If the director does not make the application authorized by 99967
this section or the Controlling Board disapproves the application, 99968
and the director does not make application under division (C)(4) 99969
of section 2743.19 of the Revised Code, the director shall for the 99970
purpose of making that payment make a request to the General 99971
Assembly as provided for in division (C)(5) of that section. 99972

Section 303.18. INCOME TAX DISTRIBUTION TO COUNTIES 99973

There are hereby appropriated out of any moneys in the state 99974
treasury to the credit of the General Revenue Fund, which are not 99975
otherwise appropriated, funds sufficient to make any payment 99976
required by division (B)(2) of section 5747.03 of the Revised 99977
Code. 99978

Section 303.21. REAPPROPRIATION OF UNEXPENDED ENCUMBERED 99979
BALANCES OF OPERATING APPROPRIATIONS 99980

An unexpended balance of an operating appropriation or 99981
reappropriation that a state agency lawfully encumbered prior to 99982
the close of a fiscal year is reappropriated on the first day of 99983
July of the following fiscal year from the fund from which it was 99984
originally appropriated or reappropriated for the following period 99985
and shall remain available only for the purpose of discharging the 99986
encumbrance: 99987

(A) For an encumbrance for personal services, maintenance, equipment, or items for resale, other than an encumbrance for an item of special order manufacture not available on term contract or in the open market or for reclamation of land or oil and gas wells for a period of not more than five months from the end of the fiscal year;

(B) For an encumbrance for an item of special order manufacture not available on term contract or in the open market, for a period of not more than five months from the end of the fiscal year or, with the written approval of the Director of Budget and Management, for a period of not more than twelve months from the end of the fiscal year;

(C) For an encumbrance for reclamation of land or oil and gas wells, for a period ending when the encumbered appropriation is expended or for a period of two years, whichever is less;

(D) For an encumbrance for any other expense, for such period as the director approves, provided such period does not exceed two years.

Any operating appropriations for which unexpended balances are reappropriated beyond a five-month period from the end of the fiscal year by division (B) of this section shall be reported to the Controlling Board by the Director of Budget and Management by the thirty-first day of December of each year. The report on each such item shall include the item, the cost of the item, and the name of the vendor. The report shall be updated on a quarterly basis for encumbrances remaining open.

Upon the expiration of the reappropriation period set out in divisions (A), (B), (C), or (D) of this section, a reappropriation made by this section lapses, and the Director of Budget and Management shall cancel the encumbrance of the unexpended reappropriation not later than the end of the weekend following

the expiration of the reappropriation period. 100019

Notwithstanding the preceding paragraph, with the approval of 100020
the Director of Budget and Management, an unexpended balance of an 100021
encumbrance that was reappropriated on the first day of July by 100022
this section for a period specified in division (C) or (D) of this 100023
section and that remains encumbered at the close of the fiscal 100024
biennium is hereby reappropriated on the first day of July of the 100025
following fiscal biennium from the fund from which it was 100026
originally appropriated or reappropriated for the applicable 100027
period specified in division (C) or (D) of this section and shall 100028
remain available only for the purpose of discharging the 100029
encumbrance. 100030

The Director of Budget and Management may correct accounting 100031
errors committed by the staff of the Office of Budget and 100032
Management, such as re-establishing encumbrances or appropriations 100033
cancelled in error, during the cancellation of operating 100034
encumbrances in November and of non-operating encumbrances in 100035
December. 100036

If the Controlling Board approved a purchase, that approval 100037
remains in effect so long as the appropriation used to make that 100038
purchase remains encumbered. 100039

Section 306.03. UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS 100040

The maximum amounts that may be assessed against nuclear 100041
electric utilities under division (B)(2) of section 4937.05 of the 100042
Revised Code are as follows: 100043

| | FY 2006 | FY 2007 | |
|---------------------------------------|-----------|-----------|--------|
| Department of Agriculture | | | 100044 |
| Fund 4E4 Utility Radiological Safety | \$73,059 | \$73,059 | 100045 |
| Department of Health | | | 100046 |
| Fund 610 Radiation Emergency Response | \$850,000 | \$850,000 | 100047 |

| | | | |
|--|-------------|-------------|--------|
| Environmental Protection Agency | | | 100049 |
| Fund 644 ER Radiological Safety | \$286,114 | \$286,114 | 100050 |
| Emergency Management Agency | | | 100051 |
| Fund 657 Utility Radiological Safety | \$1,260,000 | \$1,260,000 | 100052 |
| | | | |
| Section 312.01. TRANSFERS OF FISCAL YEAR 2005 GENERAL REVENUE | | | 100053 |
| FUND ENDING BALANCES | | | 100054 |
| | | | |
| Notwithstanding divisions (B)(1)(b), (B)(2), and (C) of | | | 100055 |
| section 131.44 of the Revised Code, fiscal year 2005 surplus | | | 100056 |
| revenue shall be distributed as follows: | | | 100057 |
| | | | |
| (A) The first \$60,000,000 of such surplus revenue shall be | | | 100058 |
| transferred to Fund 5AX, Public Assistance Reconciliation Fund, to | | | 100059 |
| pay a portion of the remaining state TANF liability to the federal | | | 100060 |
| government. | | | 100061 |
| | | | |
| (B) The next \$40,000,000 of such surplus revenue shall be | | | 100062 |
| transferred to the Disaster Services Fund (5E2), which is hereby | | | 100063 |
| created in the state treasury. | | | 100064 |
| | | | |
| (C) The next \$50,000,000 of such surplus revenue shall be | | | 100065 |
| transferred to Fund 021, the Public School Building Fund. | | | 100066 |
| | | | |
| (D) Any surplus revenue in excess of the amounts distributed | | | 100067 |
| under divisions (A) to (C) of this section shall be transferred to | | | 100068 |
| the Budget Stabilization Fund. | | | 100069 |
| | | | |
| Section 312.03. TRANSFERS TO THE GENERAL REVENUE FUND FROM | | | 100070 |
| NON-FEDERAL NON-GRF FUNDS | | | 100071 |
| | | | |
| Notwithstanding any other provision of law to the contrary, | | | 100072 |
| during fiscal years 2006 and 2007, the Director of Budget and | | | 100073 |
| Management is hereby authorized to transfer cash from non-federal, | | | 100074 |
| non-General Revenue Fund funds that are not constitutionally | | | 100075 |
| restricted to the General Revenue Fund. The total amount of cash | | | 100076 |
| transfers made pursuant to this section to the General Revenue | | | 100077 |
| Fund during fiscal years 2006 and 2007 shall not exceed | | | 100078 |

\$60,000,000. 100079

Section 312.06. TRANSFERS TO THE GENERAL REVENUE FUND OF 100080
INTEREST EARNED 100081

Notwithstanding any provision of Ohio law to the contrary, 100082
the Director of Budget and Management, through June 30, 2007, may 100083
transfer interest earned by any fund in the Central Accounting 100084
System to the General Revenue Fund. This section does not apply to 100085
funds whose source of revenue is restricted or protected by the 100086
Constitution of this state, federal tax law, or the "Cash 100087
Management Improvement Act of 1990" 104 Stat. 1058 (1990), 31 100088
U.S.C. 6501, et. seq., as amended. 100089

Section 312.09. BUDGET STABILIZATION FUND TRANSFERS 100090

(A) Notwithstanding any provision of law to the contrary, 100091
through June 30, 2006, if the Director of Budget and Management 100092
determines that the estimated ending fund balance of the General 100093
Revenue Fund will be greater than the amounts assumed in this act 100094
for fiscal year 2006, the Director shall transfer at least 100095
\$50,000,000 at the end of fiscal year 2006 to the Budget 100096
Stabilization Fund, if available unobligated balances exist. This 100097
division does not apply to division (A) of Section 206.66.21, TANF 100098
TRANSFERS, of this act. 100099

(B) Notwithstanding any provision of law to the contrary, 100100
through June 30, 2007, if the Director of Budget and Management 100101
determines that the estimated ending fund balance of the General 100102
Revenue Fund will be greater than the amounts assumed in this act 100103
for fiscal year 2007, the Director may transfer up to the excess 100104
balance to the Budget Stabilization Fund. This division does not 100105
apply to division (A) of Section 206.66.21, TANF TRANSFERS, of 100106
this act. 100107

(C) Notwithstanding any provision of law to the contrary, 100108

through June 30, 2007, if the Director of Budget and Management 100109
determines that state revenue receipts and available fund balances 100110
in any fund other than the General Revenue Fund exceed estimated 100111
state expenditures, the Director may transfer up to the excess 100112
revenue to the Budget Stabilization Fund. This division does not 100113
apply to revenue restricted or protected by the Ohio Constitution, 100114
federal tax law or grant requirements, or the "Cash Management 100115
Improvement Act of 1990," 104 Stat. 1058 (1990), 31 U.S.C. 6501, 100116
et seq., as amended. 100117

(D) In executing division (A) of this section and divisions 100118
(A) and (B) of Section 206.66.21, TANF TRANSFERS, it is intended 100119
that these divisions be applied and construed so that both of the 100120
transfers authorized under these divisions may be made through 100121
June 30, 2007. 100122

(E) After making the transfers described in divisions (A) to 100123
(C) of this section, the Director of Budget and Management shall 100124
submit a report to the President of the Senate and the Speaker of 100125
the House of Representatives. 100126

Section 312.10. TAX REFORM SYSTEM IMPLEMENTATION FUND 100127
TRANSFERS TO TAX AMNESTY PROGRAM 100128

Notwithstanding any provision of law to the contrary, prior 100129
to June 30, 2006, the Director of Budget and Management shall 100130
transfer \$2,000,000 in cash from the Tax Reform System 100131
Implementation Fund (Fund 228) to the Tax Amnesty Promotion and 100132
Administration Fund (Fund 5BW), which is hereby created in the 100133
State Treasury. The funds shall be used to pay expenses incurred 100134
in promoting and administering the tax amnesty program run by the 100135
Department of Taxation. 100136

After receiving the revenue receipts from the tax amnesty 100137
program, the Director of Budget and Management shall transfer the 100138
first \$2,000,000 to the Tax Reform System Implementation Fund, the 100139

next \$10,000,000 to the General Revenue Fund, and the remaining 100140
excess fund balance to the Budget Stabilization Fund. 100141

Section 312.12. GRF TRANSFER TO FUND 5N4, OAKS PROJECT 100142
IMPLEMENTATION 100143

On July 1, 2005, or as soon thereafter as possible, the 100144
Director of Budget and Management shall transfer an amount not to 100145
exceed \$675,000 in cash from the General Revenue Fund to Fund 5N4, 100146
OAKS Project Implementation. On July 1, 2006, or as soon 100147
thereafter as possible, the Director of Budget and Management 100148
shall transfer an amount not to exceed \$675,000 in cash from the 100149
General Revenue Fund to Fund 5N4, OAKS Project Implementation. 100150

Section 312.15. CORPORATE AND UCC FILING FUND TRANSFER TO GRF 100151
Not later than the first day of June in each year of the 100152
biennium, the Director of Budget and Management shall transfer 100153
\$1,000,000 from the Corporate and Uniform Commercial Code Filing 100154
Fund to the General Revenue Fund. 100155

Section 312.18. GRF TRANSFER TO THE NATIONAL GUARD 100156
SCHOLARSHIP RESERVE FUND 100157

On July 1, 2005, or as soon as possible thereafter, the 100158
Director of Budget and Management shall transfer up to \$592,000 100159
cash from the General Revenue Fund to the National Guard 100160
Scholarship Reserve Fund (Fund 5BM). 100161

Section 312.19. GRF TRANSFER TO THE PUBLIC SCHOOL BUILDING 100162
FUND 100163

In fiscal year 2006, the Director of Budget and Management 100164
shall transfer \$30,000,000 in cash from the General Revenue Fund 100165
to Fund 021, the Public School Building Fund. 100166

Section 312.21. APPROPRIATIONS RELATED TO CASH TRANSFERS AND 100167
RE-ESTABLISHMENT OF ENCUMBRANCES 100168

Any cash transferred by the Director of Budget and Management 100169
under section 126.15 of the Revised Code is hereby appropriated. 100170
Any amounts necessary to re-establish appropriations or 100171
encumbrances under section 126.15 of the Revised Code are hereby 100172
appropriated. 100173

Section 312.24. TRANSFERS FROM THE TOBACCO MASTER SETTLEMENT 100174
AGREEMENT FUND 100175

(A) Notwithstanding section 183.02 of the Revised Code, on 100176
July 1, 2005, or as soon as possible thereafter, the Director of 100177
Budget and Management shall transfer from the Tobacco Master 100178
Settlement Agreement Fund (Fund 087) \$5,000,000 cash to the 100179
General Revenue Fund, up to \$5,000,000 cash to the Healthy Ohioans 100180
Initiative Fund (Fund 5BL in the Department of Health), \$6,000,000 100181
cash to the Children's Hospitals Fund (Fund 5CR in the Department 100182
of Job and Family Services), and \$10,000,000 cash to the Lung 100183
Cancer and Lung Disease Research Fund (Fund 5CY in the Department 100184
of Development). Of the tobacco revenue that is credited to the 100185
Tobacco Master Settlement Agreement Fund (Fund 087) in fiscal year 100186
2005, the share that is determined pursuant to section 183.02 of 100187
the Revised Code to be the amount transferred by the Director of 100188
Budget and Management from the Tobacco Master Settlement Agreement 100189
Fund (Fund 087) to the Tobacco Use Prevention and Cessation Trust 100190
Fund (Fund H87) shall be reduced by the amount that is transferred 100191
from the Tobacco Master Settlement Agreement Fund (Fund 087) to 100192
various funds pursuant to this division. 100193

(B) Notwithstanding section 183.02 of the Revised Code, on 100194
July 1, 2006, or as soon as possible thereafter, the Director of 100195
Budget and Management shall transfer from the Tobacco Master 100196

Settlement Agreement Fund (Fund 087) \$6,000,000 cash to the 100197
Children's Hospitals Fund (Fund 5CR in the Department of Job and 100198
Family Services). Of the tobacco revenue that is credited to the 100199
Tobacco Master Settlement Agreement Fund (Fund 087) in fiscal year 100200
2006, the share that is determined pursuant to section 183.02 of 100201
the Revised Code to be the amount transferred by the Director of 100202
Budget and Management from the Tobacco Master Settlement Agreement 100203
Fund (Fund 087) to the Tobacco Use Prevention and Cessation Trust 100204
Fund (Fund H87) shall be reduced by the amount that is transferred 100205
from the Tobacco Master Settlement Agreement Fund (Fund 087) 100206
pursuant to this division. 100207

(C) Notwithstanding section 183.02 of the Revised Code, on 100208
July 1, 2006, or as soon as possible thereafter, the Director of 100209
Budget and Management shall transfer \$800,000 cash from the 100210
Tobacco Master Settlement Agreement Fund (Fund 087) to the General 100211
Revenue Fund. Of the tobacco revenue that is credited to the 100212
Tobacco Master Settlement Agreement Fund (Fund 087) in fiscal year 100213
2006, the share that is determined pursuant to section 183.02 of 100214
the Revised Code to be the amount transferred by the Director of 100215
Budget and Management from the Tobacco Master Settlement Agreement 100216
Fund (Fund 087) to the Ohio's Public Health Priorities Trust Fund 100217
(Fund L87) shall be reduced by the amount that is transferred from 100218
the Tobacco Master Settlement Agreement Fund (Fund 087) to the 100219
General Revenue Fund under this division. 100220

Section 312.27. TRANSFERS TO THE EDUCATION FACILITIES TRUST 100221
FUND 100222

Notwithstanding section 183.02 of the Revised Code, after all 100223
transfers from the Tobacco Master Settlement Agreement Fund (Fund 100224
087) to various other funds of cash that would have otherwise been 100225
transferred to the Tobacco Use Prevention and Cessation Trust Fund 100226
(Fund H87) in fiscal year 2006 have been made, the Director of 100227

Budget and Management shall transfer the remaining balance of the 100228
funds that would otherwise be transferred to the Tobacco Use 100229
Prevention and Cessation Trust Fund in fiscal year 2006 to the 100230
Education Facilities Trust Fund (Fund N87). 100231

Notwithstanding section 183.02 of the Revised Code, after all 100232
transfers from the Tobacco Master Settlement Agreement Fund (Fund 100233
087) to various other funds of cash that would have otherwise been 100234
transferred to the Tobacco Use Prevention and Cessation Trust Fund 100235
(Fund H87) in fiscal year 2007 have been made, the Director of 100236
Budget and Management shall transfer the remaining balance of the 100237
funds that would otherwise be transferred to the Tobacco Use 100238
Prevention and Cessation Trust Fund in fiscal year 2007 to the 100239
Education Facilities Trust Fund (Fund N87). 100240

Section 315.03. CONSOLIDATION OF REGULATORY BOARDS 100241

(A) It is the intent of the General Assembly to consolidate 100242
the following health-related regulatory boards within the 100243
Department of Health not later than July 1, 2006: 100244

(1) The Chemical Dependency Professionals Board; 100245

(2) The Board of Chiropractic Examiners; 100246

(3) The Counselor, Social Worker, and Marriage and Family 100247
Therapist Board; 100248

(4) The Ohio Board of Dietetics; 100249

(5) The Ohio Occupational Therapy, Physical Therapy, and 100250
Athletic Trainers Board; 100251

(6) The Ohio Optical Dispensers Board; 100252

(7) The State Board of Optometry; 100253

(8) The State Board of Orthotics, Prosthetics, and 100254
Pedorthics; 100255

(9) The State Board of Psychology; 100256

| | |
|--|--------|
| (10) The Ohio Respiratory Care Board; | 100257 |
| (11) The Board of Speech-Language Pathology and Audiology; | 100258 |
| (12) The State Veterinary Medical Licensing Board. | 100259 |
| (B) It is the intent of the General Assembly to consolidate | 100260 |
| the following regulatory boards and commissions within the | 100261 |
| Department of Commerce not later than July 1, 2006: | 100262 |
| (1) The Ohio Athletic Commission; | 100263 |
| (2) The Barber Board; | 100264 |
| (3) The State Board of Cosmetology; | 100265 |
| (4) The Board of Embalmers and Funeral Directors; | 100266 |
| (5) The Manufactured Homes Commission; | 100267 |
| (6) The Board of Motor Vehicle Collision Repair Registration; | 100268 |
| (7) The State Board of Sanitarian Registration. | 100269 |
| (C) It is the intent of the General Assembly to consolidate | 100270 |
| the Ohio Medical Transportation Board within the Department of | 100271 |
| Public Safety not later than July 1, 2006. | 100272 |
| (D) The Director of Budget and Management and the Directors | 100273 |
| of Administrative Services, Commerce, Health, and Public Safety | 100274 |
| shall appoint representatives to a transition team. In addition, | 100275 |
| the transition team shall include a total of three members | 100276 |
| representing the affected regulatory boards, to be selected by the | 100277 |
| executive directors of those boards. | 100278 |
| The transition team shall develop a plan to ensure the smooth | 100279 |
| and timely consolidation of the boards into the respective | 100280 |
| departments. The transition team shall address the details of the | 100281 |
| consolidations, identifying necessary statutory changes and | 100282 |
| working with the Office of Budget and Management to develop | 100283 |
| budgets for the respective departments and the consolidated boards | 100284 |
| and commissions. The transition team may recommend additional | 100285 |

regulatory boards or commissions to be consolidated and may 100286
recommend modifications to the planned consolidations. 100287

The transition team shall submit a report containing 100288
recommendations and the details for the consolidations not later 100289
than December 31, 2005, to the Governor, the Speaker of the House 100290
of Representatives, and the President of the Senate. The report 100291
and recommendations shall address the following issues, and may 100292
address additional issues: 100293

(1) The necessary levels of funding; 100294

(2) The savings projected as a result of the consolidations; 100295

(3) The consolidation of activities between each board or 100296
commission and the department providing centralized services, 100297
including the role of the members of the board or commission and 100298
the role of the department; 100299

(4) The staffing levels needed, whether employees must be 100300
retained, and whether any employees retained have civil service 100301
status; 100302

(5) The continuation of the standards and procedures of the 100303
board or commission; 100304

(6) The continuation of rules and whether any rules need to 100305
be amended as a result of the consolidations; 100306

(7) The transfer of assets, liabilities, and contractual 100307
obligations; 100308

(8) The transfer of records and other materials pertaining to 100309
the board or commission. 100310

(E) It is the intent of the General Assembly to introduce a 100311
bill in fiscal year 2006 that will include the necessary statutory 100312
changes to effect the consolidations and that will include revised 100313
appropriations for the departments and the consolidated boards and 100314
commissions for fiscal year 2007. 100315

Section 315.04. RECOMMENDATIONS FOR A STATE GOVERNMENT REORGANIZATION PLAN 100316
100317

Within thirty days after the effective date of this section, 100318
the Department of Administrative Services shall begin developing 100319
recommendations for a state government reorganization plan focused 100320
on increased efficiencies in the operation of state government and 100321
a reduced number of state agencies. The Department shall present 100322
its recommendations to the Speaker of the House of 100323
Representatives, the President of the Senate, the Minority Leader 100324
of the House of Representatives, and the Minority Leader of the 100325
Senate by not later than January 1, 2007. 100326

Section 315.06. CAREER-TECHNICAL SCHOOL BUILDING ASSISTANCE PROGRAM 100327
100328

All materials, assets, liabilities, and records of the 100329
Department of Education, irrespective of form or medium, deemed 100330
necessary by the Ohio School Facilities Commission to implement 100331
sections 3318.47, 3318.48, and 3318.49 of the Revised Code shall 100332
be transferred to the Commission not later than one hundred twenty 100333
days after the effective date of this section, in accordance with 100334
a transition plan which shall be developed and approved by the 100335
Commission in consultation with the Department. 100336

All current and pending loans and appropriations, 100337
encumbrances, and funds related to the Career-Technical School 100338
Building Assistance Fund (Fund 020), deemed necessary by the 100339
Commission to implement section 3318.48 of the Revised Code, shall 100340
be transferred to the Commission not later than one hundred twenty 100341
days after the effective date of this section in accordance with 100342
the transition plan. 100343

Any business commenced but not completed by the Department on 100344
the effective date of this section relating to the implementation 100345

of section 3318.48 of the Revised Code and the functions 100346
transferred by this section shall continue to be administered by 100347
the Department for a period of one hundred twenty days after the 100348
effective date of this section or until the transition plan 100349
described in this section is approved by the Commission, whichever 100350
occurs first. The Department shall provide the Commission whatever 100351
administrative assistance the Commission requires during the 100352
period of transition, which assistance shall be specified in the 100353
transition plan described in this section. 100354

Wherever any law, contract, or other document refers to the 100355
Department, the State Board of Education, or the Superintendent of 100356
Public Instruction in regard to the implementation or 100357
administration of section 3318.48 of the Revised Code, the 100358
references shall be deemed to refer to the Commission or the 100359
Director of the Commission. No action or proceeding pending on the 100360
effective date of this section relating to the implementation or 100361
administration of Chapter 3318. of the Revised Code is affected by 100362
the transfer. In all such actions and proceedings, the Commission 100363
or the Director shall be substituted as a party upon application 100364
by the receiving entity to the court or other appropriate 100365
tribunal. 100366

Section 315.09. ELIMINATION OF THE OHIO EDUCATIONAL 100367
TELECOMMUNICATIONS NETWORK COMMISSION 100368

(A) Effective July 1, 2005, the Ohio Educational 100369
Telecommunications Network Commission is abolished and its 100370
functions, assets, and liabilities, including but not limited to 100371
vehicles and equipment assigned to employees of the Commission and 100372
records of the Commission regardless of form or medium, are 100373
transferred to the eTech Ohio Commission. The eTech Ohio 100374
Commission is thereupon and thereafter successor to, assumes the 100375
obligations of, and otherwise constitutes the continuation of the 100376

Ohio Educational Telecommunications Network Commission. The 100377
functions of the Executive Director of the Ohio Educational 100378
Telecommunications Network Commission are thereupon and thereafter 100379
transferred to the Executive Director of the eTech Ohio 100380
Commission. 100381

Any business commenced but not completed by the Ohio 100382
Educational Telecommunications Network Commission or the Executive 100383
Director of the Ohio Educational Telecommunications Network 100384
Commission on July 1, 2005, shall be completed by the eTech Ohio 100385
Commission or the Executive Director of the eTech Ohio Commission, 100386
respectively, in the same manner, and with the same effect, as if 100387
completed by the Ohio Educational Telecommunications Network 100388
Commission or the Executive Director of the Ohio Educational 100389
Telecommunications Network Commission. No validation, cure, right, 100390
privilege, remedy, obligation, or liability is lost or impaired by 100391
reason of the transfer required under this section and shall be 100392
administered by the eTech Ohio Commission. All of the Ohio 100393
Educational Telecommunications Network Commission's rules, orders, 100394
and determinations continue in effect as rules, orders, and 100395
determinations of the eTech Ohio Commission, until modified or 100396
rescinded by the eTech Ohio Commission. If necessary to ensure the 100397
integrity of the Administrative Code, the Director of the 100398
Legislative Service Commission shall renumber the Ohio Educational 100399
Telecommunications Network Commission's rules to reflect their 100400
transfer to the eTech Ohio Commission. 100401

(B) Employees of the Ohio Educational Telecommunications 100402
Network Commission shall be transferred to the eTech Ohio 100403
Commission or dismissed. Employees of the Ohio Educational 100404
Telecommunications Network Commission so dismissed cease to hold 100405
their positions of employment on July 1, 2005. 100406

(C) No judicial or administrative action or proceeding in 100407
which the Ohio Educational Telecommunications Network Commission 100408

or the Executive Director of the Commission is a party that is 100409
pending on July 1, 2005, is affected by the transfer of functions 100410
under division (A) of this section. Such action or proceeding 100411
shall be prosecuted or defended in the name of the eTech Ohio 100412
Commission. On application to the court or other tribunal, the 100413
eTech Ohio Commission shall be substituted for the Executive 100414
Director of the Ohio Educational Telecommunications Network or the 100415
Commission as a party to such action or proceeding. 100416

(D) On and after July 1, 2005, when the Ohio Educational 100417
Telecommunications Network Commission or the Executive Director of 100418
the Ohio Educational Telecommunications Network Commission is 100419
referred to in any statute, rule, contract, grant, or other 100420
document, the reference is hereby deemed to refer to the eTech 100421
Ohio Commission or the Executive Director of the eTech Ohio 100422
Commission, respectively. 100423

Section 315.10. ELIMINATION OF THE OHIO SCHOOLNET COMMISSION 100424

(A) Effective July 1, 2005, the Ohio SchoolNet Commission is 100425
abolished and its functions, assets, and liabilities, including, 100426
but not limited to, vehicles and equipment assigned to employees 100427
of the Commission and records of the Commission regardless of form 100428
or medium, are transferred to the eTech Ohio Commission. The eTech 100429
Ohio Commission is thereupon and thereafter successor to, assumes 100430
the obligations of, and otherwise constitutes the continuation of 100431
the Ohio SchoolNet Commission. The functions of the Executive 100432
Director of the Ohio SchoolNet Commission are thereupon and 100433
thereafter transferred to the Executive Director of the eTech Ohio 100434
Commission. 100435

Any business commenced but not completed by the Ohio 100436
SchoolNet Commission or the Executive Director of the Ohio 100437
SchoolNet Commission on July 1, 2005, shall be completed by the 100438
eTech Ohio Commission or the Executive Director of the eTech Ohio 100439

Commission, respectively, in the same manner, and with the same 100440
effect, as if completed by the Ohio SchoolNet Commission or the 100441
Executive Director of the Ohio SchoolNet Commission. No 100442
validation, cure, right, privilege, remedy, obligation, or 100443
liability is lost or impaired by reason of the transfer required 100444
under this section and shall be administered by the eTech Ohio 100445
Commission. All of the Ohio SchoolNet Commission's rules, orders, 100446
and determinations continue in effect as rules, orders, and 100447
determinations of the eTech Ohio Commission, until modified or 100448
rescinded by the eTech Ohio Commission. If necessary to ensure the 100449
integrity of the Administrative Code, the Director of the 100450
Legislative Service Commission shall renumber the Ohio SchoolNet 100451
Commission's rules to reflect their transfer to the eTech Ohio 100452
Commission. 100453

(B) Employees of the Ohio SchoolNet Commission shall be 100454
transferred to the eTech Ohio Commission or dismissed. Employees 100455
of the Ohio SchoolNet Commission so dismissed cease to hold their 100456
positions of employment on July 1, 2005. 100457

(C) No judicial or administrative action or proceeding in 100458
which the Ohio SchoolNet Commission or the Executive Director of 100459
the Commission is a party that is pending on July 1, 2005, is 100460
affected by the transfer of functions under division (A) of this 100461
section. Such action or proceeding shall be prosecuted or defended 100462
in the eTech Ohio Commission. On application to the court or other 100463
tribunal, the eTech Ohio Commission shall be substituted for the 100464
Executive Director of the Ohio SchoolNet Commission as a party to 100465
such action or proceeding. 100466

(D) On and after July 1, 2005, when the Ohio SchoolNet 100467
Commission or the Executive Director of the Ohio SchoolNet 100468
Commission is referred to in any statute, rule, contract, grant, 100469
or other document, the reference is hereby deemed to refer to the 100470
eTech Ohio Commission or the Executive Director of the eTech Ohio 100471

Commission, respectively. 100472

(E) If the Department of Education receives any expenditure 100473
and program reports for fiscal year 2005 for programs that were 100474
administered by the Ohio SchoolNet Commission during that fiscal 100475
year, the Department shall forward those reports to the eTech Ohio 100476
Commission by September 30, 2005. 100477

Section 315.11. TRANSFER OF FUNDS TO THE AGENCIES 100478

On and after July 1, 2005, notwithstanding any provision of 100479
law to the contrary, the Director of Budget and Management is 100480
authorized to take the actions described in this section with 100481
respect to budget changes made necessary by administrative 100482
reorganization, program transfers, the creation of new funds, and 100483
the consolidation of funds as authorized by this act. The Director 100484
may make any transfer of cash balances between funds. At the 100485
request of the Director, the Ohio Educational Telecommunications 100486
Network Commission and the Ohio SchoolNet Commission shall certify 100487
to the Director an estimate of the amount of the cash balance to 100488
be transferred to the receiving funds. The Director may transfer 100489
the estimated amount when needed to make payments. Not more than 100490
thirty days after certifying the estimated amount, the Commissions 100491
shall certify the final amount to the Director. The Director shall 100492
transfer the difference between any amount previously transferred 100493
and the certified final amount. The Director may cancel 100494
encumbrances and re-establish encumbrances or parts of 100495
encumbrances as needed in fiscal year 2006 in the appropriate 100496
funds and appropriation items for the same purposes. The 100497
appropriation authority necessary to re-establish such 100498
encumbrances in fiscal year 2006 as determined by the Director, in 100499
a different fund or appropriation item, within an agency or 100500
between agencies, is hereby appropriated. When re-established 100501
encumbrances or parts of re-established encumbrances are 100502

cancelled, the Director shall reduce the appropriations for these 100503
respective funds and appropriation items by the amount of the 100504
encumbrances cancelled. The amounts cancelled are hereby 100505
authorized. Any fiscal year 2005 unencumbered or unallotted 100506
appropriation balances may be transferred to the appropriate funds 100507
and appropriation items to be used for the same purposes, as 100508
determined by the Director. The amounts transferred are hereby 100509
appropriated. 100510

Section 316.03. (A) On July 1, 2005, or as soon as possible 100511
thereafter, the Speaker of the House of Representatives, the 100512
President of the Senate, and the Governor, with the advice and 100513
consent of the Senate, shall appoint members to the eTech Ohio 100514
Commission as required by section 3353.02 of the Revised Code, as 100515
enacted by this act. On July 1, 2005, or as soon as possible 100516
thereafter, the Governor shall appoint a chairperson of the 100517
Commission as required by section 3353.02 of the Revised Code. 100518
Notwithstanding division (F) of that section, the initial 100519
chairperson appointed by the Governor shall serve until July 1, 100520
2006, at which time the Governor shall appoint a chairperson in 100521
accordance with that section. 100522

(B) Notwithstanding section 3353.03 of the Revised Code, as 100523
enacted by this act, the Governor, with the advice and consent of 100524
the Senate, shall appoint an interim executive director of the 100525
Commission on July 1, 2005, or as soon as possible thereafter. The 100526
interim executive director shall serve for one year or until the 100527
Commission appoints an executive director pursuant to that 100528
section, whichever is earlier. The Governor shall fix the 100529
compensation of the interim executive director. The interim 100530
executive director shall exercise any authority provided by law to 100531
the executive director of the Commission or delegated to the 100532
interim executive director by the Commission. 100533

(C) Notwithstanding any provision of law to the contrary, the Director of Budget and Management, or the Director's designee, may do both of the following:

(1) Exercise any authority provided by law to the eTech Ohio Commission until Commission members hold their first meeting following their appointment under this section;

(2) Exercise any authority provided by law to the executive director of the Commission, or delegated to the Director of Budget and Management, or the Director's designee, by the Commission, until an interim executive director of the Commission is appointed under this section.

Section 318.03. GENERAL OBLIGATION DEBT SERVICE PAYMENTS

Certain appropriations are in this act for the purpose of paying debt service and financing costs on general obligation bonds or notes of the state issued pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

Section 318.06. LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF STATE

Certain appropriations are in this act for the purpose of making lease payments pursuant to leases and agreements relating to bonds or notes issued by the Ohio Building Authority or the Treasurer of State or, previously, by the Ohio Public Facilities Commission, pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

Section 318.09. AUTHORIZATION FOR TREASURER OF STATE AND OBM

TO EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS 100563

The Office of Budget and Management shall initiate and 100564
process disbursements from general obligation and lease rental 100565
payment appropriation items during the period from July 1, 2005, 100566
to June 30, 2007, relating to bonds or notes issued under Sections 100567
2i, 2k, 2l, 2m, 2n, 2o, and 15 of Article VIII, Ohio Constitution, 100568
and Chapters 151. and 154. of the Revised Code. Disbursements 100569
shall be made upon certification by the Treasurer of State of the 100570
dates and the amounts due on those dates. 100571

Section 318.12. ISSUANCE OF OBLIGATIONS BY THE OHIO COAL 100572
DEVELOPMENT OFFICE 100573

The Ohio Public Facilities Commission, upon the request of 100574
the Director of the Ohio Coal Development Office of the Ohio Air 100575
Quality Development Authority with the advice of the Technical 100576
Advisory Committee created in section 1551.35 of the Revised Code 100577
and the approval of the Executive Director of the Ohio Air Quality 100578
Development Authority, is hereby authorized to issue and sell, in 100579
accordance with Section 15 of Article VIII, Ohio Constitution, and 100580
Chapter 151. and particularly sections 151.01 and 151.07 of the 100581
Revised Code, bonds and other obligations of the State of Ohio in 100582
an aggregate principal amount not to exceed \$15,000,000 in 100583
addition to the issuance of obligations heretofore authorized by 100584
prior acts of the General Assembly. The obligations shall be 100585
dated, issued, and sold from time to time in such amounts as may 100586
be necessary to provide sufficient moneys to the credit of the 100587
Coal Research and Development Fund created in section 1555.15 of 100588
the Revised Code to pay costs charged to the fund when due. 100589

Section 321.03. STATE AND LOCAL REBATE AUTHORIZATION 100590

There is hereby appropriated, from those funds designated by 100591
or pursuant to the applicable proceedings authorizing the issuance 100592

of state obligations, amounts computed at the time to represent 100593
the portion of investment income to be rebated or amounts in lieu 100594
of or in addition to any rebate amount to be paid to the federal 100595
government in order to maintain the exclusion from gross income 100596
for federal income tax purposes of interest on those state 100597
obligations under section 148(f) of the Internal Revenue Code. 100598

Rebate payments shall be approved and vouchered by the Office 100599
of Budget and Management. 100600

Section 321.06. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT 100601

Pursuant to the plan for compliance with the Federal Cash 100602
Management Improvement Act required by section 131.36 of the 100603
Revised Code, the Director of Budget and Management may cancel and 100604
re-establish all or part of encumbrances in like amounts within 100605
the funds identified by the plan. The amounts necessary to 100606
re-establish all or part of encumbrances are hereby appropriated. 100607

Section 321.09. STATEWIDE INDIRECT COST RECOVERY 100608

Whenever the Director of Budget and Management determines 100609
that an appropriation made to a state agency from a fund of the 100610
state is insufficient to provide for the recovery of statewide 100611
indirect costs under section 126.12 of the Revised Code, the 100612
amount required for such purpose is hereby appropriated from the 100613
available receipts of such fund. 100614

Section 321.10. GRF TRANSFERS ON BEHALF OF THE STATEWIDE 100615
INDIRECT COST ALLOCATION PLAN 100616

The total transfers made from the General Revenue Fund by the 100617
Director of Budget and Management under this section shall not 100618
exceed the amounts transferred into the General Revenue Fund under 100619
division (B) of section 126.12 of the Revised Code. 100620

The director of an agency may certify to the Director of 100621

Budget and Management the amount of expenses not allowed to be 100622
included in the Statewide Indirect Cost Allocation Plan under 100623
federal regulations, from any fund included in the Statewide 100624
Indirect Cost Allocation Plan, prepared as required by section 100625
126.12 of the Revised Code. 100626

Upon determining that no alternative source of funding is 100627
available to pay for such expenses, the Director of Budget and 100628
Management may transfer from the General Revenue Fund into the 100629
fund for which the certification is made, up to the amount of the 100630
certification. The director of the agency receiving such funds 100631
shall include, as part of the next budget submission prepared 100632
under section 126.02 of the Revised Code, a request for funding 100633
for such activities from an alternative source such that further 100634
federal disallowances would not be required. 100635

Section 321.11. FEDERAL GOVERNMENT INTEREST REQUIREMENTS 100636

Notwithstanding any provision of law to the contrary, on or 100637
before the first day of September of each fiscal year, the 100638
Director of Budget and Management, in order to reduce the payment 100639
of adjustments to the federal government, as determined by the 100640
plan prepared under division (A) of section 126.12 of the Revised 100641
Code, may designate such funds as the director considers necessary 100642
to retain their own interest earnings. 100643

Section 401.05. That Sections 16.09, 19.01, 20.01, 22.03, 100644
22.04, 23.02, 23.12, 23.13, 23.19, 23.26, 23.45, and 24.01 of Am. 100645
Sub. H.B. 16 of the 126th General Assembly be amended to read as 100646
follows: 100647

Appropriations

Sec. 16.09. OSB SCHOOL FOR THE BLIND 100648
CAP-774 Glass Windows/E Wall of Natatorium \$ 63,726 100649

| | | | | |
|----------------------------|---|----|-----------|--------|
| CAP-775 | Renovation of Science Lab Greenhouse | \$ | 58,850 | 100650 |
| CAP-776 | Renovating Recreation Area | \$ | 213,900 | 100651 |
| CAP-777 | New Classrooms for Secondary MH Program | \$ | 880,407 | 100652 |
| CAP-778 | Renovation of Student Health Service Area | \$ | 144,375 | 100653 |
| CAP-779 | Replacement of Cottage Windows | \$ | 208,725 | 100654 |
| CAP- 780 | New School Lighting | \$ | 184,500 | 100655 |
| <u>782</u> | | | | |
| CAP-781 | Food Prep. Area Air Conditioning | \$ | 67,250 | 100656 |
| Total School for the Blind | | \$ | 1,821,733 | 100657 |

Sec. 19.01. All items set forth in this section are hereby 100658
appropriated out of any moneys in the state treasury to the credit 100659
of the Cultural and Sports Facilities Building Fund (Fund 030) 100660
that are not otherwise appropriated. 100661

Appropriations

| | | | | |
|------------------------------------|--|----|-----------|--------|
| AFC CULTURAL FACILITIES COMMISSION | | | | 100662 |
| CAP-010 | Sandusky State Theatre Improvements | \$ | 325,000 | 100663 |
| CAP-013 | Stambaugh Hall Improvements | \$ | 250,000 | 100664 |
| CAP-033 | Woodward Opera House Renovation | \$ | 100,000 | 100665 |
| CAP-038 | Center Exhibit Replacement | \$ | 816,000 | 100666 |
| CAP-043 | Statewide Site Repairs | \$ | 100,000 | 100667 |
| CAP-044 | National Underground Railroad Freedom Center | \$ | 4,150,000 | 100668 |
| CAP-046 | Cincinnati Museum Center Improvements | \$ | 250,000 | 100669 |
| CAP-052 | Akron Art Museum | \$ | 1,012,500 | 100670 |
| CAP-053 | Powers Auditorium Improvements - Eleanor Beecher Flad Pavilion | \$ | 250,000 | 100671 |
| CAP-065 | Beck Center for the Cultural Arts | \$ | 100,000 | 100672 |
| CAP-069 | Cleveland Institute of Art | \$ | 250,000 | 100673 |
| CAP-071 | Cleveland Institute of Music | \$ | 750,000 | 100674 |
| CAP-073 | Marina District/Ice Arena Development | \$ | 3,500,000 | 100675 |
| CAP-074 | Stan Hywet Hall & Gardens - West Vista | \$ | 750,000 | 100676 |

| | | | | |
|---------|--|----|--------------------------------------|--------|
| | Restoration | | | |
| CAP-745 | Emergency Repairs | \$ | 838,560 | 100677 |
| CAP-769 | Rankin House State Memorial | \$ | 192,000 | 100678 |
| CAP-781 | Archives and Library Automation | \$ | 624,000 | 100679 |
| CAP-784 | Center Rehabilitation | \$ | 960,000 | 100680 |
| CAP-806 | Grant Boyhood Home Improvements | \$ | 480,000 | 100681 |
| CAP-812 | Schuster Arts Center | \$ | 5,500,000 | 100682 |
| CAP-823 | Marion Palace Theatre | \$ | 750,000 | 100683 |
| CAP-826 | Renaissance Theatre | \$ | 750,000 | 100684 |
| CAP-834 | Galion Historic Big Four Depot | \$ | 170,000 | 100685 |
| | Restoration | | | |
| CAP-835 | Jamestown Opera House | \$ | 125,000 | 100686 |
| CAP-844 | Charles A. Eulett Education Center/Edge of Appalachia Museum Center | \$ | 1,850,000 | 100687 |
| CAP-845 | Lima Historic Athletic Field | \$ | 100,000 | 100688 |
| CAP-846 | Butler Palace Theatre | \$ | 100,000 <u>200,000</u> | 100689 |
| CAP-847 | Voice of America Museum | \$ | 275,000 | 100690 |
| CAP-848 | Oxford Arts Center ADA Project | \$ | 72,000 | 100691 |
| CAP-849 | Clark County Community Arts Expansion Project | \$ | 500,000 | 100692 |
| CAP-850 | Westcott House Historic Site | \$ | 75,000 | 100693 |
| CAP-851 | General Lytle Homestead - Harmony Hill | \$ | 50,000 | 100694 |
| CAP-852 | Miami Township Community Amphitheatre | \$ | 50,000 | 100695 |
| CAP-853 | Western Reserve Historical Society | \$ | 1,000,000 | 100696 |
| CAP-854 | Steamship Mather Museum | \$ | 100,000 | 100697 |
| CAP-855 | Rock and Roll Hall of Fame | \$ | 250,000 | 100698 |
| CAP-856 | Friendly Inn Settlement House Historic Site | \$ | 250,000 | 100699 |
| CAP-857 | Merrick House Historic Site | \$ | 250,000 | 100700 |
| CAP-858 | Strongsville Historic Building | \$ | 100,000 | 100701 |
| CAP-859 | Arts Castle | \$ | 100,000 | 100702 |
| CAP-860 | Great Lakes Historical Society | \$ | 325,000 | 100703 |

| | | | | |
|--------------------|---|---------------|-------------------|--------|
| CAP-861 | Ohio Glass Museum | \$ | 250,000 | 100704 |
| CAP-862 | Goll Wood Homestead | \$ | 50,000 | 100705 |
| CAP-863 | Ariel Theatre | \$ | 100,000 | 100706 |
| CAP-864 | Bellbrook/Sugarcreek Historical Society | \$ | 10,000 | 100707 |
| CAP-865 | Kennedy Stone House | \$ | 15,000 | 100708 |
| CAP-866 | Sports Facilities Improvements - Cincinnati | \$ | 4,350,000 | 100709 |
| CAP-867 | Ensemble Theatre | \$ | 450,000 | 100710 |
| CAP-868 | Taft Museum | \$ | 500,000 | 100711 |
| CAP-869 | Art Academy of Cincinnati | \$ | 100,000 | 100712 |
| CAP-870 | Riverbend Pavilion Improvements | \$ | 250,000 | 100713 |
| CAP-871 | Cincinnati Art & Technology Academy - Longworth Hall | \$ | 100,000 | 100714 |
| CAP-872 | Music Hall: Over-The-Rhine | \$ | 750,000 | 100715 |
| CAP-873 | John Bloomfield Home Restoration | \$ | 115,000 | 100716 |
| CAP-874 | Malinta Historical Society Caboose Exhibit | \$ | 6,000 | 100717 |
| CAP-875 | Hocking County Historical Society - Schempp House | \$ | 10,000 | 100718 |
| CAP-876 | Art Deco Markay Theater | \$ | 200,000 | 100719 |
| CAP-877 | Harvey Wells House | \$ | 100,000 | 100720 |
| CAP-878 | Bryn Du | \$ | 250,000 | 100721 |
| CAP-879 | Broad Street Historical Renovation | \$ | 300,000 | 100722 |
| CAP-880 | Amherst Historical Society | \$ | 35,000 | 100723 |
| CAP-881 | COSI - Toledo | \$ | 1,900,000 | 100724 |
| CAP-882 | Ohio Theatre - Toledo | \$ | 100,000 | 100725 |
| CAP-883 | Chester Academy Historic Site Renovations | \$ | 25,000 | 100726 |
| CAP-884 | Bradford Ohio Railroad Museum | \$ | 100,000 | 100727 |
| CAP-885 | Montgomery County Historical Society Archives | \$ | 100,000 | 100728 |
| CAP-886 | Nelson T. Gant Historic Homestead | \$ | 25,000 | 100729 |
| CAP-887 | Aurora Outdoor Sports Complex | \$ | 50,000 | 100730 |
| CAP-888 | Preble County Historical Society | \$ | 100,000 | 100731 |

| | | | | |
|--|--|---------------|-----------------------|--------|
| CAP-889 | Tecumseh Sugarloaf Mountain Amphitheatre | \$ | 120,000 | 100732 |
| CAP-890 | Pro Football Hall of Fame | \$ | 400,000 | 100733 |
| CAP-891 | MAPS Air Museum | \$ | 15,000 | 100734 |
| CAP-892 | Foundation Community Theatre <u>Theatre</u> | \$ | 50,000 | 100735 |
| CAP-893 | William McKinley Library Restoration | \$ | 250,000 | 100736 |
| CAP-894 | Hale Farm & Village | \$ | 250,000 | 100737 |
| CAP-895 | Blossom Music Center | \$ | 2,512,500 | 100738 |
| CAP-896 | Richard Howe House | \$ | 100,000 | 100739 |
| CAP-897 | Ward-Thomas Museum | \$ | 30,000 | 100740 |
| CAP-898 | Packard Music Hall Renovation Project | \$ | 100,000 | 100741 |
| CAP-899 | Holland Theatre | \$ | 100,000 | 100742 |
| CAP-900 | Van Wert Historical Society | \$ | 32,000 | 100743 |
| CAP-901 | Warren County Historical Society | \$ | 225,000 | 100744 |
| CAP-902 | Marietta Colony Theatre | \$ | 335,000 | 100745 |
| CAP-903 | West Salem Village Opera House | \$ | 92,000 | 100746 |
| CAP-904 | Beavercreek Community Theater | \$ | 100,000 | 100747 |
| CAP-905 | Smith Orr Homestead | \$ | 100,000 | 100748 |
| Total Cultural Facilities Commission | | \$ | 43,592,560 | 100749 |
| | | | <u>41,165,060</u> | |
| TOTAL Cultural and Sports Facilities Building Fund | | \$ | 43,592,560 | 100750 |
| | | | <u>41,165,060</u> | |

Sec. 20.01. All items set forth in this section are hereby 100752
appropriated out of any moneys in the state treasury to the credit 100753
of the Ohio Parks and Natural Resources Fund (Fund 031) that are 100754
not otherwise appropriated. 100755

Appropriations

| | | | | |
|---------|-------------------------------------|----|---------|--------|
| | DNR DEPARTMENT OF NATURAL RESOURCES | | | 100756 |
| | STATEWIDE AND LOCAL PROJECTS | | | 100757 |
| CAP-012 | Land Acquisition | \$ | 750,000 | 100758 |
| CAP-051 | Buck Creek State Park - Camp/Dock | \$ | 25,000 | 100759 |
| | Renovations | | | |
| CAP-060 | East Fork State Park Renovation | \$ | 50,000 | 100760 |

| | | | | |
|---|---|---------------|-----------------------|--------|
| CAP-068 | <u>Kennedy Stone House</u> | \$ | <u>15,000</u> | 100761 |
| CAP-080 | Atwood Lake Conservancy District | \$ | 75,000 | 100762 |
| CAP-083 | John Bryan State Park Shelter | \$ | 30,000 | 100763 |
| | Construction | | | |
| CAP-084 | Findley State Park General Improvements | \$ | 12,500 | 100764 |
| CAP-085 | The Wilds Carnivore Center | \$ | 1,000,000 | 100765 |
| CAP-086 | Scippo Creek Conservation | \$ | 75,000 | 100766 |
| CAP-087 | Belpre City Swimming Pool | \$ | 125,000 | 100767 |
| CAP-705 | Ohio-Erie Canal Tuscarawas River Logjam | \$ | 25,000 | 100768 |
| | Removal | | | |
| CAP-748 | Local Parks Projects - Statewide | \$ | 2,511,079 | 100769 |
| CAP-753 | Project Planning | \$ | 1,144,316 | 100770 |
| CAP-881 | Dam Rehabilitation | \$ | 5,000,000 | 100771 |
| CAP-931 | Wastewater/Water Systems Upgrades | \$ | 2,900,000 | 100772 |
| Total Statewide and Local Projects | | \$ | 13,722,895 | 100773 |
| | | | <u>12,737,895</u> | 100774 |
| Total Department of Natural Resources | | \$ | 13,722,895 | 100775 |
| | | | <u>12,737,895</u> | 100776 |
| TOTAL Ohio Parks and Natural Resources Fund | | \$ | 13,722,895 | 100777 |
| | | | <u>12,737,895</u> | 100778 |

Appropriations

| | | | | |
|---|--|---------------|----------------------|--------|
| Sec. 22.03. | DMH DEPARTMENT OF MENTAL HEALTH | | | 100780 |
| CAP-479 | Community Assistance Projects | \$ | 1,800,000 | 100781 |
| | | | <u>1,950,000</u> | |
| CAP-978 | Infrastructure Improvements | \$ | 8,050,000 | 100782 |
| CAP-989 | Cleveland Christian Home | \$ | 100,000 | 100783 |
| Total Department of Mental Health | | \$ | 9,950,000 | 100784 |
| | | | <u>10,000,000</u> | |
| COMMUNITY ASSISTANCE PROJECTS | | | | 100785 |
| Of the foregoing appropriation item CAP-479, Community | | | | 100786 |
| Assistance Projects, \$200,000 shall be used for the Center for | | | | 100787 |
| Families and Children, <u>\$100,000 shall be used for the Cleveland</u> | | | | 100788 |

Christian Home, and ~~\$100,000~~ \$150,000 shall be used for the Berea Children's Home.

Appropriations

| | | |
|--|---------------|--------|
| Sec. 22.04. DMR DEPARTMENT OF MENTAL RETARDATION AND | | 100791 |
| DEVELOPMENTAL DISABILITIES | | 100792 |
| STATEWIDE AND CENTRAL OFFICE PROJECTS | | 100793 |
| CAP-480 Community Assistance Projects | \$ 9,475,000 | 100794 |
| CAP-955 Statewide Development Centers | \$ 3,257,257 | 100795 |
| Total Statewide and Central Office Projects | \$ 12,732,257 | 100796 |
| TOTAL Department of Mental Retardation and | \$ 12,732,257 | 100797 |
| Developmental Disabilities | | |
| TOTAL MENTAL HEALTH FACILITIES IMPROVEMENT FUND | \$ 22,782,257 | 100798 |
| COMMUNITY ASSISTANCE PROJECTS | | 100799 |
| The foregoing appropriation item CAP-480, Community | | 100800 |
| Assistance Projects, may be used to provide community assistance | | 100801 |
| funds for the development, purchase, construction, or renovation | | 100802 |
| of facilities for day programs or residential programs that | | 100803 |
| provide services to persons eligible for services from the | | 100804 |
| Department of Mental Retardation and Developmental Disabilities or | | 100805 |
| county boards of mental retardation and developmental | | 100806 |
| disabilities. Any funds provided to nonprofit agencies for the | | 100807 |
| construction or renovation of facilities for persons eligible for | | 100808 |
| services from the Department of Mental Retardation and | | 100809 |
| Developmental Disabilities and county boards of mental retardation | | 100810 |
| and developmental disabilities shall be governed by the prevailing | | 100811 |
| wage provisions in section 176.05 of the Revised Code. | | 100812 |
| Of the foregoing appropriation item CAP-480, \$200,000 shall | | 100813 |
| be used for the Achievement Centers for Children+ <u>and</u> \$250,000 | | 100814 |
| shall be used for Bellefaire Jewish Children's Bureau+. | | 100815 |
| <u>Notwithstanding any other provision of law to the contrary,</u> | | 100816 |
| <u>of the foregoing appropriation item CAP-480, \$250,000 shall be</u> | | 100817 |

used for the Julie Billart facility+ and \$75,000 shall be used for 100818
the Hanson Home. 100819

Appropriations

Sec. 23.02. ~~OEB OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK~~ 100820
~~COMMISSION~~ ETC ETECH OHIO 100821
CAP-001 Educational TV and Radio Equipment \$ 1,027,038 100822
Total ~~Ohio Educational Telecommunications Network~~ \$ 1,027,038 100823
~~Commission~~ eTech Ohio

Appropriations

Sec. 23.12. CLS CLEVELAND STATE UNIVERSITY 100825
CAP-023 Basic Renovations \$ 3,267,875 100826
CAP-125 College of Education Building \$ 8,057,262 100827
~~CAP-130 WVIZ Technology Center/Playhouse Square~~ \$ ~~750,000~~ 100828
CAP-152 Rhodes Tower-Data Center Relocation \$ 1,000,000 100829
CAP-153 University Annex-Vacation and Demolition \$ 49,390 100830
CAP-154 Main Classroom Stair Tower & Entry \$ 1,500,000 100831
CAP-155 Cleveland Playhouse \$ 250,000 100832
CAP-156 Physical Education Building \$ 1,000,000 100833
Rehabilitation
Total Cleveland State University \$ ~~15,874,527~~ 100834
15,124,527

Appropriations

Sec. 23.13. KSU KENT STATE UNIVERSITY 100836
CAP-022 Basic Renovations \$ 3,573,078 100837
CAP-105 Basic Renovations-East Liverpool \$ 151,408 100838
CAP-106 Basic Renovations-Geauga \$ 45,607 100839
CAP-107 Basic Renovations-Salem \$ 105,640 100840
CAP-108 Basic Renovations-Stark \$ 325,358 100841
CAP-110 Basic Renovations-Ashtabula \$ 177,801 100842
CAP-111 Basic Renovations-Trumbull \$ 347,695 100843

| | | | | |
|-----------------------------|--|-----------|-----------------------|--------|
| CAP-112 | Basic Renovations-Tuscarawas | \$ | 171,699 | 100844 |
| CAP-212 | Health Science Building, Planning | \$ | 705,720 | 100845 |
| CAP-235 | Rehabilitation of Franklin Hall | \$ | 13,923,684 | 100846 |
| CAP-260 | Land Acquisitions & Improvements-East Liverpool | \$ | 638,419 | 100847 |
| CAP-261 | Addition/Renovation of Classrooms-Geauga | \$ | 246,878 | 100848 |
| CAP-262 | Gym Renovation Planning-Salem | \$ | 490,213 | 100849 |
| CAP-263 | Parking Lot & Roadway Paving-Stark | \$ | 162,076 | 100850 |
| CAP-264 | Fine Arts Building & New Campus Center-Stark | \$ | 1,000,000 | 100851 |
| CAP-265 | Science Lab Addition-Trumbull | \$ | 991,786 | 100852 |
| CAP-266 | Fine & Performing Arts Center - Tuscarawas | \$ | 844,655 | 100853 |
| CAP-267 | Columbiana County Port Authority | \$ | 875,000 | 100854 |
| CAP-268 | Canton Convention Center | \$ | 735,000 | 100855 |
| <u>CAP-269</u> | <u>Blossom Music Center</u> | <u>\$</u> | <u>2,512,500</u> | 100856 |
| Total Kent State University | | \$ | 25,511,717 | 100857 |
| | | | <u>28,024,217</u> | |

Sec. 23.19. WSU WRIGHT STATE UNIVERSITY 100859

| | | | | |
|-------------------------------|---|-----------|-----------------------|--------|
| CAP-015 | Basic Renovations | \$ | 2,752,255 | 100860 |
| CAP-064 | Basic Renovations - Lake | \$ | 91,232 | 100861 |
| CAP-115 | Russ Engineering Expansion | \$ | 369,000 | 100862 |
| CAP-116 | Rike Hall Renovation | \$ | 2,000,000 | 100863 |
| CAP-119 | Science Lab Renovations (Planning) | \$ | 5,720,940 | 100864 |
| CAP-120 | Lake Campus University Center | \$ | 1,420,709 | 100865 |
| CAP-127 | Rehabilitate Festival Playhouse | \$ | 1,000,000 | 100866 |
| CAP-128 | Glenn Helen Preserve Eco Art Classroom | \$ | 25,000 | 100867 |
| <u>CAP-132</u> | <u>Montgomery County Port Authority</u> | <u>\$</u> | <u>1,000,000</u> | 100868 |
| Total Wright State University | | \$ | 13,379,136 | 100869 |
| | | | <u>14,379,136</u> | 100870 |

MONTGOMERY COUNTY PORT AUTHORITY 100871

Appropriation item CAP-132, Montgomery County Port Authority, 100872

shall not be released unless the Controlling Board approves the 100873
release, and, within 90 days after the effective date of this 100874
amendment, Wright State University shall seek the Controlling 100875
Board's approval to release the funds appropriated to CAP-132, 100876
Montgomery County Port Authority. 100877

Sec. 23.26. CCC CUYAHOGA COMMUNITY COLLEGE 100878

| | | Appropriations | |
|----------------------------------|--|---|--------|
| CAP-031 | Basic Renovations | \$ 2,428,960 | 100879 |
| CAP-079 | Cleveland Art Museum Improvements | \$ 3,000,000 | 100880 |
| CAP-094 | Collegewide Wayfinding Signage System | \$ 1,067,510 | 100881 |
| CAP-095 | Collegewide Asset Protection and Building Codes Upgrade | \$ 1,491,522 | 100882 |
| CAP-096 | Health Care Technology Building - Eastern | \$ 6,050,264 | 100883 |
| <u>CAP-097</u> | <u>WVIZ Technology Center/Playhouse Square</u> | <u>\$ 750,000</u> | 100884 |
| Total Cuyahoga Community College | | \$ 14,038,256 <u>14,788,256</u> | 100885 |

Sec. 23.45. STC STARK TECHNICAL COLLEGE 100886

| | | | |
|--|--|---|--------|
| CAP-004 | Basic Renovations | \$ 438,295 | 100887 |
| CAP-035 | Business Technologies Addition Rehabilitation | \$ 1,378,892 | 100888 |
| CAP-037 | Fuel Cell Initiative | \$ 250,000 | 100889 |
| Total Stark Technical College | | \$ 2,067,187 | 100890 |
| Total Board of Regents and State Institutions of Higher Education | | | 100891 |
| | | \$ 488,343,998 <u>490,956,498</u> | 100892 |
| TOTAL Higher Education Improvement Fund | | \$ 489,371,036 <u>492,883,536</u> | 100893 |

Sec. 24.01. All items set forth in this section are hereby 100895
appropriated out of any moneys in the state treasury to the credit 100896

of the Parks and Recreation Improvement Fund (Fund 035) that are 100897
 not otherwise appropriated. 100898

Appropriations

| | | | |
|--------------------|---|---|------------------|
| | DNR DEPARTMENT OF NATURAL RESOURCES | | 100899 |
| CAP-004 | Burr Oak Lodge | \$ 150,000 | 100900 |
| CAP-012 | Land Acquisition | \$ 243,663 | 100901 |
| <u>CAP-085</u> | <u>The Wilds Carnivore Center</u> | <u>\$ 1,000,000</u> | 100902 |
| CAP-088 | Muskingum River Lock and Dam | \$ 250,000 | 100903 |
| <u>CAP-716</u> | | | 100904 |
| CAP-234 | State Park Campgrounds, Cabins, and Lodges | \$ 2,712,500 | 100905 |
| CAP-331 | Park Boating Facilities | \$ 7,588,383 | 100906 |
| CAP-701 | Buckeye Lake State Park - Dam Rehabilitation | \$ 4,000,000 | 100907 |
| CAP-718 | Grand Lake St. Mary's State Park Erosion Control Project | \$ 450,000 | 100908 |
| CAP-748 | Local Park Projects | \$ 2,715,000 | 100909 |
| CAP-753 | Project Planning | \$ 175,000 | 100910 |
| CAP-848 | Hazardous Dam Repair - Statewide | \$ 1,325,000 | 100911 |
| CAP-876 | Statewide Trails | \$ 1,101,500 <u>1,851,500</u> | 100912 |
| CAP-931 | Statewide Wastewater/Water Systems Upgrade | \$ 2,500,000 | 100913 |
| | Total Department of Natural Resources | \$ 23,211,046 <u>24,961,046</u> | 100914 100915 |
| | TOTAL Parks and Recreation Improvement Fund | \$ 23,211,046 <u>24,961,046</u> | 100916 100917 |
| | FEDERAL REIMBURSEMENT | | 100918 |
| | All reimbursements received from the federal government for | | 100919 |
| | any expenditures made pursuant to this section shall be deposited | | 100920 |
| | in the state treasury to the credit of the Parks and Recreation | | 100921 |
| | Improvement Fund (Fund 035). | | 100922 |

| | |
|--|--------|
| LOCAL PARKS PROJECTS | 100923 |
| Of the foregoing appropriation item CAP-748, Local Parks | 100924 |
| Projects, \$75,000 shall be used for the Springfield Arts Veterans' | 100925 |
| Park; \$50,000 shall be used for the Village of Bentleyville Park; | 100926 |
| \$25,000 shall be used for the Cleveland Police and Firefighters | 100927 |
| Memorial Park; \$100,000 shall be used for the Parma Heights | 100928 |
| Greenbriar Park; \$125,000 shall be used for the Fairborn Park | 100929 |
| Entrance Project; \$250,000 shall be used for the Greene County | 100930 |
| Soccer Park; \$750,000 shall be used for the Banks Park; \$400,000 | 100931 |
| shall be used for the Colerain Township Park Improvements; | 100932 |
| \$200,000 shall be used for the Colerain Township Heritage Park; | 100933 |
| \$75,000 shall be used for the London Park Project; \$50,000 shall | 100934 |
| be used for Somerset Park Improvements; \$50,000 shall be used for | 100935 |
| Meadowbrook Park; \$25,000 shall be used for Early Hill Park; | 100936 |
| \$25,000 shall be used for the Wright-Flyer Aviation Park; \$200,000 | 100937 |
| shall be used for Madison Township Park; \$10,000 shall be used for | 100938 |
| the Wellington Soccer Field Park; \$10,000 shall be used for the | 100939 |
| Greenwich Township Baseball Field Park Improvements; \$20,000 shall | 100940 |
| be used for the City of London Sports Park; \$25,000 shall be used | 100941 |
| for the Pleasant Hill Park Ball Field Project; and \$250,000 shall | 100942 |
| be used for the Education Gateway at Sippo Lake Park. | 100943 |
| STATEWIDE TRAILS PROGRAM | 100944 |
| Of the foregoing appropriation item CAP-876, Statewide | 100945 |
| Trails, \$85,000 shall be used for the Williamsburg-Batavia | 100946 |
| hike/bike trail; \$16,500 shall be used for the South Milford Road | 100947 |
| Bike Trail Project; \$125,000 shall be used for the Tri-County | 100948 |
| Triangle Trail in Fayette county; \$100,00 <u>\$100,000</u> shall be used | 100949 |
| for the Tri-County Triangle Trail in Highland County; \$125,000 | 100950 |
| shall be used for the Tri-County Triangle Trail in Ross county; | 100951 |
| \$550,000 shall be used for the Camp Chase Ohio to Erie Trail; and | 100952 |
| \$100,000 shall be used for the Holmes County Park District - Rails | 100953 |
| to Trails; and \$750,000 shall be used for the Little Miami Trail | 100954 |

through the Village of Terrace Park. The state funds for the 100955
 Little Miami Trail Project shall be used to undertake project work 100956
 that is eligible for reimbursement under the federal Land and 100957
 Water Conservation Fund and the Recreational Trails Program. The 100958
 federal reimbursement funds for the project work shall be credited 100959
 to the Parks and Recreation Improvement Fund (Fund 035). 100960

Section 401.06. That existing Sections 16.09, 19.01, 20.01, 100961
 22.03, 22.04, 23.02, 23.12, 23.13, 23.19, 23.26, 23.45, and 24.01 100962
 of Am. Sub. H.B. 16 of the 126th General Assembly are hereby 100963
 repealed. 100964

Section 401.07. That Section 3 of Am. H.B. 67 of the 126th 100965
 General Assembly be amended to read as follows: 100966

Sec. 3. All items in this section are hereby appropriated out 100967
 of any moneys in the state treasury to the credit of the 100968
 designated fund. For all appropriations made in this act, those in 100969
 the first column are for fiscal year 2006, and those in the second 100970
 column are for fiscal year 2007. 100971

| FND | AI | AI TITLE | Appropriations | | |
|-----|---------|-------------------------------------|----------------|----------------|--------|
| | | BWC BUREAU OF WORKERS' COMPENSATION | | | 100972 |
| | | Workers' Compensation Fund Group | | | 100973 |
| 023 | 855-401 | William Green Lease | \$ 19,736,600 | \$ 20,125,900 | 100974 |
| | | Payments to OBA | | | |
| 023 | 855-407 | Claims, Risk & Medical | \$ 140,052,037 | \$ 140,052,037 | 100975 |
| | | Management | | | |
| 023 | 855-408 | Fraud Prevention | \$ 11,713,797 | \$ 11,713,797 | 100976 |
| 023 | 855-409 | Administrative | \$ 119,246,553 | \$ 119,246,553 | 100977 |
| | | Services | | | |
| 023 | 855-410 | Attorney General | \$ 4,314,644 | \$ 4,314,644 | 100978 |
| | | Payments | | | |
| 822 | 855-606 | Coal Workers' Fund | \$ 91,894 | \$ 91,894 | 100979 |

| | | | | | | | |
|------------------------------------|---------|-----------------------|----|-------------|----|-------------|--------|
| 823 | 855-608 | Marine Industry | \$ | 53,952 | \$ | 53,952 | 100981 |
| 825 | 855-605 | Disabled Workers | \$ | 693,764 | \$ | 693,764 | 100982 |
| | | Relief Fund | | | | | |
| 826 | 855-609 | Safety & Hygiene | \$ | 20,130,820 | \$ | 20,130,820 | 100983 |
| | | Operating | | | | | |
| 826 | 855-610 | Safety Grants Program | \$ | 4,000,000 | \$ | 4,000,000 | 100984 |
| TOTAL WCF Workers' Compensation | | | | | | | 100985 |
| Fund Group | | | \$ | 320,034,061 | \$ | 320,423,361 | 100986 |
| Federal Special Revenue Fund Group | | | | | | | 100987 |
| 349 | 855-601 | OSHA Enforcement | \$ | 1,527,750 | \$ | 1,604,140 | 100988 |
| TOTAL FED Federal Special Revenue | | | | | | | 100989 |
| Fund Group | | | \$ | 1,527,750 | \$ | 1,604,140 | 100989 |
| TOTAL ALL BUDGET FUND GROUPS | | | | | | | 100990 |
| | | | \$ | 321,561,811 | \$ | 322,027,501 | 100990 |

WILLIAM GREEN LEASE PAYMENTS 100991

The foregoing appropriation item 855-401, William Green Lease 100992
 Payments to OBA, shall be used for lease payments to the Ohio 100993
 Building Authority, and these appropriations shall be used to meet 100994
 all payments at the times they are required to be made during the 100995
 period from July 1, 2005, to June 30, 2007, by the Bureau of 100996
 Workers' Compensation to the Ohio Building Authority pursuant to 100997
 leases and agreements made under Chapter 152. of the Revised Code 100998
 and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. 100999
 Of the amounts received in Fund 023, appropriation item 855-401, 101000
William Green Lease Payments to OBA, up to \$39,862,500 shall be 101001
 restricted for lease rental payments to the Ohio Building 101002
 Authority. If it is determined that additional appropriations are 101003
 necessary for such purpose, such amounts are hereby appropriated. 101004

Notwithstanding any other provision of law to the contrary, 101005
 all tenants of the William Green Building not funded by the 101006
 Workers' Compensation Fund (Fund 023) shall pay their fair share 101007
 of the costs of lease payments to the Workers' Compensation Fund 101008
 (Fund 023) by intrastate transfer voucher. 101009

| | |
|--|--------|
| <u>WORKERS' COMPENSATION OVERSIGHT COMMISSION</u> | 101010 |
| <u>Of the foregoing appropriation item 855-409, Administrative</u> | 101011 |
| <u>Services, up to \$18,000 per calendar year shall be used to pay the</u> | 101012 |
| <u>annual compensation of each investment expert member of the</u> | 101013 |
| <u>Workers' Compensation Oversight Commission, as provided in</u> | 101014 |
| <u>divisions (D) and (F) of section 4121.12 of the Revised Code. Each</u> | 101015 |
| <u>investment expert member shall also receive reasonable and</u> | 101016 |
| <u>necessary expenses while engaged in the performance of his or her</u> | 101017 |
| <u>duties, as provided in division (F) of section 4121.12 of the</u> | 101018 |
| <u>Revised Code.</u> | 101019 |
| WORKERS' COMPENSATION FRAUD UNIT | 101020 |
| The Workers' Compensation Section Fund (Fund 195) shall | 101021 |
| receive payments from the Bureau of Workers' Compensation at the | 101022 |
| beginning of each quarter of each fiscal year to fund expenses of | 101023 |
| the Workers' Compensation Fraud Unit of the Attorney General's | 101024 |
| Office. Of the foregoing appropriation item 855-410, Attorney | 101025 |
| General Payments, \$773,151 in fiscal year 2006 and \$773,151 in | 101026 |
| fiscal year 2007 shall be used to provide these payments. | 101027 |
| SAFETY AND HYGIENE | 101028 |
| Notwithstanding section 4121.37 of the Revised Code, the | 101029 |
| Administrator of Workers' Compensation shall transfer moneys from | 101030 |
| the State Insurance Fund so that appropriation item 855-609, | 101031 |
| Safety and Hygiene Operating, is provided \$20,130,820 in fiscal | 101032 |
| year 2006 and \$20,130,820 in fiscal year 2007. | 101033 |
| LONG-TERM CARE LOAN FUND | 101034 |
| Upon the request of the Administrator of the Bureau of | 101035 |
| Workers' Compensation and with the advice and consent of the | 101036 |
| Bureau of Workers' Compensation Oversight Commission, the Director | 101037 |
| of Budget and Management shall transfer cash in the amounts | 101038 |
| requested from the Safety and Hygiene Operating Fund (Fund 826) to | 101039 |
| the Long-Term Care Loan Fund (Fund 829) created in section 4121.48 | 101040 |

| | |
|--|--------|
| of the Revised Code. The amounts transferred are hereby | 101041 |
| appropriated. | 101042 |
| OSHA ON-SITE CONSULTATION PROGRAM | 101043 |
| The Bureau of Workers' Compensation may designate a portion | 101044 |
| of appropriation item 855-609, Safety and Hygiene Operating, to be | 101045 |
| used to match federal funding for the federal Occupational Safety | 101046 |
| and Health Administration's (OSHA) on-site consultation program. | 101047 |
| VOCATIONAL REHABILITATION | 101048 |
| The Bureau of Workers' Compensation and the Rehabilitation | 101049 |
| Services Commission shall enter into an interagency agreement for | 101050 |
| the provision of vocational rehabilitation services and staff to | 101051 |
| mutually eligible clients. The bureau shall provide \$587,774 in | 101052 |
| fiscal year 2006 and \$605,407 in fiscal year 2007 from the State | 101053 |
| Insurance Fund to fund vocational rehabilitation services and | 101054 |
| staff in accordance with the interagency agreement. | 101055 |
| FUND BALANCE | 101056 |
| Any unencumbered cash balance in excess of \$45,000,000 in the | 101057 |
| Workers' Compensation Fund (Fund 023) on the thirtieth day of June | 101058 |
| of each fiscal year shall be used to reduce the administrative | 101059 |
| cost rate charged to employers to cover appropriations for Bureau | 101060 |
| of Workers' Compensation operations. | 101061 |
| OSHA ENFORCEMENT FUND TRANSFER | 101062 |
| On July 1, 2005, or as soon thereafter as possible, the | 101063 |
| Director of Budget and Management shall transfer the OSHA | 101064 |
| Enforcement Fund (Fund 349) from the Department of Commerce to the | 101065 |
| Bureau of Workers' Compensation. At the request of the Director of | 101066 |
| the Department of Commerce, the Director of Budget and Management | 101067 |
| may cancel encumbrances in this fund from appropriation item | 101068 |
| 800-626, OSHA Enforcement, within the budget of the Department of | 101069 |
| Commerce, and reestablish those encumbrances or parts of those | 101070 |

encumbrances in fiscal year 2006 for the same purpose and to the 101071
same vendor to appropriation item 855-601, OSHA Enforcement, 101072
within the budget of the Bureau of Workers' Compensation. As 101073
determined by the Director of Budget and Management, the 101074
appropriation authority necessary to reestablish encumbrances or 101075
parts of encumbrances in fiscal year 2006 for the Bureau of 101076
Workers' Compensation is hereby granted. 101077

Section 401.08. That existing Section 3 of Am. H.B. 67 of the 101078
126th General Assembly is hereby repealed. 101079

Section 401.11. That Sections 203.03, 203.03.09, 203.03.10, 101080
203.06.06, 203.06.12, 203.06.15, and 203.06.24 of Am. Sub. H.B. 68 101081
of the 126th General Assembly be amended to read as follows: 101082

| | | | | |
|--|--------------------------------------|----------------|----------------|--------|
| Sec. 203.03. DOT DEPARTMENT OF TRANSPORTATION | | | | 101083 |
| FUND | TITLE | FY 2006 | FY 2007 | 101084 |
| | Transportation Planning and Research | | | 101085 |
| | Highway Operating Fund Group | | | 101086 |
| 002 771-411 | Planning and Research | \$ 19,000,000 | \$ 19,112,000 | 101087 |
| | - State | | | |
| 002 771-412 | Planning and Research | \$ 40,000,000 | \$ 40,000,000 | 101088 |
| | - Federal | | | |
| | TOTAL HOF Highway Operating | | | 101089 |
| | Fund Group | \$ 59,000,000 | \$ 59,112,000 | 101090 |
| | TOTAL ALL BUDGET FUND GROUPS - | | | 101091 |
| | Transportation Planning | | | 101092 |
| | and Research | \$ 59,000,000 | \$ 59,112,000 | 101093 |
| | Highway Construction | | | 101094 |
| | Highway Operating Fund Group | | | 101095 |
| 002 772-421 | Highway Construction - | \$ 585,240,305 | \$ 578,969,730 | 101096 |
| | State | | | |

| | | | | | |
|--|----------------|--|---|---|--------|
| 002 | 772-422 | Highway Construction - Federal | \$ 1,021,500,000 | \$ 1,131,500,000 | 101097 |
| 002 | 772-424 | Highway Construction - Other | \$ 62,500,000 | \$ 53,500,000 | 101098 |
| 214 | 770-401 | Infrastructure Debt Service - Federal | \$ 80,182,400 | \$ 105,129,400 | 101099 |
| 214 | 772-434 | Infrastructure Lease Payments - Federal | \$ 12,537,100 | \$ 12,536,000 | 101100 |
| 212 | 772-426 | Highway Infrastructure Bank - Federal | \$ 1,500,000 | \$ 2,000,000 | 101101 |
| 212 | 772-427 | Highway Infrastructure Bank - State | \$ 9,353,400 <u>5,353,400</u> | \$ 12,853,400 <u>8,853,400</u> | 101102 |
| 212 | 772-429 | Highway Infrastructure Bank - Local | \$ 12,500,000 | \$ 12,500,000 | 101103 |
| 212 | 772-430 | Infrastructure Debt Reserve Title 23-49 | \$ 1,500,000 | \$ 1,500,000 | 101104 |
| <u>213</u> | <u>772-431</u> | <u>Roadway Infrastructure Bank - State</u> | <u>\$ 500,000</u> | <u>\$ 500,000</u> | 101105 |
| 213 | 772-432 | Roadway Infrastructure Bank - Local | \$ 7,000,000 | \$ 7,000,000 | 101106 |
| <u>213</u> | <u>772-433</u> | <u>Infrastructure Debt Reserve - State</u> | <u>\$ 2,000,000</u> | <u>\$ 2,000,000</u> | 101107 |
| TOTAL HOF Highway Operating Fund Group | | | | | 101108 |
| | | | \$ 1,793,813,205 <u>1,792,313,205</u> | \$ 1,917,488,530 <u>1,915,988,530</u> | 101109 |
| Highway Capital Improvement Fund Group | | | | | 101110 |
| 042 | 772-723 | Highway Construction - Bonds | \$ 220,000,000 | \$ 150,000,000 | 101111 |
| Infrastructure Bank Obligations Fund Group | | | | | 101112 |
| 045 | 772-428 | Highway Infrastructure Bank - Bonds | \$ 180,000,000 | \$ 160,000,000 | 101113 |
| TOTAL 045 Infrastructure Bank | | | | | 101114 |

| | | | | | |
|---|-----------|-----------------------|-----------|-----------------------|--------|
| Obligations Fund Group | \$ | 180,000,000 | \$ | 160,000,000 | 101115 |
| TOTAL ALL BUDGET FUND GROUPS - | | | | | 101116 |
| Highway Construction | \$ | 2,193,813,205 | \$ | 2,227,488,530 | 101117 |
| Highway Maintenance | | | | | 101118 |
| Highway Operating Fund Group | | | | | 101119 |
| 002 773-431 Highway Maintenance - | \$ | 386,527,582 | \$ | 393,313,472 | 101120 |
| State | | | | | |
| TOTAL HOF Highway Operating | | | | | 101121 |
| Fund Group | \$ | 386,527,582 | \$ | 393,313,472 | 101122 |
| | | | | | 101123 |
| TOTAL ALL BUDGET FUND GROUPS - | | | | | 101124 |
| Highway Maintenance | \$ | 386,527,582 | \$ | 393,313,472 | 101125 |
| Public Transportation | | | | | 101126 |
| Highway Operating Fund Group | | | | | 101127 |
| 002 775-452 Public Transportation | \$ | 30,000,000 | \$ | 30,365,000 | 101128 |
| - Federal | | | | | |
| 002 775-454 Public Transportation | \$ | 1,500,000 | \$ | 1,500,000 | 101129 |
| - Other | | | | | |
| 002 775-459 Elderly and Disabled | \$ | 4,595,000 | \$ | 4,595,000 | 101130 |
| Special Equipment - | | | | | |
| Federal | | | | | |
| 212 775-408 Transit Infrastructure | \$ | 2,500,000 | \$ | 2,500,000 | 101131 |
| Bank - Local | | | | | |
| <u>212 775-455 Title 49</u> | <u>\$</u> | <u>1,000,000</u> | <u>\$</u> | <u>1,000,000</u> | 101132 |
| <u>Infrastructure Bank -</u> | | | | | |
| <u>State</u> | | | | | |
| <u>213 775-457 Transit Infrastructure</u> | <u>\$</u> | <u>500,000</u> | <u>\$</u> | <u>500,000</u> | 101133 |
| <u>Bank - State</u> | | | | | |
| 213 775-460 Transit Infrastructure | \$ | 1,000,000 | \$ | 1,000,000 | 101134 |
| Bank - Local | | | | | |
| TOTAL HOF Highway Operating | | | | | 101135 |
| Fund Group | \$ | 39,595,000 | \$ | 39,960,000 | 101136 |

| | | | | | |
|------------------------------------|----|-----------------------|----|-----------------------|--------|
| | | <u>41,095,000</u> | | <u>41,460,000</u> | |
| TOTAL ALL BUDGET FUND GROUPS - | | | | | 101137 |
| Public Transportation | \$ | 39,595,000 | \$ | 39,960,000 | 101138 |
| | | <u>41,095,000</u> | | <u>41,460,000</u> | |
| Rail Transportation | | | | | 101139 |
| Highway Operating Fund Group | | | | | 101140 |
| 002 776-462 Grade Crossings - | \$ | 15,000,000 | \$ | 15,000,000 | 101141 |
| Federal | | | | | |
| TOTAL HOF Highway Operating | | | | | 101142 |
| Fund Group | \$ | 15,000,000 | \$ | 15,000,000 | 101143 |
| TOTAL ALL BUDGET FUND GROUPS - | | | | | 101144 |
| Rail Transportation | \$ | 15,000,000 | \$ | 15,000,000 | 101145 |
| Aviation | | | | | 101146 |
| Highway Operating Fund Group | | | | | 101147 |
| 002 777-472 Airport Improvements - | \$ | 405,000 | \$ | 405,000 | 101148 |
| Federal | | | | | |
| 002 777-475 Aviation | \$ | 4,007,600 | \$ | 4,046,900 | 101149 |
| Administration | | | | | |
| 213 777-477 Aviation | \$ | 3,000,000 | \$ | 3,000,000 | 101150 |
| Infrastructure Bank - | | | | | |
| State | | | | | |
| 213 777-478 Aviation | \$ | 7,000,000 | \$ | 7,000,000 | 101151 |
| Infrastructure Bank - | | | | | |
| Local | | | | | |
| TOTAL HOF Highway Operating | | | | | 101152 |
| Fund Group | \$ | 14,412,600 | \$ | 14,451,900 | 101153 |
| TOTAL ALL BUDGET FUND GROUPS - | | | | | 101154 |
| Aviation | \$ | 14,412,600 | \$ | 14,451,900 | 101155 |
| Administration | | | | | 101156 |
| Highway Operating Fund Group | | | | | 101157 |
| 002 779-491 Administration - State | \$ | 119,624,513 | \$ | 121,057,898 | 101158 |
| TOTAL HOF Highway Operating | | | | | 101159 |

| | | | |
|------------------------------------|------------------|------------------|--------|
| Fund Group | \$ 119,624,513 | \$ 121,057,898 | 101160 |
| TOTAL ALL BUDGET FUND GROUPS - | | | 101161 |
| Administration | \$ 119,624,513 | \$ 121,057,898 | 101162 |
| Debt Service | | | 101163 |
| Highway Operating Fund Group | | | 101164 |
| 002 770-003 Administration - State | \$ 13,074,500 | \$ 10,923,100 | 101165 |
| - Debt Service | | | |
| TOTAL HOF Highway Operating | | | 101166 |
| Fund Group | \$ 13,074,500 | \$ 10,923,100 | 101167 |
| TOTAL ALL BUDGET FUND GROUPS - | | | 101168 |
| Debt Service | \$ 13,074,500 | \$ 10,923,100 | 101169 |
| TOTAL Department of Transportation | | | 101170 |
| TOTAL HOF Highway Operating | | | 101171 |
| Fund Group | \$ 2,441,047,400 | \$ 2,571,306,900 | 101172 |
| TOTAL 042 Highway Capital | | | 101173 |
| Improvement Fund Group | \$ 220,000,000 | \$ 150,000,000 | 101174 |
| TOTAL 045 Infrastructure Bank | | | 101175 |
| Obligations Fund Group | \$ 180,000,000 | \$ 160,000,000 | 101176 |
| TOTAL ALL BUDGET FUND GROUPS | \$ 2,841,047,400 | \$ 2,881,306,900 | 101177 |

Sec. 203.03.09. PUBLIC ACCESS ROADS FOR STATE FACILITIES 101179

Of the foregoing appropriation item 772-421, Highway 101180
Construction - State, ~~\$4,517,500~~ \$5,000,000 shall be used in each 101181
fiscal year during the fiscal year 2006-2007 biennium by the 101182
Department of Transportation for the construction, reconstruction, 101183
or maintenance of public access roads, including support features, 101184
to and within state facilities owned or operated by the Department 101185
of Natural Resources, ~~as requested by the Director of Natural~~ 101186
Resources. 101187

Notwithstanding section 5511.06 of the Revised Code, of the 101188
foregoing appropriation item 772-421, Highway Construction - 101189
State, \$2,228,000 in each fiscal year of the fiscal year 2006-2007 101190

biennium shall be used by the Department of Transportation for the 101191
construction, reconstruction, or maintenance of park drives or 101192
park roads within the boundaries of metropolitan parks. 101193

Included in the foregoing appropriation item 772-421, Highway 101194
Construction - State, the department may perform related road work 101195
on behalf of the Ohio Expositions Commission at the state 101196
fairgrounds, including reconstruction or maintenance of public 101197
access roads and support features, to and within fairground 101198
facilities as requested by the commission and approved by the 101199
Director of Transportation. 101200

LIQUIDATION OF UNFORESEEN LIABILITIES 101201

Any appropriation made to the Department of Transportation, 101202
Highway Operating Fund, not otherwise restricted by law, is 101203
available to liquidate unforeseen liabilities arising from 101204
contractual agreements of prior years when the prior year 101205
encumbrance is insufficient. 101206

Sec. 203.03.10. PREVENTIVE MAINTENANCE 101207

The Department of Transportation shall contract with an 101208
independent party to ~~issue a yearly report~~ conduct a study and 101209
issue a report on the effectiveness and progress of preventive 101210
maintenance projects ~~that meet warranty guidelines. The~~ 101211
Thereafter, the Department shall issue a yearly report on or 101212
before the first day of December for three consecutive years 101213
~~beginning in fiscal year 2005.~~ 101214

~~The Department shall provide in its annual report data~~ 101215
actual and planned pavement preventive maintenance activities. The 101216
data shall include the following: (1) the total number of lane 101217
miles receiving preventive maintenance treatment, by treatment 101218
type and highway system category; (2) the total number of lane 101219
miles programmed to receive treatment; (3) the actual costs of the 101220

pavement preventive maintenance activities per lane mile, by 101221
treatment type and highway system category; (4) the total number 101222
of lane miles rehabilitated or reconstructed; and (5) the actual 101223
cost per lane mile of rehabilitated or reconstructed highway, by 101224
highway system category. 101225

Sec. 203.06.06. ENFORCEMENT 101226

State Highway Safety Fund Group 101227

036 764-033 Minor Capital Projects \$ 1,250,000 \$ 1,250,000 101228

036 764-321 Operating Expense - \$ 229,293,561 \$ 237,364,988 101229
Highway Patrol

036 764-605 Motor Carrier \$ 2,643,022 \$ 2,670,911 101230
Enforcement Expenses

5AY 764-688 Traffic Safety \$ 3,082,962 \$ 1,999,437 101231
Operating

83C 764-630 Contraband, \$ 622,894 \$ 622,894 101232
Forfeiture, Other

83F 764-657 Law Enforcement \$ 7,324,524 \$ 7,544,260 101233
Automated Data System

83G 764-633 OMVI Fines \$ 820,927 \$ 820,927 101234

831 764-610 Patrol - Federal \$ 2,430,950 \$ 2,455,484 101235

831 764-659 Transportation \$ 4,880,671 \$ 5,027,091 101236
Enforcement - Federal

837 764-602 Turnpike Policing \$ 9,942,621 \$ 10,240,900 101237

838 764-606 Patrol Reimbursement \$ 222,108 \$ 222,108 101238

840 764-607 State Fair Security \$ 1,496,283 \$ 1,496,283 101239

840 764-617 Security and \$ 8,145,192 \$ 8,145,192 101240
Investigations

840 764-626 State Fairgrounds \$ 788,375 \$ 788,375 101241
Police Force

841 764-603 Salvage and Exchange - \$ 1,305,954 \$ 1,339,399 101242
Highway Patrol

| | | | | |
|--|----|------------------------|---------------------------|--------|
| TOTAL HSF State Highway Safety | | | | 101243 |
| Fund Group | \$ | 274,250,044 | \$ 281,988,249 | 101244 |
| General Services Fund Group | | | | 101245 |
| 4S2 764-660 MARCS Maintenance | \$ | 252,432 | \$ 262,186 | 101246 |
| TOTAL GSF General Services | | | | 101247 |
| Fund Group | \$ | 252,432 | \$ 262,186 | 101248 |
| <u>Federal Special Revenue Fund Group</u> | | | | 101249 |
| 3BF 764-692 <u>Federal Contraband,</u> | \$ | <u>1,942,040</u> | \$ <u>1,942,040</u> | 101250 |
| <u>Forfeiture, and Other</u> | | | | |
| <u>TOTAL FED Federal Special Revenue</u> | \$ | <u>1,942,040</u> | \$ <u>1,942,040</u> | 101251 |
| <u>Fund Group</u> | | | | |
| TOTAL ALL BUDGET FUND GROUPS - | | | | 101252 |
| Enforcement | \$ | 274,502,476 | \$ 282,250,435 | 101253 |
| | | <u>276,444,516</u> | <u>284,192,475</u> | |
| <u>CASH TRANSFER TO HIGHWAY PATROL FEDERAL CONTRABAND,</u> | | | | 101254 |
| <u>FORFEITURE, AND OTHER FUND (FUND 3BF)</u> | | | | 101255 |
| <u>On July 1, 2005, or as soon thereafter as possible,</u> | | | | 101256 |
| <u>notwithstanding any other provision of law to the contrary, the</u> | | | | 101257 |
| <u>Director of Budget and Management shall transfer \$1,942,040 in</u> | | | | 101258 |
| <u>cash from the Highway Patrol State Contraband, Forfeiture, and</u> | | | | 101259 |
| <u>Other Fund (Fund 83C) in the State Highway Safety Fund Group to</u> | | | | 101260 |
| <u>the Highway Patrol Federal Contraband, Forfeiture, and Other Fund</u> | | | | 101261 |
| <u>(Fund 3BF) in the Federal Special Revenue Fund Group.</u> | | | | 101262 |
| COLLECTIVE BARGAINING INCREASES | | | | 101263 |
| Notwithstanding division (D) of section 127.14 and division | | | | 101264 |
| (B) of section 131.35 of the Revised Code, except for the General | | | | 101265 |
| Revenue Fund, the Controlling Board may, upon the request of | | | | 101266 |
| either the Director of Budget and Management, or the Department of | | | | 101267 |
| Public Safety with the approval of the Director of Budget and | | | | 101268 |
| Management, increase appropriations for any fund, as necessary for | | | | 101269 |
| the Department of Public Safety, to assist in paying the costs of | | | | 101270 |

increases in employee compensation that have occurred pursuant to 101271
collective bargaining agreements under Chapter 4117. of the 101272
Revised Code and, for exempt employees, under section 124.152 of 101273
the Revised Code. 101274

Sec. 203.06.12. INVESTIGATIVE UNIT

101275

State Highway Safety Fund Group 101276

831 767-610 Liquor Enforcement - \$ 514,184 \$ 514,184 101277
Federal

831 769-610 Food Stamp Trafficking \$ 992,920 \$ 1,032,135 101278
Enforcement - Federal

TOTAL HSF State Highway Safety 101279

Fund Group \$ 1,507,104 \$ 1,546,319 101280

Liquor Control Fund Group 101281

043 767-321 Liquor Enforcement - \$ 10,120,365 \$ 10,423,976 101282
Operations

TOTAL LCF Liquor Control Fund 101283

Group \$ 10,120,365 \$ 10,423,976 101284

State Special Revenue Fund Group 101285

5CM 767-691 Equitable Share \$ 642,175 \$ 642,175 101286
Account

622 767-615 Investigative \$ 404,111 \$ 404,111 101287
Contraband and

Forfeiture

850 767-628 Investigative Unit \$ 120,000 \$ 120,000 101288
Salvage

TOTAL SSR State Special Revenue 101289

Fund Group \$ ~~524,111~~ \$ ~~524,111~~ 101290
1,166,286 1,166,286

TOTAL ALL BUDGET FUND GROUPS - 101291

Special Enforcement \$ ~~12,151,580~~ \$ ~~12,494,406~~ 101292
12,793,755 13,136,581

| | | | | |
|---|----|------------------------|---------------------------|--------|
| <u>CASH TRANSFER TO INVESTIGATIVE UNIT FEDERAL EQUITABLE SHARE</u> | | | | 101293 |
| <u>ACCOUNT FUND (FUND 5CM)</u> | | | | 101294 |
| <u>On July 1, 2005, or as soon thereafter as possible,</u> | | | | 101295 |
| <u>notwithstanding any other provision of law to the contrary, the</u> | | | | 101296 |
| <u>Director of Budget and Management shall transfer \$642,175 in cash</u> | | | | 101297 |
| <u>from the Investigative, Contraband, and Forfeiture Fund (Fund 622)</u> | | | | 101298 |
| <u>in the State Special Revenue Fund Group to the Investigative Unit</u> | | | | 101299 |
| <u>Federal Equitable Share Account Fund (Fund 5CM) in the State</u> | | | | 101300 |
| <u>Special Revenue Fund Group.</u> | | | | 101301 |
| LEASE RENTAL PAYMENTS FOR CAP-076, INVESTIGATIVE UNIT MARCS | | | | 101302 |
| EQUIPMENT | | | | 101303 |
| The Director of Public Safety, using intrastate transfer | | | | 101304 |
| vouchers, shall make cash transfers to the State Highway Safety | | | | 101305 |
| Fund (Fund 036) from other funds to reimburse the State Highway | | | | 101306 |
| Safety Fund for the share of lease rental payments to the Ohio | | | | 101307 |
| Building Authority that are associated with appropriation item | | | | 101308 |
| CAP-076, Investigative Unit MARCS Equipment. | | | | 101309 |
| Sec. 203.06.15. EMERGENCY MANAGEMENT | | | | 101310 |
| Federal Special Revenue Fund Group | | | | 101311 |
| 3N5 763-644 U.S. DOE Agreement | \$ | 275,000 | \$ 275,000 | 101312 |
| 329 763-645 Federal Mitigation | \$ | 303,504 | \$ 303,504 | 101313 |
| Program | | <u>8,937,624</u> | <u>8,937,624</u> | |
| 337 763-609 Federal Disaster | \$ | 27,269,140 | \$ 27,280,000 | 101314 |
| Relief | | | | |
| 339 763-647 Emergency Management | \$ | 129,622,000 | \$ 129,622,000 | 101315 |
| Assistance and | | | | |
| Training | | | | |
| TOTAL FED Federal Special | | | | 101316 |
| Revenue Fund Group | \$ | 157,469,644 | \$ 157,480,504 | 101317 |
| | | <u>166,103,764</u> | <u>166,114,624</u> | |

| | | | | |
|---|----|------------------------|---------------------------|--|
| State Special Revenue Fund Group | | | | 101318 |
| 4V3 763-662 EMA Service and Reimbursement | \$ | 696,446 | \$ 696,446 | 101319 |
| 657 763-652 Utility Radiological Safety | \$ | 1,260,000 | \$ 1,260,000 | 101320 |
| 681 763-653 SARA Title III HAZMAT Planning | \$ | 271,510 | \$ 271,510 | 101321 |
| TOTAL SSR State Special Revenue Fund Group | \$ | 2,227,956 | \$ 2,227,956 | 101322 |
| TOTAL ALL BUDGET FUND GROUPS - | | | | 101324 |
| Emergency Management | \$ | 159,697,600 | \$ 159,708,460 | 101325 |
| | | <u>168,331,720</u> | <u>168,342,580</u> | |
| FEDERAL MITIGATION PROGRAM | | | | 101326 |
| The fund created by the Controlling Board known as the Disaster Relief Services Plan and Grant Administration Fund is now the Federal Mitigation Program Fund, and shall be used to plan and mitigate against future disaster costs. | | | | 101327 101328 101329 101330 |
| <u>The appropriation item 763-645, heretofore known as Individual/Family Grant - Fed, is hereafter known as Federal Mitigation Program, and shall be used to plan and mitigate against future disaster costs.</u> | | | | 101331 101332 101333 101334 |
| STATE DISASTER RELIEF | | | | 101335 |
| The appropriation item 763-601, State Disaster Relief, may accept transfers of cash and appropriations from Controlling Board appropriation items to reimburse eligible local governments and private nonprofit organizations for costs related to disasters that have been declared by local governments or the Governor. The Ohio Emergency Management Agency shall publish and make available an application packet outlining eligible items and application procedures for entities requesting state disaster relief. | | | | 101336 101337 101338 101339 101340 101341 101342 101343 |
| Individuals may be eligible for reimbursement of costs | | | | 101344 |

related to disasters that have been declared by the Governor and 101345
the Small Business Administration. The funding in appropriation 101346
item 763-601, State Disaster Relief, shall be used in accordance 101347
with the principles of the federal Individual and Family Grant 101348
Program, which provides grants to households that have been 101349
affected by a disaster to replace basic living items. The Ohio 101350
Emergency Management Agency shall publish and make available an 101351
application procedure for individuals requesting assistance under 101352
the state Individual Assistance Program. 101353

SARA TITLE III HAZMAT PLANNING 101354

The SARA Title III HAZMAT Planning Fund (Fund 681) is 101355
entitled to receive grant funds from the Emergency Response 101356
Commission to implement the Emergency Management Agency's 101357
responsibilities under Chapter 3750. of the Revised Code. 101358

Sec. 203.06.24. REVENUE DISTRIBUTION 101359

Holding Account Redistribution Fund Group 101360

| | | | | | |
|---------------------------------|----|-----------|----|-----------|--------|
| R24 762-619 Unidentified Public | \$ | 1,885,000 | \$ | 1,885,000 | 101361 |
|---------------------------------|----|-----------|----|-----------|--------|

Safety Receipts

| | | | | | |
|-------------------------------|----|---------|----|---------|--------|
| R52 762-623 Security Deposits | \$ | 250,000 | \$ | 250,000 | 101362 |
|-------------------------------|----|---------|----|---------|--------|

TOTAL 090 Holding Account 101363

| | | | | | |
|---------------------------|----|-----------|----|-----------|--------|
| Redistribution Fund Group | \$ | 2,135,000 | \$ | 2,135,000 | 101364 |
|---------------------------|----|-----------|----|-----------|--------|

TOTAL ALL BUDGET FUND GROUPS - 101365

| | | | | | |
|----------------------|----|-----------|----|-----------|--------|
| Revenue Distribution | \$ | 2,135,000 | \$ | 2,135,000 | 101366 |
|----------------------|----|-----------|----|-----------|--------|

TRANSFER OF CASH BALANCE FROM FUND R27, HIGHWAY PATROL FEE 101367

REFUND FUND 101368

On July 1, 2005, or as soon as possible thereafter, the 101369
Director of Budget and Management shall transfer the cash balance 101370
in the Highway Patrol Fee Refund Fund (Fund R27) created in former 101371
section 4501.12 of the Revised Code to the Unidentified Public 101372
Safety Receipts Fund (Fund R24). 101373

| | | | | |
|---|----|------------------------|---------------------------|--------|
| TOTAL Department of Public Safety | | | | 101374 |
| TOTAL HSF State Highway Safety | | | | 101375 |
| Fund Group | \$ | 459,009,425 | \$ 464,841,856 | 101376 |
| TOTAL SSR State Special Revenue | | | | 101377 |
| Fund Group | \$ | 2,991,969 | \$ 2,991,969 | 101378 |
| | | <u>3,634,144</u> | <u>3,634,144</u> | |
| TOTAL LCF Liquor Control | | | | 101379 |
| Fund Group | \$ | 10,120,365 | \$ 10,423,976 | 101380 |
| TOTAL GSF General Services | | | | 101381 |
| Fund Group | \$ | 752,432 | \$ 762,186 | 101382 |
| TOTAL FED Federal <u>Special</u> Revenue | | | | 101383 |
| Special Fund Group | \$ | 157,469,644 | \$ 157,480,504 | 101384 |
| | | <u>168,045,804</u> | <u>168,056,664</u> | |
| TOTAL AGY Agency Fund Group | \$ | 100,000 | \$ 100,000 | 101385 |
| TOTAL 090 Holding Account Redistribution | | | | 101386 |
| Fund Group | \$ | 2,135,000 | \$ 2,135,000 | 101387 |
| TOTAL ALL BUDGET FUND GROUPS | \$ | 632,578,835 | \$ 638,735,491 | 101388 |
| | | <u>643,797,170</u> | <u>649,953,826</u> | |

Section 401.12. That existing Sections 203.03, 203.03.09, 101390
203.03.10, 203.06.06, 203.06.12, 203.06.15, and 203.06.24 of Am. 101391
Sub. H.B. 68 of the 126th General Assembly are hereby repealed. 101392

Section 401.13. Notwithstanding section 5511.05 of the 101393
Revised Code, the Director of Transportation shall confer with the 101394
Director of Natural Resources in fiscal years 2006 and 2007 101395
concerning the establishment, construction, reconstruction, 101396
improvement, repair, and maintenance of all roads and bridges 101397
within the boundaries of all state parks, including all such parks 101398
and properties under the control and custody of the Department of 101399
Natural Resources. After conferring with the Director of Natural 101400
Resources, the Director of Transportation shall establish, 101401

construct, reconstruct, improve, repair, and maintain all such 101402
roads and bridges. \$5,000,000 shall be expended to establish, 101403
construct, reconstruct, improve, repair, and maintain all such 101404
roads and bridges in each fiscal year. 101405

Section 403.01. That Section 14 of Sub. H.B. 434 of the 125th 101406
General Assembly be amended to read as follows: 101407

Sec. 14. ~~NET SCHOOLNET COMMISSION~~ ETC ETECH OHIO 101408

Tobacco Master Settlement Agreement Fund Group 101409
S87 ~~228~~ Education Technology \$ 9,277,865 \$ 6,274,109 101410
935-602 Trust Fund
TOTAL TSF Tobacco Master 101411
Settlement Agreement Fund 101412
Group \$ 9,277,865 \$ 6,274,109 101413
TOTAL ALL BUDGET FUND GROUPS \$ 9,277,865 \$ 6,274,109 101414

SCHOOLNET PLUS 101415

~~The Ohio SchoolNet Commission shall distribute SchoolNet Plus 101416
Grants to qualifying school districts in fiscal year 2005 to 101417
establish and equip at least one interactive computer workstation 101418
for each five students enrolled in the seventh grade as reported 101419
by school districts pursuant to division (A) of section 3317.03 of 101420
the Revised Code. 101421~~

Upon completion of the SchoolNet Plus Grant Program for the 101422
seventh grade, ~~the Ohio SchoolNet Commission~~ eTech Ohio shall 101423
distribute SchoolNet Plus Grants to qualifying school districts in 101424
fiscal year 2006 to establish and equip at least one interactive 101425
computer workstation for each five children enrolled in the eighth 101426
grade as reported by school districts pursuant to division (A) of 101427
section 3317.03 of the Revised Code. 101428

Districts in the first two quartiles of wealth shall receive 101429
up to \$275 per pupil for students in the targeted grade to 101430

purchase classroom computers. Districts in the third and fourth 101431
quartiles shall receive up to \$105 per pupil in the targeted 101432
grade. If a district has met the state's goal of one computer to 101433
every five students in the targeted grade, the district may use 101434
the funds provided through SchoolNet Plus to purchase computers 101435
for successive grades or to fulfill educational technology needs 101436
in other grades as specified in the district's technology plan. 101437

Section 403.02. That existing Section 14 of Sub. H.B. 434 of 101438
the 125th General Assembly is hereby repealed. 101439

Section 403.05. That Section 4 of Am. Sub. H.B. 516 of the 101440
125th General Assembly be amended to read as follows: 101441

Sec. 4. The following agencies shall be retained pursuant to 101442
division (D) of section 101.83 of the Revised Code and shall 101443
expire on December 31, 2010: 101444

REVISED CODE 101445

OR

UNCODIFIED 101446

AGENCY NAME SECTION 101447

Administrator, Interstate Compact on Mental Health 5119.50 101448

Administrator, Interstate Compact on 5103.20 101449

Placement of Children 101450

Advisory Board of Governor's Office of Faith-Based 107.12 101451

and Community Initiatives

Advisory Boards to the EPA for Air Pollution 121.13 101452

Advisory Boards to the EPA for Water Pollution 121.13 101453

Advisory Committee of the State Veterinary Medical 4741.03(D)(3) 101454

Licensing Board

Advisory Committee on Livestock Exhibitions 901.71 101455

Advisory Council on Amusement Ride Safety 1711.51 101456

Advisory Board of Directors for Prison Labor 5145.162 101457

| | | |
|---|---------------------|--------|
| Advisory Council for Each Wild, Scenic, or Recreational River Area | 1517.18 | 101458 |
| Advisory Councils or Boards for State Departments | 107.18 or 121.13 | 101459 |
| Advisory Group to the Ohio Water Resources Council | 1521.19(C) | 101460 |
| Alzheimer's Disease Task Force | 173.04(F) | 101461 |
| AMBER Alert Advisory Committee | 5502.521 | 101462 |
| Apprenticeship Council | 4139.02 | 101463 |
| Armory Board of Control | 5911.09 | 101464 |
| Automated Title Processing Board | 4505.09(C)(1) | 101465 |
| Banking Commission | 1123.01 | 101466 |
| Board of Directors of the Ohio Health Reinsurance Program | 3924.08 | 101467 |
| Board of Voting Machine Examiners | 3506.05(B) | 101468 |
| Board of Tax Appeals | 5703.02 | 101469 |
| Brain Injury Advisory Committee | 3304.231 | 101470 |
| Capitol Square Review and Advisory Board | 105.41 | 101471 |
| Child Support Guideline Advisory Council | 3119.024 | 101472 |
| Children's Trust Fund Board | 3109.15 | 101473 |
| Citizens Advisory Committee (BMV) | 4501.025 | 101474 |
| Citizen's Advisory Councils (Dept. of Mental Retardation and Developmental Disabilities) | 5123.092 | 101475 |
| Clean Ohio Trail Advisory Board | 1519.06 | 101476 |
| Coastal Resources Advisory Council | 1506.12 | 101477 |
| Commission on African-American Males | 4112.12 | 101478 |
| Commission on Hispanic-Latino Affairs | 121.31 | 101479 |
| Commission on Minority Health | 3701.78 | 101480 |
| Committee on Prescriptive Governance | 4723.49 | 101481 |
| Commodity Advisory Commission | 926.32 | 101482 |
| Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council | 5123.353 | 101483 |
| Community Oversight Council | 3311.77 | 101484 |
| Compassionate Care Task Force | Section 3, | 101485 |

| | H.B. 474, 124th GA | |
|---|-----------------------|--------|
| Consumer Advisory Committee to the Rehabilitation Services Commission | 3304.24 | 101486 |
| Continuing Education Committee (for Sheriffs) | 109.80 | 101487 |
| Controlling Board | 127.12 | 101488 |
| Coordinating Committee, Agricultural Commodity Marketing Programs | 924.14 | 101489 |
| Council on Alcohol and Drug Addiction Services | 3793.09 | 101490 |
| Council on Unreclaimed Strip Mined Lands | 1513.29 | 101491 |
| Council to Advise on the Establishment and Implementation of the Birth Defects Information System | 3705.34 | 101492 |
| County Sheriffs' Standard Car-Marking and Uniform Commission | 311.25 | 101493 |
| Credit Union Council | 1733.329 | 101494 |
| Criminal Sentencing Advisory Committee | 181.22 | 101495 |
| Day-Care Advisory Council | 5104.08 | 101496 |
| Dentist Loan Repayment Advisory Board | 3702.92 | 101497 |
| Development Financing Advisory Council | 122.40 | 101498 |
| Education Commission of the States (Interstate Compact for Education) | 3301.48 | 101499 |
| Electrical Safety Inspector Advisory Committee | 3783.08 | 101500 |
| Emergency Response Commission | 3750.02 | 101501 |
| Engineering Experiment Station Advisory Committee | 3335.27 | 101502 |
| Environmental Education Council | 3745.21 | 101503 |
| Environmental Review Appeals Commission | 3745.02 | 101504 |
| EPA Advisory Boards or Councils | 121.13 | 101505 |
| Farmland Preservation Advisory Board | 901.23 | 101506 |
| Financial Planning & Supervision Commission for Municipal Corporation, County, or Township | 118.05 | 101507 |
| Financial Planning & Supervision Commission for School District | 3316.05 | 101508 |

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| Forestry Advisory Council | 1503.40 | 101509 |
| Governance Authority for a State University or College | 3345.75 | 101510 |
| Governor's Advisory Council on Physical Fitness, Wellness, & Sports | 3701.77 | 101511 |
| Governor's Council on People with Disabilities | 3303.41 | 101512 |
| Governor's Residence Advisory Commission | 107.40 | 101513 |
| Great Lakes Commission (Great Lakes Basin Compact) | 6161.01 | 101514 |
| Gubernatorial Transition Committee | 107.29 | 101515 |
| Head Start Partnership Study Council | Section 41.35, H.B. 95, 125th GA | 101516 |
| Hemophilia Advisory Subcommittee | 3701.0210 | 101517 |
| Housing Trust Fund Advisory Committee | 175.25 | 101518 |
| Industrial Commission Nominating Council | 4121.04 | 101519 |
| Industrial Technology and Enterprise Advisory Council | 122.29 | 101520 |
| Infant Hearing Screening Subcommittee | 3701.507 | 101521 |
| Insurance Agent Education Advisory Council | 3905.483 | 101522 |
| Interagency Council on Hispanic/Latino Affairs | 121.32(J) | 101523 |
| Interstate Mining Commission (Interstate Mining Compact) | 1514.30 | 101524 |
| Interstate Rail Passenger Advisory Council (Interstate High Speed Intercity Rail Passenger Network Compact) | 4981.35 | 101525 |
| Joint Council on MR/DD | 101.37 | 101526 |
| Joint Select Committee on Volume Cap | 133.021 | 101527 |
| Labor-Management Government Advisory Council | 4121.70 | 101528 |
| Legal Rights Service Commission | 5123.60 | 101529 |
| Legislative Task Force on Redistricting, Reapportionment, and Demographic Research | 103.51 | 101530 |
| Maternal and Child Health Council | 3701.025 | 101531 |
| Medically Handicapped Children's Medical Advisory | 3701.025 | 101532 |

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| Council | | |
| Midwest Interstate Passenger Rail Compact | 4981.361 | 101533 |
| Commission (Ohio members) | | |
| Military Activation Task Force | 5902.15 | 101534 |
| Milk Sanitation Board | 917.03 | 101535 |
| Mine Subsidence Insurance Governing Board | 3929.51 | 101536 |
| Minority Development Financing Board | 122.72 | 101537 |
| Multi-Agency Radio Communications Systems Steering Committee | Sec. 21, H.B. 790, 120th GA | 101538 |
| Multidisciplinary Council | 3746.03 | 101539 |
| Muskingum River Advisory Council | 1501.25 | 101540 |
| National Museum of Afro-American History and Culture Planning Committee | 149.303 | 101541 |
| Nursing Facility Reimbursement Study Council | 5111.34 | 101542 |
| Ohio Advisory Council for the Aging | 173.03 | 101543 |
| Ohio Aerospace & Defense Advisory Council | 122.98 | 101544 |
| Ohio Arts Council | 3379.02 | 101545 |
| Ohio Business Gateway Steering Committee | 5703.57 | 101546 |
| Ohio Cemetery Dispute Resolution Commission | 4767.05 | 101547 |
| Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils | 4112.04(B) | 101548 |
| Ohio Commercial Insurance Joint Underwriting Association Board Of Governors | 3930.03 | 101549 |
| Ohio Commercial Market Assistance Plan Executive Committee | 3930.02 | 101550 |
| Ohio Commission on Dispute Resolution and Conflict Management | 179.02 | 101551 |
| Ohio Commission to Reform Medicaid | Section 59.29, H.B. 95, 125th GA | 101552 |
| Ohio Community Service Council | 121.40 | 101553 |
| Ohio Council for Interstate Adult Offender Supervision | 5149.22 | 101554 |

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| Ohio Cultural Facilities Commission | 3383.02 | 101555 |
| Ohio Developmental Disabilities Council | 5123.35 | 101556 |
| Ohio Educational Telecommunications Network Commission | 3353.02 | 101557 |
| Ohio Ethics Commission | 102.05 | 101558 |
| Ohio Expositions Commission | 991.02 | 101559 |
| Ohio Family and Children First Cabinet Council | 121.37 | 101560 |
| Ohio Geology Advisory Council | 1505.11 | 101561 |
| Ohio Grape Industries Committee | 924.51 | 101562 |
| Ohio Hepatitis C Advisory Commission | 3701.92 | 101563 |
| Ohio Historic Site Preservation Advisory Board | 149.301 | 101564 |
| Ohio Historical Society Board of Trustees | 149.30 | 101565 |
| Ohio Judicial Conference | 105.91 | 101566 |
| Ohio Lake Erie Commission | 1506.21 | 101567 |
| Ohio Medical Malpractice Commission | Section 4, S.B. 281, 124th GA and Section 3, S.B. 86, 125th GA | 101568 |
| Ohio Medical Quality Foundation | 3701.89 | 101569 |
| Ohio Parks and Recreation Council | 1541.40 | 101570 |
| Ohio Peace Officer Training Commission | 109.71 | 101571 |
| Ohio Public Defender Commission | 120.01 | 101572 |
| Ohio Public Library Information Network Board | Sec. 69, H.B. 117, 121st GA, as amended by H.B. 284, 121st GA | 101573 |
| Ohio Public Works Commission | 164.02 | 101574 |
| Ohio Quarter Horse Development Commission | 3769.086 | 101575 |
| Ohio SchoolNet Commission | 3301.80 | 101576 |
| Ohio Small Government Capital Improvements | 164.02 | 101577 |

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| Commission | | |
| Ohio Soil and Water Conservation Commission | 1515.02 | 101578 |
| Ohio Standardbred Development Commission | 3769.085 | 101579 |
| Ohio Steel Industry Advisory Council | 122.97 | 101580 |
| Ohio Teacher Education and Licensure Advisory Council | 3319.28(D) | 101581 |
| Ohio Thoroughbred Racing Advisory Committee | 3769.084 | 101582 |
| Ohio Tuition Trust Authority | 3334.03 | 101583 |
| Ohio University College of Osteopathic Medicine Advisory Committee | 3337.10 | 101584 |
| Ohio Vendors Representative Committee | 3304.34 | 101585 |
| Ohio War Orphans Scholarship Board | 5910.02 | 101586 |
| Ohio Water Advisory Council | 1521.031 | 101587 |
| Ohio Water Resources Council | 1521.19 | 101588 |
| Ohioana Library Association, Martha Kinney Cooper Memorial | 3375.62 | 101589 |
| Oil and Gas Commission | 1509.35 | 101590 |
| Operating Committee, Agricultural Commodity Marketing Programs | 924.07 | 101591 |
| Organized Crime Investigations Commission | 177.01 | 101592 |
| Parole Board | 5149.10 | 101593 |
| Pharmacy and Therapeutics Committee of the Dept. of Job and Family Services | 5111.81 | 101594 |
| Physician Loan Repayment Advisory Board | 3702.81 | 101595 |
| Power Siting Board | 4906.02 | 101596 |
| Prequalification Review Board | 5525.07 | 101597 |
| Private Water Systems Advisory Council | 3701.346 | 101598 |
| Public Employment Risk Reduction Advisory Commission | 4167.02 | 101599 |
| Public Health Council | 3701.33 | 101600 |
| Public Utilities Commission Nominating Council | 4901.021 | 101601 |
| Public Utility Property Tax Study Committee | 5727.85 | 101602 |
| Radiation Advisory Council | 3748.20 | 101603 |

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| Reclamation Commission | 1513.05 | 101604 |
| Recreation and Resources Commission | 1501.04 | 101605 |
| Recycling and Litter Prevention Advisory Council | 1502.04 | 101606 |
| Rehabilitation Services Commission Consumer Advisory Committee | 3304.24 | 101607 |
| Release Authority of Department of Youth Services | 5139.50 | 101608 |
| Savings & Loans Associations & Savings Banks Board | 1181.16 | 101609 |
| Schools and Ministerial Lands Divestiture Committee | 501.041 | 101610 |
| Second Chance Trust Fund Advisory Committee | 2108.17 | 101611 |
| Self-Insuring Employers Evaluation Board | 4123.352 | 101612 |
| Services Committee of the Workers' Compensation System | 4121.06 | 101613 |
| Small Business Stationary Source Technical and Environmental Compliance Assistance Council | 3704.19 | 101614 |
| Solid Waste Management Advisory Council | 3734.51 | 101615 |
| State Agency Coordinating Group | 1521.19 | 101616 |
| State Board of Deposit | 135.02 | 101617 |
| State Board of Emergency Medical Services Subcommittees | 4765.04 | 101618 |
| State Council of Uniform State Laws | 105.21 | 101619 |
| State Committee for the Purchase of Products and Services Provided by Persons with Severe Disabilities | 4115.32 | 101620 |
| State Criminal Sentencing Commission | 181.21 | 101621 |
| State Employment Relations Board | 4117.02 | 101622 |
| State Fire Commission | 3737.81 | 101623 |
| State Racing Commission | 3769.02 | 101624 |
| State Victims Assistance Advisory Committee | 109.91 | 101625 |
| Student Tuition Recovery Authority | 3332.081 | 101626 |
| Tax Credit Authority | 122.17 | 101627 |
| Technical Advisory Committee to Assist the Director of the Ohio Coal Development Office | 1551.35 | 101628 |

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| Technical Advisory Council on Oil and Gas | 1509.38 | 101629 |
| Transportation Review Advisory Council | 5512.07 | 101630 |
| Unemployment Compensation Review Commission | 4141.06 | 101631 |
| Unemployment Compensation Advisory Council | 4141.08 | 101632 |
| Utility Radiological Safety Board | 4937.02 | 101633 |
| Vehicle Management Commission | 125.833 | 101634 |
| Veterans Advisory Committee | 5902.02(K) | 101635 |
| Volunteer Fire Fighters' Dependents Fund Boards (Private and Public) | 146.02 | 101636 |
| Water and Sewer Commission | 1525.11(C) | 101637 |
| Waterways Safety Council | 1547.73 | 101638 |
| Wildlife Council | 1531.03 | 101639 |
| Workers' Compensation System Oversight Commission | 4121.12 | 101640 |
| Workers' Compensation Oversight Commission | 4121.123 | 101641 |
| Nominating Committee | | |

Section 403.06. That existing Section 4 of Am. Sub. H.B. 516 101642
of the 125th General Assembly is hereby repealed. 101643

Section 403.10.01. That Sections 3.01, 3.04, and 26.01 of Am. 101644
Sub. S.B. 189 of the 125th General Assembly be amended to read as 101645
follows: 101646

Reappropriations

| | | |
|---|--------------|--------|
| Sec. 3.01. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES | | 101647 |
| CAP-773 Governor's Residence Restoration | \$ 4,705 | 101648 |
| CAP-786 Rural Areas Community Improvements | \$ 365,000 | 101649 |
| CAP-804 Day Care Centers | \$ 6,472 | 101650 |
| CAP-817 Urban Areas Community Improvements | \$ 1,058,900 | 101651 |
| Total Department of Administrative Services | \$ 1,435,077 | 101652 |

RURAL AREAS COMMUNITY IMPROVEMENTS 101653

From the foregoing appropriation item CAP-786, Rural Areas 101654
Community Improvements, grants shall be made for the following 101655

projects: \$20,000 for the Smith Field Memorial Foundation; 101656
\$200,000 for the Champaign YMCA; \$100,000 for the Mentor Fire & 101657
Police Headquarters Relocation; \$20,000 for the Red Mill Creek 101658
Water Retention Basin; and \$25,000 for the Lawrence County Water 101659
Projects. 101660

The amount reappropriated for the foregoing appropriation 101661
item CAP-786, Rural Areas Community Improvements, is the 101662
unencumbered and unallotted balance as of June 30, 2004, in 101663
appropriation item CAP-786, Rural Areas Community Improvements, 101664
minus \$75,000. 101665

URBAN AREAS COMMUNITY IMPROVEMENTS 101666

From the foregoing appropriation item CAP-817, Urban Areas 101667
Community Improvements, grants shall be made for the following 101668
projects: \$100,000 for the Maumee Youth Center; \$25,000 for the 101669
Columbus Civic Arena Development Planning; \$50,000 for the Brown 101670
Senior Center Renovations; \$100,000 for Project AHEAD Facility 101671
Improvements; \$75,000 for the J. Frank-Troy Senior Citizens 101672
Center; \$15,000 for the Victorian Village Society; \$50,000 for the 101673
Beech Acres Family Center; \$23,900 for the Canton Jewish Women's 101674
Center; \$450,000 for the Gateway Social Services Building; \$50,000 101675
for the Loew Field Improvements; \$20,000 for the Harvard Community 101676
Services Center Renovation & Expansion; \$20,000 for the Collinwood 101677
Community Service Center Repair & Renovation; and \$80,000 for 101678
Bowman Park - City of Toledo. 101679

Reappropriations

Sec. 3.04. DNR DEPARTMENT OF NATURAL RESOURCES 101680

| | | | | |
|---------|---------------------------------------|----|---------|--------|
| CAP-245 | Millcreek Valley Conservancy District | \$ | 230,503 | 101681 |
| CAP-702 | Upgrade Underground Fuel Tanks | \$ | 296,963 | 101682 |
| CAP-703 | Cap Abandoned Water Wells | \$ | 357,481 | 101683 |
| CAP-823 | Cost Sharing-Pollution Abatement | \$ | 33,614 | 101684 |
| CAP-847 | Assistance to Local Governments for | \$ | 25,000 | 101685 |

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|---------|--|----|-----------|--------|
| | Conservation Works of Improvement | | | |
| CAP-848 | Hazardous Dam Repair | \$ | 91,521 | 101686 |
| CAP-875 | Ohio River Access | \$ | 100,000 | 101687 |
| CAP-929 | Hazardous Waste/Asbestos Abatement | \$ | 286,154 | 101688 |
| CAP-931 | Wastewater/Water Systems Upgrades | \$ | 32,205 | 101689 |
| CAP-932 | Wetlands/Waterfront Development and Acquisition | \$ | 32,460 | 101690 |
| CAP-942 | Local Parks Projects | \$ | 80,225 | 101691 |
| CAP-969 | Frost-Parker Wetlands Preserve | \$ | 4,760 | 101692 |
| CAP-999 | Geographic Information Management System | \$ | 1,085 | 101693 |
| | Total Department of Natural Resources | \$ | 1,571,971 | 101694 |
| | TOTAL GRF General Revenue Fund | \$ | 3,462,769 | 101695 |

LOCAL PARKS PROJECTS 101696

From the foregoing appropriation item CAP-942, Local Parks 101697
Projects, \$75,000 shall be granted for the Liberty Township 101698
Playground. The amount reappropriated for the foregoing 101699
appropriation item CAP-942, Local Parks Projects, is the 101700
unencumbered and unallotted balance as of June 30, 2004, in 101701
appropriation item CAP-942, Local Parks Projects, plus \$75,000. 101702

Reappropriations

| | | | | |
|---------|--|----|--|--------|
| | Sec. 26.01. OEB OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK | | | 101703 |
| | COMMISSION ETC ETECH OHIO | | | 101704 |
| CAP-001 | Educational Television and Radio Equipment | \$ | 1,650,617 <u>3,378,684</u> | 101705 |
| CAP-002 | Educational Broadcasting Fiber Optic Network | \$ | 51,748 | 101706 |
| | Total Ohio Educational Telecommunications Network | \$ | 1,702,365 | 101707 |
| | Commission eTech Ohio | | <u>3,430,432</u> | |

EDUCATIONAL TELEVISION AND RADIO EQUIPMENT 101708

The foregoing appropriation item CAP-001, Educational 101709
Television and Radio Equipment, shall be used to provide 101710

broadcasting, transmission, and production equipment to Ohio 101711
public radio and television stations, radio reading services, and 101712
~~the Ohio Educational Telecommunications Network Commission~~ eTech 101713
Ohio. 101714

EDUCATIONAL BROADCASTING FIBER OPTIC NETWORK 101715

The foregoing appropriation item CAP-002, Educational 101716
Broadcasting Fiber Optic Network, shall be used to link the Ohio 101717
public radio and television stations, radio reading services, and 101718
~~the Ohio Educational Broadcasting Network~~ eTech Ohio for the 101719
reception and transmission of digital communications through fiber 101720
optic cable or other technology. 101721

Section 403.10.02. That existing Sections 3.01, 3.04, and 101722
26.01 of Am. Sub. S.B. 189 of the 125th General Assembly is hereby 101723
repealed. 101724

Section 403.09. That Section 22 of Am. Sub. S.B. 189 of the 101725
125th General Assembly, as amended by Am. Sub. H.B. 16 of the 101726
126th General Assembly, be amended to read as follows: 101727

Sec. 22. All items set forth in this section are hereby 101728
appropriated out of any moneys in the state treasury to the credit 101729
of the Cultural and Sports Facilities Building Fund (Fund 030) 101730
that are not otherwise appropriated: 101731

Reappropriations

AFC CULTURAL FACILITIES COMMISSION 101732

| | | | | |
|---------|---|----|-----------|--------|
| CAP-003 | Center of Science and Industry - Toledo | \$ | 12,268 | 101733 |
| CAP-004 | Valentine Theatre | \$ | 1,111 | 101734 |
| CAP-005 | Center of Science and Industry - Columbus | \$ | 181,636 | 101735 |
| CAP-010 | Sandusky State Theatre Improvements | \$ | 1,000,000 | 101736 |
| CAP-017 | Zion Center of the National Afro-American Museum | \$ | 488,232 | 101737 |

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|---------|---|----|-----------|--------|
| CAP-021 | Ohio Historical Center - Archives and Library Shelving | \$ | 2,395 | 101738 |
| CAP-033 | Woodward Opera House Renovation | \$ | 1,050,000 | 101739 |
| CAP-037 | Canton Palace Theatre Renovations | \$ | 1,066,126 | 101740 |
| CAP-038 | Center Exhibit Replacement | \$ | 750,000 | 101741 |
| CAP-042 | Statewide Site Exhibit/Renovation & Construction | \$ | 625,000 | 101742 |
| CAP-043 | Statewide Site Repairs | \$ | 454,000 | 101743 |
| CAP-046 | Cincinnati Museum Center Improvements | \$ | 500,000 | 101744 |
| CAP-052 | Akron Art Museum | \$ | 6,634,666 | 101745 |
| CAP-053 | Powers Auditorium Improvements | \$ | 200,000 | 101746 |
| CAP-055 | Waco Museum & Aviation Learning Center | \$ | 500,000 | 101747 |
| CAP-057 | Comprehensive Master Plan | \$ | 180,000 | 101748 |
| CAP-058 | Cedar Bog Nature Preserve Education Center | \$ | 766,200 | 101749 |
| CAP-061 | Statewide Arts Facilities Planning | \$ | 35,931 | 101750 |
| CAP-063 | Robins Theatre Renovations | \$ | 1,000,000 | 101751 |
| CAP-064 | Bramley Historic House | \$ | 75,000 | 101752 |
| CAP-066 | Delaware County Cultural Arts Center | \$ | 40,000 | 101753 |
| CAP-068 | Perry County Historical Society | \$ | 100,000 | 101754 |
| CAP-069 | Cleveland Institute of Art | \$ | 750,000 | 101755 |
| CAP-071 | Cleveland Institute of Music | \$ | 750,000 | 101756 |
| CAP-072 | West Side Arts Consortium | \$ | 138,000 | 101757 |
| CAP-074 | Stan Hywet Hall & Gardens | \$ | 250,000 | 101758 |
| CAP-075 | McKinley Museum Improvements | \$ | 125,000 | 101759 |
| CAP-076 | Spring Hill Historic Home | \$ | 125,000 | 101760 |
| CAP-077 | Western Reserve Ballet Improvements | \$ | 100,000 | 101761 |
| CAP-078 | Midland Theatre | \$ | 175,000 | 101762 |
| CAP-079 | Lorain Palace Civic Theatre | \$ | 200,000 | 101763 |
| CAP-080 | Great Lakes Historical Society | \$ | 150,000 | 101764 |
| CAP-734 | Hayes Presidential Center | \$ | 75,000 | 101765 |
| CAP-745 | Historic Sites and Museums | \$ | 750,000 | 101766 |
| CAP-753 | Buffington Island State Memorial | \$ | 91,500 | 101767 |

| | | | | |
|--------------------------------------|--|---------------|---------------------------------|--------|
| CAP-770 | Serpent Mound State Memorial | \$ | 295,000 | 101768 |
| CAP-784 | Ohio Historical Center Rehabilitation | \$ | 673,700 | 101769 |
| CAP-786 | Piqua/Ft Picakawillany Acquisition and Improvements | \$ | 136,000 | 101770 |
| CAP-789 | Neil Armstrong Air and Space Museum Improvements | \$ | 103,516 | 101771 |
| CAP-791 | Harrison Tomb and Site Renovations | \$ | 149,500 | 101772 |
| CAP-796 | Moundbuilders State Memorial | \$ | 530,000 | 101773 |
| CAP-806 | Grant Boyhood Home Improvements | \$ | 68,333 | 101774 |
| CAP-809 | Cincinnati Ballet Facility Improvements | \$ | 450,000 | 101775 |
| CAP-810 | Toledo Museum of Art Improvements | \$ | 2,000,000 | 101776 |
| CAP-814 | Crawford Museum of Transportation & Industry | \$ | 2,500,000 | 101777 |
| CAP-820 | Historical Center Ohio Village Buildings | \$ | 502,000 | 101778 |
| CAP-821 | Lorain County Historical Society | \$ | 300,000 | 101779 |
| CAP-822 | Madison County Historic Schoolhouse | \$ | 40,000 | 101780 |
| CAP-823 | Marion Palace Theatre | \$ | 825,000 | 101781 |
| CAP-824 | McConnellsville Opera House | \$ | 75,000 | 101782 |
| CAP-825 | Secrest Auditorium | \$ | 75,000 | 101783 |
| CAP-826 | Renaissance Theatre | \$ | 50,000 | 101784 |
| CAP-827 | Trumpet in the Land | \$ | 100,000 | 101785 |
| CAP-828 | Becky Thatcher Showboat | \$ | 30,000 | 101786 |
| CAP-829 | Mid Ohio Valley Players | \$ | 50,000 <u>80,000</u> | 101787 |
| CAP-830 | The Anchorage | \$ | 50,000 | 101788 |
| CAP-831 | Wayne County Historical Society | \$ | 300,000 | 101789 |
| CAP-833 | Promont House Museum | \$ | 200,000 | 101790 |
| CAP-836 | Fairfield Outdoor Theatre | \$ | 100,000 | 101791 |
| CAP-837 | Lake County Historical Society | \$ | 250,000 | 101792 |
| CAP-839 | Hancock Historical Society | \$ | 75,000 | 101793 |
| CAP-840 | Riversouth Development | \$ | 1,000,000 | 101794 |
| CAP-841 | Ft. Piqua Hotel | \$ | 200,000 | 101795 |
| CAP-843 | Marina District/Ice Arena Development | \$ | 4,000,000 | 101796 |
| Total Cultural Facilities Commission | | \$ | 34,470,114 | 101797 |

| | | |
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| | <u>34,370,114</u> | 101798 |
| TOTAL CULTURAL and Sports Facilities Building Fund | \$ 34,470,114 | 101799 |
| | <u>34,370,114</u> | 101800 |
| | | |
| COSI COLUMBUS - LOCAL ADMINISTRATION OF CAPITAL PROJECT | | 101801 |
| CONTRACTS | | 101802 |
| | | |
| Notwithstanding division (A) of section 3383.07 of the | | 101803 |
| Revised Code, the Ohio Cultural Facilities Commission, with | | 101804 |
| respect to the foregoing appropriation item CAP-005, Center of | | 101805 |
| Science and Industry - Columbus, may administer all or part of | | 101806 |
| capital facilities project contracts involving exhibit fabrication | | 101807 |
| and installation as determined by the Department of Administrative | | 101808 |
| Services, the Center of Science and Industry - Columbus, and the | | 101809 |
| Ohio Cultural Facilities Commission in review of the project | | 101810 |
| plans. The Ohio Cultural Facilities Commission shall enter into a | | 101811 |
| contract with the Center of Science and Industry - Columbus to | | 101812 |
| administer the exhibit fabrication and installation contracts and | | 101813 |
| such contracts are not subject to Chapter 123. or 153. of the | | 101814 |
| Revised Code. | | 101815 |
| | | |
| SPORTS FACILITIES IMPROVEMENTS - AKRON | | 101816 |
| | | |
| The amount reappropriated to the Cultural and Sports | | 101817 |
| Facilities Building Fund (Fund 030), CAP-024, Sports Facilities | | 101818 |
| Improvements - Akron, is the unallotted and unencumbered balance | | 101819 |
| in the Sports Facilities Building Fund (Fund 024), CAP-024, Sports | | 101820 |
| Facilities Improvements - Akron. | | 101821 |
| | | |
| REDS HALL OF FAME | | 101822 |
| | | |
| The amount reappropriated to the Cultural and Sports | | 101823 |
| Facilities Building Fund (Fund 030), CAP-025, Reds Hall of Fame, | | 101824 |
| is the unallotted and unencumbered balance in the Sports | | 101825 |
| Facilities Building Fund (Fund 024), CAP-025, Reds Hall of Fame. | | 101826 |
| | | |
| AKRON ART MUSEUM | | 101827 |
| | | |
| The amount reappropriated for the foregoing appropriation | | 101828 |

item CAP-052, Akron Art Museum, is the unencumbered and unallotted 101829
balance as of June 30, 2004, in appropriation item CAP-052, Akron 101830
Art Museum, plus \$1,634,666. 101831

RIVERSOUTH DEVELOPMENT 101832

The amount reappropriated for the foregoing appropriation 101833
item CAP-840, Riversouth Development, is the unencumbered and 101834
unallotted balance as of June 30, 2004, in appropriation item 101835
CAP-840, Riversouth Development, minus \$9,000,000. 101836

MARINA DISTRICT/ICE ARENA DEVELOPMENT 101837

The amount reappropriated to the Cultural and Sports 101838
Facilities Building Fund (Fund 030), CAP-843, Marina District/Ice 101839
Arena Development, is the unallotted and unencumbered balance in 101840
the Sports Facilities Building Fund (Fund 024), CAP-073, Marina 101841
District/Ice Arena Development. 101842

Section 403.10. That existing Section 22 of Am. Sub. S.B. 189 101843
of the 125th General Assembly, as amended by Am. Sub. H.B. 16 of 101844
the 126th General Assembly, is hereby repealed. 101845

Section 403.11. That Section 3 of Am. Sub. H.B. 621 of the 101846
122nd General Assembly, as most recently amended by Am. Sub. H.B. 101847
95 of the 125th General Assembly, be amended to read as follows: 101848

Sec. 3. That sections 166.031, 901.80, 901.81, 901.82, and 101849
901.83 of the Revised Code are hereby repealed, effective October 101850
15, ~~2005~~ 2007. 101851

Section 403.12. That existing Section 3 of Am. Sub. H.B. 621 101852
of the 122nd General Assembly, as most recently amended by Am. 101853
Sub. H.B. 95 of the 125th General Assembly, is hereby repealed. 101854

Section 403.17. That Section 153 of Am. Sub. H.B. 117 of the 101855

121st General Assembly, as most recently amended by Am. Sub. H.B. 101856
95 of the 125th General Assembly, be amended to read as follows: 101857

Sec. 153. (A) Sections 5112.01, 5112.03, 5112.04, 5112.05, 101858
5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 101859
5112.19, 5112.21, and 5112.99 of the Revised Code are hereby 101860
repealed, effective October 16, ~~2005~~ 2007. 101861

(B) Any money remaining in the Legislative Budget Services 101862
Fund on October 16, ~~2005~~ 2007, the date that section 5112.19 of 101863
the Revised Code is repealed by division (A) of this section, 101864
shall be used solely for the purposes stated in then former 101865
section 5112.19 of the Revised Code. When all money in the 101866
Legislative Budget Services Fund has been spent after then former 101867
section 5112.19 of the Revised Code is repealed under division (A) 101868
of this section, the fund shall cease to exist. 101869

Section 403.18. That existing Section 153 of Am. Sub. H.B. 101870
117 of the 121st General Assembly, as most recently amended by Am. 101871
Sub. H.B. 95 of the 125th General Assembly, is hereby repealed. 101872

Section 403.23. That Section 5 of Am. Sub. S.B. 50 of the 101873
121st General Assembly, as most recently amended by Am. Sub. H.B. 101874
95 of the 125th General Assembly, be amended to read as follows: 101875

Sec. 5. Sections 3 and 4 of Am. Sub. S.B. 50 of the 121st 101876
General Assembly shall take effect July 1, ~~2005~~ 2007. 101877

Section 403.24. That existing Section 5 of Am. Sub. S.B. 50 101878
of the 121st General Assembly, as most recently amended by Am. 101879
Sub. H.B. 95 of the 125th General Assembly is hereby repealed. 101880

***Section 490.03.** That Section 59.19 of Am. Sub. H.B. 95 of 101881
the 125th General Assembly is hereby repealed. 101882

*Section 490.04. Section 89.17 of Am. Sub. H.B. 95 of the 101883
125th General Assembly is hereby repealed. 101884

Section 490.06. That Section 147 of Am. Sub. H.B. 95 of the 101885
125th General Assembly is hereby repealed. 101886

Section 502.01. Nothing in this act shall affect the term of 101887
any member of the workers' compensation oversight commission 101888
serving on the effective date of this act. 101889

The Treasurer of State shall appoint a person to serve as an 101890
investment expert member of the Workers' Compensation Oversight 101891
Commission and the President of the Senate and the Speaker of the 101892
House of Representatives jointly shall appoint a person to serve 101893
as an investment expert member of the Oversight Commission not 101894
later than ninety days after the effective date of this section, 101895
and those persons shall take office not later than ninety days 101896
after the effective date of this section. The Treasurer and the 101897
President and Speaker shall appoint those members to a term ending 101898
September 1, 2008. Each investment expert member shall have the 101899
following qualifications: 101900

(A) Be a resident of this state; 101901

(B) Within the three years immediately preceding the 101902
appointment, not have been employed by the bureau of workers' 101903
compensation or by any person, partnership, or corporation that 101904
has provided to the bureau services of a financial or investment 101905
nature, including the management, analysis, supervision, or 101906
investment of assets; 101907

(C) Have direct experience in the management, analysis, 101908
supervision, or investment of assets. 101909

The investment expert members of the oversight commission 101910
shall vote only on investment matters. 101911

*Section 502.02. Within thirty days after the effective date 101912
of section 4121.12 of the Revised Code as amended by this act, the 101913
workers' compensation oversight commission shall adopt new 101914
objectives, criteria, and policies for the investment program of 101915
the bureau of workers' compensation that complies with the 101916
requirements of section 4121.12 of the Revised Code as amended by 101917
this act. 101918

*Section 502.03. Within thirty days after the effective date 101919
of this section, the Workers' Compensation Oversight Commission 101920
shall submit both of the following lists to the Governor, the 101921
President of the Senate, and the Speaker of the House of 101922
Representatives: 101923

(A) A list of all of the classes of investments in which 101924
assets of funds are invested at the time the act takes effect and 101925
in which assets of funds have been invested in the twelve months 101926
immediately preceding the effective date of this act; 101927

(B) A list of all investments that are prohibited by this act 101928
in which the Administrator of Workers' Compensation has invested, 101929
and the value of each investment. 101930

The Oversight Commission shall submit to the Governor, the 101931
President of the Senate, and the Speaker of the House of 101932
Representatives, within thirty days after the effective date of 101933
this section, a plan to divest itself, within six months after the 101934
effective date of this section, of any investments that are 101935
prohibited by section 4121.12 of the Revised Code, as amended by 101936
this act. 101937

Section 502.03.01. In addition to the Inspector General's 101938
powers and duties specified in sections 121.41 to 121.50 of the 101939
Revised Code and notwithstanding division (F) of section 121.42 of 101940
the Revised Code, as part of the Inspector General's investigation 101941

of the investments of the assets of the funds specified in 101942
Chapters 4121., 4123., 4127., and 4131. of the Revised Code that 101943
the Administrator of Workers' Compensation has the authority to 101944
invest, the Inspector General shall have a fiduciary review of 101945
those investments conducted by an independent firm. The Inspector 101946
General shall award a contract to an independent firm in the same 101947
manner as the Inspector General awards contracts to special 101948
investigators. The Inspector General shall submit a copy of the 101949
fiduciary review that the Inspector General receives to the 101950
Governor, the Attorney General, the Auditor of State, and the 101951
General Assembly. 101952

***Section 502.04.** Nothing in this act shall be construed to 101953
limit the Ohio Ethics Commission's authority, responsibility, and 101954
powers under Chapter 102. of the Revised Code as it existed 101955
immediately prior to the effective date of this section as applied 101956
to members of the Workers' Compensation Oversight Commission and 101957
employees of the Bureau of Workers' Compensation. Any authority, 101958
power, or responsibilities of the Ohio Ethics Commission expressly 101959
created by this act are in addition to any authority, power, or 101960
responsibilities of the Commission in effect immediately prior to 101961
the effective date of this section. 101962

Section 503.03. As used in this section, "state agency" means 101963
the administrative departments identified in section 121.02 of the 101964
Revised Code and the bureau of workers' compensation. 101965

During 2005, the Auditor of State shall examine the 101966
compliance of each state agency with the requirements of section 101967
131.02 of the Revised Code. The examination shall inquire into the 101968
following matters: 101969

(A) The practices and procedures used by the agency to 101970
collect claims before the claims are certified to the Attorney 101971

General as required by section 131.02 of the Revised Code; 101972

(B) The number of individuals employed by the agency or 101973
engaged under contract with the agency in 2003 and 2004 whose only 101974
or whose primary duty is to collect amounts owed to the agency; 101975

(C) For claims certified to the Attorney General under 101976
section 131.02 of the Revised Code in 2003 and 2004, the average 101977
number of days elapsing between the last day for timely payment of 101978
the claims and the day the agency certified the claim to the 101979
Attorney General. 101980

For the purposes of the examination required by this section, 101981
the Auditor of State may request a state agency to provide reports 101982
to the Auditor of State on the matters described under divisions 101983
(A), (B), and (C) of this section. State agencies shall provide 101984
such reports to the Auditor of State within 60 days after the 101985
request, but the Auditor of State may extend the time for 101986
providing the report for good cause for up to sixty days. 101987

Not later than March 31, 2006, the Auditor of State shall 101988
submit a written report of the Auditor of State's findings under 101989
this section to the Governor, the Speaker of the House of 101990
Representatives, the President of the Senate, and the Legislative 101991
Service Commission. 101992

Section 503.06. (A) There is hereby created the Task Force on 101993
Law Library Associations, consisting of thirteen members. The 101994
Speaker and Minority Leader of the House of Representatives shall 101995
each appoint one member of the House of Representatives to the 101996
Task Force. The President and Minority Leader of the Senate shall 101997
each appoint one member of the Senate to the Task Force. The Ohio 101998
Judicial Conference shall appoint three members to the Task Force, 101999
two of whom shall be judges who are members of the Conference and 102000
one of whom shall be a law librarian associated with a law library 102001
association. The County Commissioners Association of Ohio shall 102002

appoint three members to the Task Force. The Ohio State Bar Association shall appoint three members to the Task Force, two of whom shall be attorneys licensed to practice law in this state and one of whom shall be a law librarian associated with a law library association. Appointments to the Task Force shall be made by September 1, 2005. Vacancies on the Task Force shall be filled in the manner provided for original appointments.

(B)(1) The Task Force shall do each of the following:

(a) Gather information on and study the current state of the law library associations in this state covered by sections 3375.48 to 3375.56 of the Revised Code, with particular emphasis on the structure, funding, and administration of their law libraries, and on the effect of technology on, and access to, their law libraries;

(b) Make recommendations on the structure, funding, and administration of these law libraries presently and over the next five calendar years;

(c) Make recommendations as to how to ensure that these law libraries remain open and may be made available to members of the public.

(2) The Task Force shall submit a report of its findings and recommendations to the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, and the Chief Justice of the Supreme Court by October 31, 2006. Upon submission of its report, the Task Force shall cease to exist.

(C) Sections 101.82 to 101.87 of the Revised Code do not apply to the Task Force.

Section 503.09. (A) There is hereby created the Correctional Faith-Based Initiatives Task Force consisting of the following

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|---|--------------------------------------|
| seventeen members: | 102033 |
| (1) One member of the House of Representatives appointed by the Speaker of the House of Representatives; | 102034 102035 |
| (2) One member of the House of Representatives appointed by the Speaker of the House of Representatives after considering the recommendation of the leader of the minority party of the House of Representatives; | 102036 102037 102038 102039 |
| (3) One member of the Senate appointed by the President of the Senate; | 102040 102041 |
| (4) One member of the Senate appointed by the President of the Senate after considering the recommendation of the Minority Leader of the Senate; | 102042 102043 102044 |
| (5) Two members appointed by the Governor; | 102045 |
| (6) The Director of Rehabilitation and Correction or the director's designee; | 102046 102047 |
| (7) Three members appointed by the Director of Rehabilitation and Correction who have expertise or experience in faith-based programs in the correctional setting; | 102048 102049 102050 |
| (8) The Director of Job and Family Services or the director's designee; | 102051 102052 |
| (9) The Director of Youth Services or the director's designee; | 102053 102054 |
| (10) One member appointed by the Director of Youth Services who has expertise or experience in the juvenile court system; | 102055 102056 |
| (11) The Director of Alcohol and Drug Addiction Services or the director's designee; | 102057 102058 |
| (12) The Director of Mental Health or the director's designee; | 102059 102060 |

(13) The Executive Director of the Division of Criminal Justice Services or the executive director's designee; 102061
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(14) One member appointed by the executive assistant in charge of the Governor's Office of Faith-Based and Community Initiatives. 102063
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(B) The Director of Rehabilitation and Correction, or the director's designee, and the member of the House of Representatives appointed by the Speaker of the House of Representatives shall be co-chairs of the task force. The task force shall meet at least once each month. The Department of Rehabilitation and Correction shall provide the task force with a meeting room and secretarial assistance. 102066
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(C) The task force shall study seamless faith-based solutions to problems in the correctional system, focusing on diversion programs, programs and services in the prison system and for families of incarcerated individuals, and the faith-based and nonprofit organizations that provide the programs and services. The task force shall examine existing faith-based programs in prisons in Ohio and other states and shall consider the feasibility of replicating programs from other states and developing model faith-based penal institutions, faith-based units within penal institutions, and faith-based programs to reduce recidivism of offenders after their release from prison, improve prison management, and deal with juveniles who have been held over to or are in the adult penal system or who have parents who are incarcerated. 102073
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(D) On or before the first anniversary of the effective date of this section, the task force shall provide a written report and recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate. Upon submitting the report and recommendations, the task force shall cease to exist. 102087
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Section 503.12. (A) There is hereby created the Local 102093
Government and Library Revenue Distribution Task Force consisting 102094
of the following members: 102095

(1) Five members of the House of Representatives to be 102096
appointed by the Speaker of the House of Representatives, at least 102097
two of whom shall be from the minority party; 102098

(2) Five members of the Senate to be appointed by the 102099
President of the Senate, at least two of whom shall be from the 102100
minority party; 102101

(3) One nonvoting member to be appointed by the Ohio Library 102102
Council; 102103

(4) One nonvoting member to be appointed by the County 102104
Commissioners' Association of Ohio; 102105

(5) One nonvoting member to be appointed by the Ohio 102106
Municipal League; 102107

(6) One nonvoting member to be appointed by the Ohio Township 102108
Association; 102109

(7) One nonvoting member to be appointed by the Ohio Parks 102110
and Recreation Association. 102111

All appointments shall be made within thirty days after the 102112
effective date of this section. Vacancies on the Task Force shall 102113
be filled in the same manner as the original appointments. The 102114
Task Force shall designate one of the members to serve as 102115
chairperson. The initial meeting to organize the Task Force shall 102116
be called by the Tax Commissioner. 102117

(B) The Task Force shall study potential sources of state 102118
funding for the Local Government Fund, the Library and Local 102119
Government Support Fund, and the Local Government Revenue 102120
Assistance Fund that have the capacity to allow for growth in 102121
funding levels and to provide stability in funding levels. In 102122

addition, the Task Force shall consider changes to the codified 102123
funding formulae for the Local Government Fund, the Library and 102124
Local Government Support Fund, and the Local Government Revenue 102125
Assistance Fund that reflect the reform to Ohio tax code. 102126

(C) The Task Force shall receive staff assistance from the 102127
Tax Commissioner and may request assistance from the Legislative 102128
Service Commission. The Task Force shall also seek the input and 102129
testimony of interested parties. 102130

(D) Not later than December 1, 2006, the Task Force shall 102131
submit a report to the Governor and to the General Assembly 102132
setting forth its recommendations for sources of funding for the 102133
funds specified in division (B) of this section, together with 102134
suggested legislation to implement the recommendations. 102135

(E) The Task Force shall cease to exist upon issuing its 102136
report. 102137

Section 503.15. (A) Notwithstanding any other provision of 102138
law to the contrary, the appointment and removal provisions of the 102139
resolutions and ordinances governing the board of trustees of any 102140
regional transit authority consisting of a county having a 102141
population of at least five hundred thousand, according to the 102142
2000 federal census, and two municipal corporations, are void on 102143
the effective date of this act. The appointment and removal of the 102144
board of trustees of such regional transit authority shall comply 102145
with section 306.331 of the Revised Code. 102146

(B) Within the first five days after the effective date of 102147
this act, the county and municipal corporations specified in 102148
section 306.331 of the Revised Code shall appoint a new board of 102149
trustees for the regional transit authority in accordance with 102150
section 306.331 of the Revised Code. 102151

(C) Notwithstanding any other provision of law to the 102152

contrary, on the fifth day after the effective date of this act, 102153
the board of trustees of such regional transit authority, as 102154
constituted on the effective date of this act, is dissolved and 102155
the board appointed in accordance with section 306.331 of the 102156
Revised Code shall meet and organize. 102157

(D) This act shall not be construed as affecting the validity 102158
of any action of such regional transit authority taken prior to 102159
the effective date of this act. 102160

Section 503.18. OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND 102161
ATHLETIC TRAINERS BOARD MEMBER APPOINTMENT 102162

The term of the licensed occupational therapy assistant, as 102163
established in section 4755.03 of the Revised Code as amended by 102164
this act, shall commence at the time of the next appointment to 102165
the Occupational Therapy, Physical Therapy, and Athletic Trainers 102166
Board. 102167

Section 506.03. (A) The Governor is hereby authorized to 102168
execute a deed in the name of the state conveying to 102169
Hocking.Athens.Perry Community Action and its successors and 102170
assigns all of the state's right, title, and interest in the 102171
following described real estate: 102172

Situate in the Village of Glouster, Trimble Township, Athens 102173
County, Ohio, and being a part of a tract as described in Volume 102174
384, Page 47 of the Deed Records of Athens County, and being more 102175
particularly described as follows: 102176

Beginning at an iron pin set at the northeast corner of Lot 102177
848 of the Wassall Fire Clay Company's Addition to the Village of 102178
Glouster; thence along the south line of a 10.00 foot alley South 102179
85° 54' 29" East 219.30 feet to an iron pin set, thence along the 102180
west line of a 4.27 acre tract (ORV 4-442) South 2° 25' 37" East, 102181
528.53 feet to an iron pin found; thence along the west line of a 102182

44.21 acre tract (ORV 172-611) South 24° 08' 53" West, 412.51 feet 102183
to an iron pin found; thence North 81° 51' 07" West 594.65 feet to 102184
a point on the east right of way line of the former Toledo and 102185
Ohio Central Railroad (passing an iron pin found at 586.43 feet); 102186
thence along said line North 1° 39' 06" West, 734.24 feet to an 102187
iron pin found; thence along the south line of Lot 860 in said 102188
Village South 85° 54' 11" East, 188.77 feet to an iron pin set; 102189
thence along the east line of Lots 860 and 859 North 4° 05' 20" 102190
East, 100.00 feet to an iron pin set (an iron pin found for 102191
reference bears South 70° 30' 21" East, 1.01 feet); thence along 102192
the south line of Lots 857 and 848 South 85° 54' 29" East, 340.04 102193
feet to an iron pin found; thence along the east line of Lot 848 102194
North 4° 05' 30" East, 40.00 feet to the point of beginning and 102195
containing 14.046 acres. 102196

Subject to all Easements and Rights of Way of Record. 102197

Bearings used are to an assumed meridian and are for angular 102198
determination only. 102199

Surveyed October 1996 by Kenneth E. Highland, Ohio PLS 102200
#S-7581. 102201

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TWO TRACTS: 102202

Tract 1-0.020 acre: Situate in the Village of Glouster, 102203
Trimble Township, Athens County, Ohio, and being a part of a tract 102204
as previously described in Volume 384, Page 47 of the Deed Records 102205
of Athens County and being more particularly described as follows: 102206
Commencing at an iron pin set at the southeast corner of Lot 860 102207
of the Wassall Fire Clay Company's Addition to the Village of 102208
Glouster; thence along the south line of said lot North 85° 54' 102209
11" West, 88.77 feet to an iron pin set at the point of beginning 102210
of this tract; thence leaving said line and along a new line South 102211
4° 05' 49" West, 15.00 feet to a point (passing an iron pin set at 102212
10.00 feet); thence along a new line parallel to the south line of 102213

the previously mentioned lot line North 85° 54' 11" West, 60.00 feet to an iron pin set; thence North 4° 05' 49" East, 15.00 feet to an iron pin set on grantors most westerly north line (passing an iron pin set at 5.00 feet); thence along said line South 85° 54' 11" East, 60.00 feet to the point of beginning and containing 0.020 acre. Subject to all easements and rights of way of record. Bearings used are to an assumed meridian and are for angular determination only. Surveyed August 1997 by Kenneth E. Highland, Ohio PLS #S-7581.

Deed Reference: Volume 263, Page 540 and Volume 299, Page 185, Athens County Official Records.

Tract 2-0.013 acre: Situate in the Village of Glouster, Trimble Township, Athens County, Ohio, and being a part of a tract as previously described in Volume 384, Page 47 of the Deed Records of Athens County and being more particularly described as follows: Commencing at an iron pin set at the southwest corner of Lot 857 of the Wassall Fire Clay Company's Addition to the Village of Glouster; thence along the south line of said lot South 85° 54' 29" East, 90.00 feet to an iron pin set at the point of beginning of this tract; thence continuing along said line South 85° 54' 29" East, 60.00 feet to an iron pin set at the southeast corner of said lot; thence along a new line South 4° 05' 31" West 10.00 feet to an iron pin set; thence along a line parallel to the south line of Lot 857 North 85° 54' 29" West, 60.00 feet to an iron pin set; thence along a new line North 4° 05' 31" East, 10.00 feet to the point of beginning and containing 0.013 acre. Subject to all easements and rights of way of record. Bearings used are to an assumed meridian and are for angular determination only. Surveyed August 1997 by Kenneth E. Highland, Ohio PLS #S-7581; revised June 2000.

Deed Reference: Volume 299, Page 704; Volume 263, Page 544; and Volume 299, Page 183, Athens County Official Records.

DEED REFERENCE: VOLUME _____, PAGE _____; VOLUME 298, PAGE 102246
2439; AND VOLUME 258, PAGE 79, ATHENS COUNTY OFFICIAL RECORDS. 102247

(B) Consideration for the conveyance of the real estate 102248
described in division (A) of this section is the purchase price of 102249
one dollar. 102250

(C) Upon payment of the purchase price, the Auditor of State, 102251
with the assistance of the Attorney General, shall prepare a deed 102252
to the real estate described in division (A) of this section. The 102253
deed shall state the consideration. The deed shall be executed by 102254
the Governor in the name of the state, countersigned by the 102255
Secretary of State, sealed with the Great Seal of the State, 102256
presented in the Office of the Auditor of State for recording, and 102257
delivered to Hocking.Athens.Perry Community Action. 102258
Hocking.Athens.Perry Community Action shall present the deed for 102259
recording in the Office of the Athens County Recorder. 102260

(D) Hocking.Athens.Perry Community Action shall pay the costs 102261
of the conveyance of the real estate described in division (A) of 102262
this section. 102263

(E) This section expires one year after its effective date. 102264

Section 509.03. (A)(1) The Clerk of the Medina Municipal 102265
Court shall be elected by the qualified electors of the territory 102266
of the court in the manner that is provided for the election of 102267
the judge of that court in section 1901.07 of the Revised Code at 102268
the first general election that occurs not less than six months 102269
after the effective date of this section. 102270

(2) Notwithstanding division (A)(1)(a) of section 1901.31 of 102271
the Revised Code, the term of the Clerk of the Medina Municipal 102272
Court elected under division (A)(1) of this section shall commence 102273
on the first day of January following the clerk's election and 102274
continue until the clerk's successor is elected and qualified. The 102275

clerk's successor shall be elected pursuant to the schedule for 102276
the election of the judge of that court in sections 1901.07 and 102277
1901.08 of the Revised Code. 102278

(B) The Clerk of the Medina Municipal Court shall continue in 102279
office until the clerk elected pursuant to division (A) of this 102280
section takes office. If the office of Clerk of the Medina 102281
Municipal Court becomes vacant prior to the date that the clerk 102282
elected pursuant to division (A) of this section takes office, the 102283
judges of the court shall appoint a clerk to serve until the clerk 102284
elected pursuant to division (A) of this section takes office. 102285

Section 512.03. The Motor Vehicle Inspection and Maintenance 102286
Fund that is created in section 3704.14 of the Revised Code, as 102287
reenacted by this act, is a continuation of the Motor Vehicle 102288
Inspection and Maintenance Fund that was created in section 102289
3704.14 of the Revised Code, as repealed by this act. Money 102290
credited to the Fund under former section 3704.14 of the Revised 102291
Code shall be used for the purposes specified in new section 102292
3704.14 of the Revised Code, as enacted by this act. 102293

"Section 513.03. (A) Notwithstanding any provision of law to 102294
the contrary and during the period beginning July 1, 2005, and 102295
ending December 31, 2005, the Director of Environmental Protection 102296
or a board of health as defined in section 3714.01 of the Revised 102297
Code shall not issue a license to open a new construction and 102298
demolition debris facility under Chapter 3714. of the Revised Code 102299
and rules adopted under it. Except as otherwise provided in this 102300
division, the moratorium established by this division applies both 102301
with respect to an application for a license to open a new 102302
construction and demolition debris facility that is submitted on 102303
or after the effective date of this section and to an application 102304
for such a license that has been submitted to the Director or a 102305
board of health prior to the effective date of this section, but 102306

concerning which a license for a facility has not been issued as 102307
of that effective date. 102308

The board of county commissioners of a county may request the 102309
Director or a board of health to continue to process an 102310
application for a license to open a new construction and 102311
demolition debris facility in that county that has been submitted 102312
to the Director or board of health prior to the effective date of 102313
this section. After receiving such a request from a board of 102314
county commissioners, the Director or board of health may then 102315
issue a license for the new construction and demolition debris 102316
facility notwithstanding the moratorium established by this 102317
division. 102318

The moratorium established by this division does not apply to 102319
a license for a new construction and demolition debris facility if 102320
the new facility will be located adjacent or contiguous to a 102321
previously licensed construction and demolition debris facility. 102322
The moratorium also does not apply to an expansion of or other 102323
modification to an existing licensed construction and demolition 102324
debris facility. 102325

(B)(1) There is hereby created the Construction and 102326
Demolition Debris Facility Study Committee composed of the 102327
following thirteen members: 102328

(a) Three members of the House of Representatives appointed 102329
by the Speaker of the House of Representatives; 102330

(b) Three members of the Senate appointed by the President of 102331
the Senate; 102332

(c) The Director of Environmental Protection or the 102333
Director's designee; 102334

(d) One member representing health districts in the state 102335
appointed by the Governor; 102336

(e) Three members representing the construction and demolition debris industry in the state appointed by the Governor, one of whom shall be the owner of both a construction and demolition debris facility and a solid waste disposal facility;

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(f) Two members representing environmental consulting organizations or firms in the state appointed by the Governor.

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Appointments shall be made to the Committee not later than fifteen days after the effective date of this section. Members of the Committee shall not receive compensation for their service on the Committee and shall not receive reimbursement for expenses incurred related to that service.

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(2) The Committee shall study the laws of this state governing construction and demolition debris facilities and the rules adopted under those laws and shall make recommendations to the General Assembly regarding changes to those laws including, but not limited to, recommendations concerning the following topics:

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(a) The establishment of a code of ethics for owners and operators of construction and demolition debris facilities;

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(b) The establishment of best management practices;

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(c) Licensing requirements;

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(d) Testing and monitoring requirements and protocols;

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(e) Siting and setback criteria for construction and demolition debris facilities;

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(f) State and local oversight and regulatory authority;

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(g) Fees;

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(h) The regulation of construction and demolition debris from sources inside and outside the state;

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(i) The closure process for construction and demolition

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debris facilities. 102366

(3) The Committee shall submit a report of its study and any 102367
recommendations that it has developed to the General Assembly not 102368
later than September 30, 2005. The Committee shall cease to exist 102369
on the date on which it submits its report. 102370

The General Assembly shall enact legislation based on the 102371
recommendations of the Committee as soon as is practicable. 102372

Section 514.03. (A) As used in this section: 102373

(1) "Automatic tabulating equipment," "direct recording 102374
electronic voting machine," "marking device," and "voting 102375
machines" have the same meanings as in section 3506.01 of the 102376
Revised Code. 102377

(2) "Help America Vote Act of 2002" means the "Help America 102378
Vote Act of 2002," Pub. L. No. 107-252, 116 Stat. 1666. 102379

(B) A county that is scheduled to acquire voting machines, 102380
marking devices, or automatic tabulating equipment with funds made 102381
available pursuant to the Help America Vote Act of 2002 and that 102382
selects direct recording electronic voting machines as the primary 102383
voting system to be used in the county and not only for 102384
accessibility for individuals with disabilities as required under 102385
the Help America Vote Act of 2002 and section 3506.19 of the 102386
Revised Code, only may acquire direct recording electronic voting 102387
machines with funds made available pursuant to the Help America 102388
Vote Act of 2002 if the county acquires sufficient direct 102389
recording electronic voting machines to meet the minimum number of 102390
direct recording electronic voting machines required to be 102391
established by the Secretary of State under division (C) of this 102392
section. 102393

(C) The Secretary of State shall establish, for each county, 102394
a minimum number of direct recording electronic voting machines 102395

that the county shall be required to acquire to be eligible to 102396
acquire direct recording electronic voting machines as the primary 102397
voting system in the county with funds made available pursuant to 102398
the Help America Vote Act of 2002. The minimum number for each 102399
county shall be calculated as follows: 102400

(1) The total number of registered voters in the county on 102401
January 1, 2005, shall be multiplied by the statewide percentage 102402
of voters who were purged from the official lists of registered 102403
voters during the 2001 calendar year. 102404

(2) The number resulting from the calculation in division 102405
(C)(1) of this section shall be subtracted from the total number 102406
of registered voters in the county on January 1, 2005. 102407

(3) The number resulting from the calculation in division 102408
(C)(2) of this section shall be divided by one hundred 102409
seventy-five. 102410

(4) Any fraction resulting from the calculation in division 102411
(C)(3) of this section shall be rounded up to the next whole 102412
number. 102413

Section 515.03. (A) On or before December 31, 2005, a 102414
transportation improvement district and any two or more 102415
governmental agencies may enter into an agreement providing for 102416
the joint financing of any street, highway, interchange, or other 102417
transportation project. Any such agreement shall be approved by 102418
resolution or ordinance passed by the legislative authority of 102419
each of the parties to such agreement, which resolution or 102420
ordinance shall authorize the execution thereof by a designated 102421
official or officials of each of such parties, and such agreement, 102422
when so approved and executed, shall be in full force and effect. 102423

(B)(1) Subject to division (B)(2) of this section, any party 102424
to such an agreement may issue and, notwithstanding any other 102425

provision of the Revised Code, a district may purchase directly 102426
from the party as an investment, securities to evidence the 102427
obligations of that party to the district pursuant to the 102428
agreement for its portion of the cost of the project pursuant to 102429
Chapter 133. or other applicable provisions of the Revised Code. 102430

(2) More than half of the property necessary for any project 102431
undertaken pursuant to an agreement under this section for which a 102432
district is purchasing securities under division (B)(1) of this 102433
section shall be located within the territory of the 102434
transportation improvement district. 102435

(C) Any term used in this section has the same meaning as 102436
defined in section 5540.01 of the Revised Code, as amended by this 102437
act, unless the context clearly requires another meaning. 102438

Section 553.01. (A) As used in this section: 102439

(1) "Qualifying delinquent taxes" means any tax levied under 102440
Chapter 5733., 5739., 5741., 5747., or 5748. of the Revised Code, 102441
including the taxes levied under sections 5733.41 and 5747.41 of 102442
the Revised Code and taxes required to be withheld under Chapters 102443
5747. and 5748. of the Revised Code, which were due and payable 102444
from any person as of May 1, 2005, were unreported or 102445
underreported, and remain unpaid. 102446

(2) "Qualifying delinquent personal property taxes" means a 102447
tax for which a return is filed under section 5711.02 of the 102448
Revised Code. 102449

(3) "Qualifying delinquent taxes" and "qualifying delinquent 102450
personal property taxes" do not include any tax for which a notice 102451
of assessment or audit has been issued, for which a bill has been 102452
issued, which relates to a tax period that ends after the 102453
effective date of this section, or for which an audit has been 102454
conducted or is currently being conducted. 102455

(B) The Tax Commissioner shall establish and administer a tax amnesty program with respect to qualifying delinquent taxes and qualifying delinquent personal property taxes. The program shall commence on January 1, 2006, and shall conclude on February 15, 2006. The Tax Commissioner shall issue forms and instructions and take other actions necessary to implement the program. The Tax Commissioner shall publicize the program so as to maximize public awareness and participation in the program.

(C)(1) During the program, if a person pays the full amount of qualifying delinquent taxes owed by that person and one-half of any interest that has accrued as a result of the person failing to pay those taxes in a timely fashion, the Tax Commissioner shall waive or abate all applicable penalties and one-half of any interest that accrued on the qualifying delinquent taxes.

(2) During the program, if a person who owes qualifying delinquent personal property taxes files a return with the Tax Commissioner, in the form and manner prescribed by the Tax Commissioner, listing all taxable property that was required to be listed on the return required to be filed under section 5711.02 of the Revised Code, the Tax Commissioner shall issue a preliminary assessment certificate to the appropriate county auditor. Upon receiving a preliminary assessment certificate issued by the Tax Commissioner pursuant to this division, the county auditor shall compute the amount of qualifying delinquent personal property taxes owed by the person and shall add to that amount one-half of the interest prescribed under sections 5711.32 and 5719.041 of the Revised Code. The county treasurer shall collect the amount of tax and interest computed by the county auditor under this division by preparing and mailing a tax bill to the person as prescribed in section 5711.32 of the Revised Code. If the person pays the full amount of tax and interest thereon on or before the date shown on the tax bill all applicable penalties and one-half of any interest

that accrued on the qualifying delinquent personal property taxes 102488
shall be waived. 102489

(3) No payment required under division (G) of section 321.24 102490
of the Revised Code shall be made with respect to any person who 102491
pays qualifying delinquent personal property taxes under division 102492
(C)(2) of this section. 102493

(4) Notwithstanding any contrary provision of the Revised 102494
Code, the Tax Commissioner shall not furnish to the county auditor 102495
any information pertaining to the exemption from taxation under 102496
division (C)(3) of section 5709.01 of the Revised Code insofar as 102497
that information pertains to any person who pays qualifying 102498
delinquent personal property taxes under division (C)(2) of this 102499
section. 102500

(D) The Tax Commissioner may require a person participating 102501
in the program to file returns or reports, including amended 102502
returns and reports, in connection with the person's payment of 102503
qualifying delinquent taxes or qualifying delinquent personal 102504
property taxes. 102505

(E) A person who participates in the program and pays in full 102506
any outstanding qualifying delinquent tax or qualifying delinquent 102507
personal property tax and the interest payable on such tax in 102508
accordance with this section shall not be subject to any criminal 102509
prosecution or any civil action with respect to that tax, and no 102510
assessment shall thereafter be issued against that person with 102511
respect to that tax. 102512

(F) Taxes and interest collected under the program shall be 102513
credited to the General Revenue Fund, except that: 102514

(1) Qualifying delinquent personal property taxes and 102515
interest payable thereon shall be credited to the appropriate 102516
county undivided income tax fund, and the county auditor shall 102517
distribute the amount thereof among the various taxing districts 102518

in the county as if it had been levied, collected, and settled, as 102519
personal property taxes; 102520

(2) Qualifying delinquent taxes levied under section 102521
5739.021, 5739.023, or 5739.026 of the Revised Code shall be 102522
distributed to the appropriate counties and transit authorities in 102523
accordance with section 5739.21 of the Revised Code during the 102524
next distribution required under that section; 102525

(3) Qualifying delinquent taxes levied under section 102526
5741.021, 5741.022, or 5741.023 of the Revised Code shall be 102527
distributed to the appropriate counties and transit authorities in 102528
accordance with section 5741.03 of the Revised Code during the 102529
next distribution required under that section; and 102530

(4) Qualifying delinquent taxes levied under Chapter 5748. of 102531
the Revised Code shall be credited to the school district income 102532
tax fund and then paid to the appropriate school district during 102533
the next payment required under division (D) of section 5747.03 of 102534
the Revised Code. 102535

Section 553.02. Section 553.01 of this act is hereby 102536
repealed, effective February 16, 2006. The repeal of Section 102537
553.01 of this act does not affect, after the effective date of 102538
the repeal, the rights, remedies, or actions authorized under that 102539
section. 102540

Section 553.02.01. Notwithstanding section 5735.142 of the 102541
Revised Code, a city, exempted village, joint vocational, or local 102542
school district or educational service center that failed to file 102543
or failed to file in a timely manner an application for a refund 102544
of that portion of the motor vehicle fuel tax imposed by section 102545
5735.29 of the Revised Code that became effective on July 1, 2003, 102546
as permitted by section 5735.142 of the Revised Code, that the 102547
school district or educational service center paid through the 102548

purchase of motor fuel on or after that date may file such a 102549
refund application with the Tax Commissioner during the sixty-day 102550
period next following the effective date of this section. The Tax 102551
Commissioner shall process a refund application received under 102552
this section in accordance with section 5735.142 of the Revised 102553
Code, treating such an application as if it had been timely filed 102554
with the Tax Commissioner in accordance with that section. 102555

Section 553.02.03. (A) The amendment by this act of section 102556
5709.07 of the Revised Code first applies with respect to tax year 102557
2005. 102558

(B) Notwithstanding that buildings and lands described in 102559
division (D) of section 5709.07 of the Revised Code, as amended by 102560
this act, may qualify for an exemption from real property taxation 102561
under a provision of another section of the Revised Code that 102562
specifically applies to such buildings and lands, the buildings 102563
and lands are nevertheless entitled to the exemption allowed under 102564
division (A)(4) of section 5709.07 of the Revised Code, as amended 102565
by this act. 102566

Section 553.02.06. Notwithstanding section 5709.40, 5709.41, 102567
5709.73, or 5709.78 of the Revised Code to the contrary, 102568
exemptions from taxation granted pursuant to an ordinance or 102569
resolution adopted under any of those sections on or after July 1, 102570
2005, and on or before December 31, 2005, shall commence with the 102571
tax year specified in the ordinance or resolution. 102572

Section 557.03. A credit is hereby allowed against the 102573
additional estate tax imposed by section 5731.18 of the Revised 102574
Code on the estate of a decedent who dies on or after January 1, 102575
2002, but before the effective date of that section as amended by 102576
this act. The credit shall equal that portion of the additional 102577

estate tax imposed by section 5731.18 of the Revised Code that is 102578
over and above the additional estate tax that would have been 102579
imposed if the tax levied by division (A) of that section had been 102580
an amount equal to the maximum credit allowable by section 2011 of 102581
the Internal Revenue Code that was in effect and applicable on the 102582
date of such decedent's death for any taxes paid to any state. 102583

Section 557.04. Notwithstanding division (A)(3) of section 102584
5733.09 or section 5733.98 of the Revised Code, the credit allowed 102585
under section 5733.56 of the Revised Code to telephone companies 102586
for providing programs to aid the communicatively impaired shall 102587
be allowed in tax year 2005 so that there is full recovery of the 102588
tax credit under that section for that tax year. 102589

Section 557.06. (A) As used in this section, "net additional 102590
tax" means, in the case of a wholesale dealer, the net additional 102591
amount of tax resulting from the amendment by this act of section 102592
5743.02 of the Revised Code, less the discount allowed under 102593
section 5743.05 of the Revised Code as a commission for affixing 102594
and canceling stamps or meter impressions, that is due on all 102595
packages of Ohio stamped cigarettes and on all unaffixed Ohio 102596
cigarette tax stamps that the wholesale dealer has on hand as of 102597
the beginning of business on July 1, 2005, and, in the case of a 102598
retail dealer, means the net additional amount of tax resulting 102599
from the amendment by this act of section 5743.02 of the Revised 102600
Code that is due on all packages of Ohio stamped cigarettes and on 102601
all unaffixed Ohio cigarette tax stamps that the retail dealer has 102602
on hand as of the beginning of business on July 1, 2005. 102603

(B) In addition to the return required under section 5743.03 102604
of the Revised Code, each wholesale dealer and each retail dealer 102605
shall make and file a return on forms prescribed by the tax 102606
commissioner showing the net additional tax due and any other 102607

information that the commissioner considers necessary to apply 102608
sections 5743.01 to 5743.20 of the Revised Code in the 102609
administration of the net additional tax. On or before September 102610
30, 2005, each wholesale dealer and each retail dealer shall 102611
deliver the return to the treasurer of state, together with 102612
remittance of the net additional tax shown on the return to be 102613
due. A wholesale dealer or retail dealer may claim a credit equal 102614
to five per cent of the net additional tax shown on the return to 102615
be due if the wholesale dealer or retail dealer delivers the 102616
return required under this section to the treasurer of state on or 102617
before August 15, 2005, together with remittance of the net 102618
additional tax due after allowing for the five per cent credit. 102619
The treasurer of state shall stamp or otherwise mark on the return 102620
the date on which the return and remittance were received by the 102621
treasurer of state and also shall show on the return by stamp or 102622
otherwise the amount of the tax payment remitted with the return. 102623
Upon receipt, the treasurer of state shall immediately transmit 102624
all returns filed under this section to the commissioner. 102625

(C) Any wholesale or retail dealer who fails to file a return 102626
or remit net additional tax as required under this section shall 102627
forfeit and pay into the state treasury a late charge equal to 102628
fifty dollars or ten per cent of the net additional tax due, 102629
whichever is greater. If the net additional tax, or any portion 102630
thereof, whether determined by the commissioner or the wholesale 102631
or retail dealer, is not paid on or before the date prescribed for 102632
payment under this section, interest shall accrue on the unpaid 102633
amount at the rate per annum required by section 5703.47 of the 102634
Revised Code from the date prescribed for payment of the net 102635
additional tax to the date of payment or to the date the 102636
commissioner issues an assessment under section 5743.081 or 102637
5743.082 of the Revised Code, whichever occurs first. Interest 102638
shall be paid and collected in the same manner as the net 102639
additional tax. 102640

(D) Unpaid or unreported net additional taxes, late charges, 102641
and interest may be collected by assessment in the manner 102642
prescribed under sections 5743.081 and 5743.082 of the Revised 102643
Code. 102644

(E) All amounts collected under this section shall be 102645
considered revenue arising from the tax imposed by section 5743.02 102646
of the Revised Code. 102647

Section 557.09. (A) This section applies only to the 102648
semiannual period from July 1, 2005, to December 31, 2005. 102649

Notwithstanding any provision of Chapter 5751. of the Revised 102650
Code as enacted by this act, for purposes of making the first 102651
payment of the tax imposed under that chapter, a tax return for 102652
both calendar year and calendar quarter taxpayers for that 102653
semiannual period shall be filed not later than February 10, 2006. 102654
The tax imposed by this section is a semiannual privilege tax 102655
measured for the semiannual period commencing July 1, 2005, that 102656
is the six-month tax period during which the tax is measured on 102657
receipts during that period. The semiannual tax payment for all 102658
taxpayers for that semiannual period shall be seventy-five dollars 102659
for the first five hundred thousand dollars in taxable gross 102660
receipts during that semiannual period. In addition, a tax is 102661
imposed on all taxable gross receipts for that semiannual period 102662
in excess of five hundred thousand dollars. Such tax shall equal 102663
the product of six-tenths of one mill per dollar (the result of 102664
rounding twenty-three per cent of two and six-tenths mills) times 102665
the remaining amount of taxable gross receipts after subtracting 102666
five hundred thousand dollars in taxable gross receipts. 102667

(B) Only persons excluded pursuant to divisions (E)(2) to 102668
(10) of section 5751.01 of the Revised Code, as enacted by this 102669
act, and persons with less than one hundred fifty thousand dollars 102670
in taxable gross receipts during calendar year 2005 are not 102671

subject to this section. 102672

(C) The tax commissioner shall take the necessary steps to 102673
implement this section and use money in the commercial tax 102674
administrative fund to promote awareness of the tax imposed under 102675
this section and under Chapter 5751. of the Revised Code as 102676
enacted by this act by means of advertising and other reasonable 102677
means. 102678

Section 557.09.03. It is the intent of the General Assembly 102679
that section 5751.033 of the Revised Code, as enacted by this act, 102680
be applied in a manner that is consistent with and identical to 102681
the situsing provisions that apply to the corporation franchise 102682
tax. That section shall be interpreted and applied by the Tax 102683
Commissioner in a manner that is consistent with the body of case 102684
law addressing the situsing of sales for purposes of the sales 102685
factor as determined under Chapter 5733. of the Revised Code, and 102686
in a manner that is consistent with the Tax Commissioner's prior 102687
treatment of the corporation franchise tax sales factor situsing 102688
law for taxpayers under that chapter. 102689

Section 557.09.06. (A) Notwithstanding any provision of 102690
Chapter 5751. of the Revised Code as enacted by this act, "gross 102691
receipts," as defined in section 5751.01 of the Revised Code, 102692
excludes all of the following receipts if they are received prior 102693
to July 1, 2007: 102694

(1) Receipts from the sale of fuel by a refinery to a 102695
terminal that is intended to be used as motor fuel; 102696

(2) Receipts from the sale of motor fuel from a terminal to a 102697
motor fuel dealer, excluding motor fuel that is not subject to 102698
taxation under Chapter 5735. of the Revised Code; 102699

(3) Receipts from the sale of motor fuel upon which the tax 102700
under Chapter 5735. of the Revised Code has been imposed. 102701

For the purposes of this division, "motor fuel," "motor fuel dealer, and "terminal" have the same meanings as used in section 5735.01 of the Revised Code.

(B) For the purposes of division (A) of this section, the imposition of tax on motor fuel for the illegal use of that fuel shall not be considered motor fuel subject to the tax under Chapter 5735. of the Revised Code.

(C) The Tax Commissioner may promulgate rules to administer this section, including prescribing the method to determine which fuel is intended to be used as motor fuel.

Between July 1, 2005, and March 1, 2007, the Tax Commissioner shall accept recommendations and comments on the taxation of receipts from the sale or other transfer of motor fuel under Chapter 5751. of the Revised Code, including from persons required to report and pay the tax under Chapter 5735. of the Revised Code, and shall prepare a report summarizing those recommendations and comments and presenting any recommendations of the Tax Commissioner. The Tax Commissioner and shall submit the report to the President of the Senate, the Speaker of the House of Representatives, and the leader of the minority caucus in each house on or before March 1, 2007.

Section 557.09.07. Notwithstanding anything in Chapter 5735. of the Revised Code as amended by this act, the discount or shrinkage allowance provided for in sections 5735.06 and 5735.141 of the Revised Code for the period July 1, 2005, through June 30, 2007, shall be based on divisions (A) and (B) of this section:

(A) For the discount under section 5735.06 of the Revised Code:

(1) For July 2005 through June 2006, if the monthly report is timely filed and the tax is timely paid, 2.5 per cent of the total

number of gallons of motor fuel received by the motor fuel dealer 102732
within the state during the preceding calendar month less the 102733
total number of gallons deducted under divisions (B)(1)(a) and (b) 102734
of section 5735.06 of the Revised Code, less 0.83 per cent of the 102735
total number of gallons of motor fuel that were sold to a retail 102736
dealer during the preceding calendar month. 102737

(2) For July 2006 through June 2007, if the monthly report is 102738
timely filed and the tax is timely paid, 1.95 per cent of the 102739
total number of gallons of motor fuel received by the motor fuel 102740
dealer within the state during the preceding calendar month less 102741
the total number of gallons deducted under divisions (B)(1)(a) and 102742
(b) of section 5735.06 of the Revised Code, less 0.65 per cent of 102743
the total number of gallons of motor fuel that were sold to a 102744
retail dealer during the preceding calendar month. 102745

(B) For the refund provided retail dealers under section 102746
5735.141 of the Revised Code: 102747

(1) For the semiannual periods ending December 31, 2005, and 102748
June 30, 2006, the refund shall be 0.83 per cent of the Ohio motor 102749
fuel taxes paid on fuel purchased during those semiannual periods. 102750

(2) For the semiannual periods ending December 31, 2006, and 102751
June 30, 2007, the refund shall be 0.65 per cent of the Ohio motor 102752
fuel taxes paid on fuel purchased during those semiannual periods. 102753

The Tax Commissioner may adopt rules to administer this 102754
section. 102755

Section 557.09.09. Notwithstanding any provision of Chapter 102756
5751. of the Revised Code as enacted by this act, for purposes of 102757
Chapter 5751. of the Revised Code, "gross receipts" excludes 102758
amounts received from the sale of tangible personal property that 102759
is delivered into or shipped from a qualified foreign trade zone 102760
area that includes a qualified intermodal facility. 102761

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| As used in this section: | 102762 |
| (A) "Qualified foreign trade zone area" means a warehouse or other place of delivery or shipment that is: | 102763 |
| | 102764 |
| (1) Located within one mile of the nearest boundary of an international airport; and | 102765 |
| | 102766 |
| (2) Located, in whole or in part, within a foreign trade zone as defined in division (A)(2) of section 5709.44 of the Revised Code. | 102767 |
| | 102768 |
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| (B) "Qualified intermodal facility" means a transshipment station that is capable of receiving and shipping freight through rail transportation, highway transportation, and air transportation. A transshipment station is "capable of receiving and shipping freight" after the commencement of the construction of each of the rail, highway, and air transportation components of the facility. | 102770 |
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| Section 557.10. In lieu of the certification and crediting of money to the Recycling and Litter Prevention Fund in fiscal year 2006 that would be required under section 5733.122 of the Revised Code if that section were not repealed by this act, the Director of Budget and Management, during fiscal year 2006, shall transfer \$1,500,000 from the General Revenue Fund to the Recycling and Litter Prevention Fund according to a schedule to be determined by the Director. | 102777 |
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| Section 557.11. For tax years 2007 and thereafter, telephone, telegraph, and interexchange telecommunications companies, as defined in section 5727.01 of the Revised Code, shall list taxable property at the percentage of true value required in Chapter 5711. of the Revised Code. For purposes of assigning taxable valuation to each taxing district for those years, the Tax Commissioner shall continue to use the apportionment provisions of Chapter | 102785 |
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5727. of the Revised Code. However, such property shall be listed 102792
by the county auditor and certified to the county treasurer for 102793
collection under the provisions applicable to the general list of 102794
taxable property and not upon the tax list and duplicate of real 102795
and public utility personal property. 102796

Section 557.12. ADJUSTMENT TO LOCAL GOVERNMENT DISTRIBUTIONS 102797

(A) On or before the seventh day of each month of the period 102798
July 2005 through June 2007, the Tax Commissioner shall determine 102799
and certify to the Director of Budget and Management the amount to 102800
be credited, by tax, during that month to the Local Government 102801
Fund, to the Library and Local Government Support Fund, and to the 102802
Local Government Revenue Assistance Fund, respectively, under 102803
divisions (B) to (G) of this section. 102804

(B) Notwithstanding sections 5727.45, 5727.84, 5733.12, 102805
5739.21, 5741.03, and 5747.03 of the Revised Code to the contrary, 102806
for each month in the period July 1, 2005, through June 30, 2007, 102807
from the utility excise, kilowatt-hour, corporation franchise, 102808
sales and use, and personal income taxes collected: 102809

(1) An amount shall first be credited to the Local Government 102810
Fund equal to the amount credited to that fund from that tax 102811
according to the schedule in divisions (C), (D), (E), and (F) of 102812
this section; 102813

(2) An amount shall next be credited to the Local Government 102814
Revenue Assistance Fund equal to the amount credited to that fund 102815
from that tax according to the schedule in divisions (C), (D), 102816
(E), and (F) of this section; 102817

(3) An amount shall next be credited to the Library and Local 102818
Government Support Fund equal to the amount credited to that fund 102819
from that tax according to the schedule in division (G) of this 102820
section. 102821

To the extent the amounts credited under divisions (B) 102822
through (G) of this section exceed the amounts that otherwise 102823
would have been credited under sections 5727.45, 5727.84, 5733.12, 102824
5739.21, 5741.03, and 5747.03 of the Revised Code, the amounts 102825
credited to the general revenue fund shall be reduced. To the 102826
extent the amounts credited under divisions (B) through (G) of 102827
this section are less than the amounts that otherwise would have 102828
been credited under sections 5727.45, 5727.84, 5733.12, 5739.21, 102829
5741.03, and 5747.03 of the Revised Code, the amounts credited to 102830
the general revenue fund shall be increased. After the appropriate 102831
amounts are credited to funds under division (B) of this section, 102832
additional adjustments may be required in June 2006 and June 2007 102833
pursuant to division (I) of this section. 102834

(C) Pursuant to divisions (B)(1) and (2) of this section, the 102835
amounts shall be credited from the corporation franchise, sales 102836
and use, and personal income taxes to each respective fund as 102837
follows: 102838

(1) In July 2005, one hundred per cent of the amount credited 102839
in July 2004; in July 2006, one hundred per cent of the amount 102840
credited in July 2005; 102841

(2) In August 2005, one hundred per cent of the amount 102842
credited in August 2004; in August 2006, one hundred per cent of 102843
the amount credited in August 2005; 102844

(3) In September 2005, one hundred per cent of the amount 102845
credited in September 2004; in September 2006, one hundred per 102846
cent of the amount credited in September 2005; 102847

(4) In October 2005, one hundred per cent of the amount 102848
credited in October 2004; in October 2006, one hundred per cent of 102849
the amount credited in October 2005; 102850

(5) In November 2005, one hundred per cent of the amount 102851
credited in November 2004; in November 2006, one hundred per cent 102852

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| of the amount credited in November 2005; | 102853 |
| (6) In December 2005, one hundred per cent of the amount | 102854 |
| credited in December 2004; in December 2006, one hundred per cent | 102855 |
| of the amount credited in December 2005; | 102856 |
| (7) In January 2006, one hundred per cent of the amount | 102857 |
| credited in January 2005; in January 2007, one hundred per cent of | 102858 |
| the amount credited in January 2006; | 102859 |
| (8) In February 2006, one hundred per cent of the amount | 102860 |
| credited in February 2005; in February 2007, one hundred per cent | 102861 |
| of the amount credited in February 2006; | 102862 |
| (9) In March 2006, one hundred per cent of the amount | 102863 |
| credited in March 2005; in March 2007, one hundred per cent of the | 102864 |
| amount credited in March 2006; | 102865 |
| (10) In April 2006, one hundred per cent of the amount | 102866 |
| credited in April 2005; in April 2007, one hundred per cent of the | 102867 |
| amount credited in April 2006; | 102868 |
| (11) In May 2006, one hundred per cent of the amount credited | 102869 |
| in May 2005; in May 2007, one hundred per cent of the amount | 102870 |
| credited in May 2006; | 102871 |
| (12) In June 2006, one hundred per cent of the amount | 102872 |
| credited in June 2005; in June 2007, one hundred per cent of the | 102873 |
| amount credited in June 2006. | 102874 |
| (D) Pursuant to divisions (B)(1) and (2) of this section, | 102875 |
| from the public utility excise tax, amounts shall be credited to | 102876 |
| the Local Government Fund and the Local Government Revenue | 102877 |
| Assistance Fund as follows: | 102878 |
| (1) In July 2005 and July 2006, no amount shall be credited | 102879 |
| to the Local Government Fund and no amount shall be credited to | 102880 |
| the Local Government Revenue Assistance Fund; | 102881 |
| (2) In August 2005 and August 2006, no amount shall be | 102882 |

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| credited to the Local Government Fund or to the Local Government | 102883 |
| Revenue Assistance Fund; | 102884 |
| (3) In September 2005 and September 2006, no amount shall be | 102885 |
| credited to the Local Government Fund or to the Local Government | 102886 |
| Revenue Assistance Fund; | 102887 |
| (4) In October 2005 and October 2006, thirty per cent of | 102888 |
| \$7,870,426.16 shall be credited to the Local Government Fund and | 102889 |
| thirty per cent of \$1,124,346.59 shall be credited to the Local | 102890 |
| Government Revenue Assistance Fund; | 102891 |
| (5) In November 2005 and November 2006, thirty per cent of | 102892 |
| \$1,045,731.11 shall be credited to the Local Government Fund and | 102893 |
| thirty per cent of \$149,390.15 shall be credited to the Local | 102894 |
| Government Revenue Assistance Fund; | 102895 |
| (6) In December 2005 and December 2006, thirty per cent of | 102896 |
| \$1,210,041.67 shall be credited to the Local Government Fund and | 102897 |
| thirty per cent of \$172,863.13 shall be credited to the Local | 102898 |
| Government Revenue Assistance Fund; | 102899 |
| (7) In January 2006 and January 2007, no amount shall be | 102900 |
| credited to the Local Government Fund or to the Local Government | 102901 |
| Revenue Assistance Fund; | 102902 |
| (8) In February 2006 and February 2007, thirty per cent of | 102903 |
| \$1,515,069.22 shall be credited to the Local Government Fund and | 102904 |
| thirty per cent of \$216,438.43 shall be credited to the Local | 102905 |
| Government Revenue Assistance Fund; | 102906 |
| (9) In March 2006 and March 2007, thirty per cent of | 102907 |
| \$7,859,958.57 shall be credited to the Local Government Fund and | 102908 |
| thirty per cent of \$1,122,851.24 shall be credited to the Local | 102909 |
| Government Revenue Assistance Fund; | 102910 |
| (10) In April 2006 and April 2007, no amount shall be | 102911 |
| credited to the Local Government Fund or to the Local Government | 102912 |

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| Revenue Assistance Fund; | 102913 |
| (11) In May 2006 and May 2007, thirty per cent of | 102914 |
| \$3,300,718.22 shall be credited to the Local Government Fund and | 102915 |
| thirty per cent of \$471,531.17 shall be credited to the Local | 102916 |
| Government Revenue Assistance Fund; | 102917 |
| (12) In June 2006 and June 2007, thirty per cent of | 102918 |
| \$9,344,500.89 shall be credited to the Local Government Fund and | 102919 |
| thirty per cent of \$1,334,928.70 shall be credited to the Local | 102920 |
| Government Revenue Assistance Fund. | 102921 |
| (E) Pursuant to divisions (B)(1) and (2) of this section, | 102922 |
| from the kilowatt-hour tax, amounts shall be credited to the Local | 102923 |
| Government Fund and the Local Government Revenue Assistance Fund | 102924 |
| as follows: | 102925 |
| (1) In July 2005 and July 2006, no amount shall be credited | 102926 |
| to the Local Government Fund and no amount shall be credited to | 102927 |
| the Local Government Revenue Assistance Fund; | 102928 |
| (2) In August 2005 and August 2006, no amount shall be | 102929 |
| credited to the Local Government Fund or to the Local Government | 102930 |
| Revenue Assistance Fund; | 102931 |
| (3) In September 2005, and September 2006, no amount shall be | 102932 |
| credited to the Local Government Fund or to the Local Government | 102933 |
| Revenue Assistance Fund; | 102934 |
| (4) In October 2005 and October 2006, seventy per cent of | 102935 |
| \$7,870,426.16 shall be credited to the Local Government Fund and | 102936 |
| seventy per cent of \$1,124,346.59 shall be credited to the Local | 102937 |
| Government Revenue Assistance Fund; | 102938 |
| (5) In November 2005 and November 2006, seventy per cent of | 102939 |
| \$1,045,731.11 shall be credited to the Local Government Fund and | 102940 |
| seventy per cent of \$149,390.15 shall be credited to the Local | 102941 |
| Government Revenue Assistance Fund; | 102942 |

(6) In December 2005 and December 2006, seventy per cent of 102943
\$1,210,041.67 shall be credited to the Local Government Fund and 102944
seventy per cent of \$172,863.13 shall be credited to the Local 102945
Government Revenue Assistance Fund; 102946

(7) In January 2006 and January 2007, no amount shall be 102947
credited to the Local Government Fund or to the Local Government 102948
Revenue Assistance Fund; 102949

(8) In February 2006 and February 2007, seventy per cent of 102950
\$1,515,069.22 shall be credited to the Local Government Fund and 102951
seventy per cent of \$216,438.43 shall be credited to the Local 102952
Government Revenue Assistance Fund; 102953

(9) In March 2006 and March 2007, seventy per cent of 102954
\$7,859,958.57 shall be credited to the Local Government Fund and 102955
seventy per cent of \$1,122,851.24 shall be credited to the Local 102956
Government Revenue Assistance Fund; 102957

(10) In April 2006 and April 2007, no amount shall be 102958
credited to the Local Government Fund or to the Local Government 102959
Revenue Assistance Fund; 102960

(11) In May 2006 and May 2007, seventy per cent of 102961
\$3,300,718.22 shall be credited to the Local Government Fund and 102962
seventy per cent of \$471,531.17 shall be credited to the Local 102963
Government Revenue Assistance Fund; 102964

(12) In June 2006 and June 2007, seventy per cent of 102965
\$9,344,500.89 shall be credited to the Local Government Fund and 102966
seventy per cent of \$1,334,928.70 shall be credited to the Local 102967
Government Revenue Assistance Fund. 102968

(F) Notwithstanding the amounts required to be credited 102969
pursuant to division (C) of this section, the amount credited in 102970
June 2006 and June 2007 to the Local Government Fund and the Local 102971
Government Revenue Assistance Fund from the personal income tax 102972
shall be net of a reduction that may be required by division (I) 102973

of this section. 102974

(G) Pursuant to division (B)(3) of this section, amounts 102975
shall be credited from the personal income tax to the Library and 102976
Local Government Support Fund as follows: 102977

(1) In July 2005, one hundred per cent of the amount credited 102978
in July 2004; in July 2006, one hundred per cent of the amount 102979
credited in July 2005; 102980

(2) In August 2005, one hundred per cent of the amount 102981
credited in August 2004; in August 2006, one hundred per cent of 102982
the amount credited in August 2005; 102983

(3) In September 2005, one hundred per cent of the amount 102984
credited in September 2004; in September 2006, one hundred per 102985
cent of the amount credited in September 2005; 102986

(4) In October 2005, one hundred per cent of the amount 102987
credited in October 2004; in October 2006, one hundred per cent of 102988
the amount credited in October 2005; 102989

(5) In November 2005, one hundred per cent of the amount 102990
credited in November 2004; in November 2006, one hundred per cent 102991
of the amount credited in November 2005; 102992

(6) In December 2005, one hundred per cent of the amount 102993
credited in December 2004; in December 2006, one hundred per cent 102994
of the amount credited in December 2005; 102995

(7) In January 2006, one hundred per cent of the amount 102996
credited in January 2005; in January 2007, one hundred per cent of 102997
the amount credited in January 2006; 102998

(8) In February 2006, one hundred per cent of the amount 102999
credited in February 2005; in February 2007, one hundred per cent 103000
of the amount credited in February 2006; 103001

(9) In March 2006, one hundred per cent of the amount 103002
credited in March 2005; in March 2007, one hundred per cent of the 103003

amount credited in March 2006; 103004

(10) In April 2006, one hundred per cent of the amount 103005
credited in April 2005; in April 2007, one hundred per cent of the 103006
amount credited in April 2006; 103007

(11) In May 2006, one hundred per cent of the amount credited 103008
in May 2005; in May 2007, one hundred per cent of the amount 103009
credited in May 2006; 103010

(12) In June 2006, one hundred per cent of the amount 103011
credited in June 2005, less any reduction that may be required by 103012
division (I) of this section; in June 2007, one hundred per cent 103013
of the amount credited in June 2006, less any reduction that may 103014
be required by division (I) of this section. 103015

(H) The total amount credited to the Local Government Fund, 103016
the Local Government Revenue Assistance Fund, and the Library and 103017
Local Government Support Fund in each month during the period July 103018
2005 through June 2007 shall be distributed by the tenth day of 103019
the immediately succeeding month in the following manner: 103020

(1) Each county undivided local government fund shall receive 103021
a distribution from the Local Government Fund based on its 103022
proportionate share of the total amount received from the fund in 103023
such respective month for the period August 1, 2004, through July 103024
31, 2005. 103025

(2) Each municipal corporation receiving a direct 103026
distribution from the Local Government Fund shall receive a 103027
distribution based on its proportionate share of the total amount 103028
received from the fund in such respective month for the period 103029
August 1, 2004, through July 31, 2005. 103030

(3) Each county undivided local government revenue assistance 103031
fund shall receive a distribution from the Local Government 103032
Revenue Assistance Fund based on its proportionate share of the 103033
total amount received from the fund in such respective month for 103034

the period August 1, 2004, through July 31, 2005. 103035

(4) Each county undivided library and local government 103036
support fund shall receive a distribution from the Library and 103037
Local Government Support Fund based on its proportionate share of 103038
the total amount received from the fund in such respective month 103039
for the period August 1, 2004, through July 31, 2005. 103040

(I) The Tax Commissioner shall do each of the following: 103041

(1) By June 7, 2006, the Commissioner shall subtract the 103042
amount calculated in division (I)(1)(b) of this section from the 103043
amount calculated in division (I)(1)(a) of this section. If the 103044
amount in division (I)(1)(a) of this section is greater than the 103045
amount in division (I)(1)(b) of this section, then such difference 103046
shall be subtracted from the total amount of income tax revenue 103047
credited to the Local Government Fund, the Local Government 103048
Revenue Assistance Fund, and the Library and Local Government 103049
Support Fund in June 2006. An amount shall be subtracted from 103050
income tax revenue credited to the Local Government Fund, the 103051
Local Government Revenue Assistance Fund, or the Library and Local 103052
Government Support Fund only if, and according to the proportion 103053
by which, such fund contributed to the result that the amount in 103054
division (I)(1)(a) of this section exceeds the amount in division 103055
(I)(1)(b) of this section. 103056

(a) The sum of all money credited to the Local Government 103057
Fund, the Local Government Revenue Assistance Fund, and the 103058
Library and Local Government Support Fund from July 2005 through 103059
May 2006. The sum computed in division (I)(1)(a) of this section 103060
shall exclude any dealer in intangibles tax revenues credited to 103061
the Local Government Fund. 103062

(b) The sum of all money that would have been credited to the 103063
Local Government Fund, the Local Government Revenue Assistance 103064
Fund, and the Library and Local Government Support Fund from July 103065

2005 through May 2006, if sections 5727.45, 5727.84, 5733.12, 103066
5739.21, 5741.03, and 5747.03 of the Revised Code were in effect 103067
during this period. 103068

(2) By June 7, 2007, the Commissioner shall subtract the 103069
amount calculated in division (I)(2)(b) of this section from the 103070
amount calculated in division (I)(2)(a) of this section. If the 103071
amount in division (I)(2)(a) of this section is greater than the 103072
amount in division (I)(2)(b) of this section, then such difference 103073
shall be subtracted from the total amount of income tax revenue 103074
credited to the Local Government Fund, the Local Government 103075
Revenue Assistance Fund, and the Library and Local Government 103076
Support Fund in June 2007. An amount shall be subtracted from 103077
income tax revenue credited to the Local Government Fund, the 103078
Local Government Revenue Assistance Fund, or the Library and Local 103079
Government Support Fund only if, and according to the proportion 103080
by which, such fund contributed to the result that the amount in 103081
division (I)(2)(a) of this section exceeds the amount in division 103082
(I)(2)(b) of this section. 103083

(a) The sum of all money credited to the Local Government 103084
Fund, the Local Government Revenue Assistance Fund, and the 103085
Library and Local Government Support Fund from June 2006 through 103086
May 2007. The sum computed in division (I)(2)(a) of this section 103087
shall exclude any dealer in intangibles tax revenues credited to 103088
the Local Government Fund and shall be prior to any reduction 103089
required by division (I)(1) of this section. 103090

(b) The sum of all money that would have been credited to the 103091
Local Government Fund, the Local Government Revenue Assistance 103092
Fund, and the Library and Local Government Support Fund from June 103093
2006 through May 2007, if sections 5727.45, 5727.84, 5733.12, 103094
5739.21, 5741.03, and 5747.03 of the Revised Code were in effect 103095
during this period. 103096

(3) On the advice of the Tax Commissioner, during any month 103097

other than June 2006 or June 2007 of the period July 1, 2005, 103098
through July 31, 2007, the Director of Budget and Management may 103099
reduce the amounts that are to be otherwise credited to the Local 103100
Government Fund, Local Government Revenue Assistance Fund, or 103101
Library and Local Government Support Fund in order to accomplish 103102
more effectively the purposes of the adjustments in divisions 103103
(I)(1) and (2) of this section. If the respective calculations 103104
made in June 2006 and June 2007 pursuant to divisions (I)(1) and 103105
(2) of this section indicate that excess reductions had been made 103106
during the previous months, such excess amounts shall be credited, 103107
as appropriate, to the Local Government Fund, Local Government 103108
Revenue Assistance Fund, and Library and Local Government Support 103109
Fund. 103110

(J) For the 2005, 2006, and 2007 distribution years, the Tax 103111
Commissioner is not required to issue the certifications otherwise 103112
required by sections 5747.47, 5747.501, 5747.51, and 5747.61 of 103113
the Revised Code, but shall provide to each county auditor by the 103114
twentieth day of July 2005, July 2006, and July 2007 an estimate 103115
of the amounts to be received by the county in the ensuing year 103116
from the Local Government Fund, Local Government Revenue 103117
Assistance Fund, and Library and Local Government Support Fund 103118
pursuant to this section and any pertinent section of the Revised 103119
Code. At the discretion of the Tax Commissioner, the Tax 103120
Commissioner may report to each county auditor additional revised 103121
estimates of the 2005, 2006, or 2007 distributions at any time 103122
during the period July 1, 2005, through July 31, 2007. 103123

(K) During the period July 1, 2005, through July 31, 2007, 103124
the Director of Budget and Management shall issue such directives 103125
to state agencies that are necessary to ensure that the 103126
appropriate amounts are distributed to the Local Government Fund, 103127
to the Local Government Revenue Assistance Fund, and to the 103128
Library and Local Government Support Fund. 103129

(L) No subdivision shall receive a proportionate share from 103130
the county undivided local government fund or county undivided 103131
local government revenue assistance fund during the period July 1, 103132
2005, through June 30, 2007, that is less than the proportionate 103133
share the subdivision received from that fund during the period 103134
July 1, 2004, through June 30, 2005, unless the subdivision 103135
consents to receive the lesser proportionate share. 103136

Section 557.12.01. (A) Each county and each city with a 103137
population of one hundred thousand or more persons shall submit to 103138
the Auditor of State a report on or before October 1, 2005, that 103139
describes efforts on the part of the county or city to reduce 103140
costs by consolidating services and engaging in regional 103141
cooperation, specifies cost savings resulting from consolidation 103142
of services and regional cooperation, and describes the county's 103143
or city's future plans with respect to consolidating services and 103144
engaging in regional cooperation as described in division (B) of 103145
this section. 103146

(B) The report described in division (A) of this section 103147
shall describe future plans with respect to consolidating 103148
services, including, but not limited to, consolidating fire, law 103149
enforcement, water, sewer, and solid waste services provided by 103150
the county or city. The report shall describe any efforts already 103151
undertaken by the county or city to analyze how these future 103152
consolidation efforts would impact costs and affect existing 103153
collective bargaining agreements. If no such analyses have been 103154
undertaken at the time the report is filed, the report shall set 103155
forth a timeline for completing the analyses. 103156

The report also shall describe future plans with respect to 103157
cooperating with one or more neighboring political subdivisions in 103158
the financing of operations that serve all of the subdivisions. 103159
The report shall describe the county's or city's future plans, if 103160

any, to cooperate with other political subdivisions in the 103161
consolidation of purchasing or construction functions. 103162

(C) The report described in division (A) of this section 103163
shall be used by the Auditor of State for informational purposes 103164
only. The Auditor of State shall have no authority to approve or 103165
disapprove any plan described in a report. 103166

Section 557.13.03. The Tax Commissioner shall review the 103167
calculations of the multipliers used in the determination of oil 103168
and gas valuations, in light of the amendment by this act to 103169
section 5715.01 of the Revised Code, and the enactment by this act 103170
of section 5709.112 of the Revised Code. The review shall be 103171
conducted in sufficient time to be used in the Commissioner's 103172
annual entry adopting the multipliers for tax year 2006, to ensure 103173
that oil and gas properties are uniformly assessed as provided by 103174
law and this act. 103175

Section 557.13.06. Prior to adopting the rule defining 103176
"primarily," as required by division (B)(2) of section 5725.01 of 103177
the Revised Code, the Tax Commissioner shall seek the input of 103178
current dealers in intangibles. 103179

Section 557.13.09. (A) There is hereby created the Joint 103180
Legislative Tax Reform Impact Study Committee. The Committee shall 103181
consist of the following members of the General Assembly: the 103182
chairperson of the Senate's standing committee with primary 103183
responsibility for tax legislation, the chairperson of the House 103184
of Representatives' standing committee with primary responsibility 103185
for tax legislation, four members of the House of Representatives 103186
appointed by the Speaker of the House of Representatives, and four 103187
members of the Senate appointed by the President of the Senate. 103188
Not more than two members appointed by the Speaker and not more 103189
than two members appointed by the President may be of the same 103190

political party. The appointments shall be made not later than 103191
July 31, 2005. The chairpersons of the standing committees with 103192
primary responsibility for tax legislation shall serve as 103193
co-chairpersons of the Committee. The Department of Taxation shall 103194
cooperate with the Committee and, on request, shall provide any 103195
information and assistance that is required by the Committee to 103196
carry out its duties. 103197

(B) The Committee shall study the effects on school districts 103198
and other local taxing units of phasing-out the tangible personal 103199
property tax under this act, and any other matter related to that 103200
phase-out that it considers of significance. As part of the study, 103201
the Committee shall do all of the following: 103202

(1) Estimate the total taxes lost by school districts and 103203
local taxing units as a result of the phase-out; 103204

(2) Estimate the capacity of the commercial activity tax 103205
levied under Chapter 5751. of the Revised Code, as enacted by this 103206
act, to replace lost tangible personal property tax revenues and 103207
to fund the General Revenue Fund; 103208

(3) Estimate the cost for delivery of services by school 103209
districts and other local taxing units and the emerging service 103210
demands for those services arising from demographic and economic 103211
changes to the districts and units; 103212

(4) Identify alternatives for effectively balancing state and 103213
local tax revenues available to school districts and other taxing 103214
units and their responsibilities for delivery of services; 103215

(5) Examine how the commercial activity tax treats for-profit 103216
corporations as compared to nonprofit corporations; 103217

(6) Review the impact of the commercial activity tax on the 103218
various business sectors; 103219

(7) Estimate the revenue impact of reclassifying rental real 103220

property having more than three units as residential/agricultural 103221
real property instead of as nonresidential/agricultural real 103222
property under section 5713.041 of the Revised Code. 103223

(C) At the call of the co-chairpersons, the Committee shall 103224
hold not less than four meetings. The co-chairpersons shall 103225
determine the time, place, and agenda for each meeting of the 103226
Committee. Not later than January 31, 2006, the Committee shall 103227
issue a report of its findings and shall make recommendations to 103228
the President of the Senate and the Speaker of the House of 103229
Representatives, at which time the Committee shall cease to exist. 103230

Section 557.15. The amendment by this act of sections 319.302 103231
and 323.152 of the Revised Code first applies in tax year 2005. 103232

Section 557.17. The amendments to sections 5709.40, 5709.73, 103233
5709.77, and 5709.78 of the Revised Code by this act do not apply, 103234
but those sections as they were in effect prior January 1, 2006, 103235
do apply, to any project, as defined in section 5709.40 of the 103236
Revised Code, if the project meets either of the following 103237
requirements: 103238

(A) A project agreement has been completed on or before 103239
December 31, 2005, for the project. 103240

(B) Bonds have been issued on or before December 31, 2005, 103241
for the project. 103242

Section 557.19. Sections 5713.01 and 5727.12 of the Revised 103243
Code, as amended by this act, first apply to tax year 2006. 103244

Section 557.24. The amendment by this act of sections 103245
5731.01, 5731.05, 5731.131, 5731.14, 5731.18, and 5731.181 of the 103246
Revised Code, and the repeal by this act of section 5731.20 of the 103247
Revised Code, applies to estates of decedents dying on or after 103248

the effective date of those sections as amended by this act. 103249

Section 557.27. The amendment by this act of section 5733.40 103250
of the Revised Code applies to taxable years ending on or after 103251
the effective date of this act. 103252

Section 557.30. Except as otherwise provided in division 103253
(A)(18) of section 5747.01 and division (A) of section 5747.02 of 103254
the Revised Code, the amendment by this act of sections 5747.01 103255
and 5747.02 of the Revised Code applies to taxable years ending on 103256
or after the effective date of this section. 103257

Section 557.33. The amendment by this act of section 5747.05 103258
of the Revised Code applies to taxable years ending on or after 103259
the effective date of this section. 103260

Section 559.03. (A) Sections 9.23, 9.231, 9.232, 9.233, 103261
9.234, 9.235, 9.236, 9.237, 9.238, and 9.239 of the Revised Code, 103262
as enacted by this act, apply only to disbursements of money that 103263
occur on or after January 1, 2006. 103264

(B) Section 9.241 of the Revised Code, as enacted by this 103265
act, applies only to contracts that are entered into or awarded on 103266
or after the effective date of that section. 103267

Section 560.03. There is hereby created the Ohio Military 103268
Reserve Homeland Security Study Commission to evaluate the role 103269
and effectiveness of the Ohio Military Reserve. The Commission 103270
shall consist of seven members: the Chairperson of the House 103271
Commerce and Labor Committee, who shall serve as chairperson of 103272
the Commission, two members of the House of Representatives whom 103273
the Speaker of the House of Representatives shall appoint, two 103274
members of the Senate whom the President of the Senate shall 103275

appoint, the Adjutant General or a representative the Adjutant 103276
General designates, and the Director of Public Safety or a 103277
representative the Director designates. The chairperson shall call 103278
the meetings of the Commission. The Commission shall report its 103279
findings to the General Assembly before January 1, 2006. 103280

Section 563.03. It is the intention of the General Assembly 103281
that the amendments made by this act to sections 3319.081 and 103282
3319.17 of the Revised Code, and the enactment by this act of 103283
section 3319.172 of the Revised Code, shall not affect collective 103284
bargaining agreements between public employers and public 103285
employees entered into prior to the effective date of this 103286
section. 103287

Section 569.03. (A) As used in this section, "appointing 103288
authority" has the same meaning as in section 124.01 of the 103289
Revised Code, and "exempt employee" has the same meaning as in 103290
section 124.152 of the Revised Code. 103291

(B) Notwithstanding section 124.181 of the Revised Code both 103292
of the following apply: 103293

(1) In cases where no vacancy exists, an appointing authority 103294
may, with the written consent of an exempt employee, assign duties 103295
of a higher classification for a period of time not to exceed two 103296
years to that exempt employee, and that exempt employee shall 103297
receive compensation at a rate commensurate with the duties of the 103298
higher classification. 103299

(2) If necessary, employees exempt from collective bargaining 103300
who are assigned to duties within their agency to maintain 103301
operations during the Ohio Administrative Knowledge System (OAKS) 103302
implementation may agree to a temporary assignment that exceeds 103303
the two-year limit. 103304

Section 569.06. (A) As used in this section, "exempt employee" has the same meaning as in section 124.152 of the Revised Code.

(B) Notwithstanding any provision to the contrary in Chapter 124. of the Revised Code, for the period beginning on July 1, 2005, and ending on June 30, 2007, the Director of Job and Family Services shall have the authority to do the following:

(1) Establish, change, and abolish positions of employment in the Department of Job and Family Services that are in the classified civil service;

(2) Assign, reassign, classify, reclassify, transfer, reduce, promote, and demote exempt employees of the Department who are in the classified civil service, including, but not limited to, assigning or reassigning an employee to a bargaining unit classification if the Director determines that the classification is the proper classification for that employee.

(C) All actions taken by the Director under division (B) of this section relative to exempt employees of the Department who are in the classified civil service and are subject to section 900.603 of Title 5 of the Code of Federal Regulations, 5 C.F.R. 900.603, as amended, shall be consistent with the requirements of that section.

(D) If an exempt employee of the Department who is in the classified civil service and paid in accordance with salary schedule E-1 of section 124.152 of the Revised Code is to be assigned, reassigned, classified, reclassified, transferred, reduced, or demoted to a position in a lower job classification by the Director under division (B) of this section, the Director, or in the case of a transfer of the employee outside the Department, the Director of Administrative Services, shall assign the employee to the appropriate job classification and place the exempt

employee in pay step X. The employee shall not receive an increase 103336
in compensation until the maximum rate of pay for that 103337
classification exceeds the employee's compensation. 103338

(E) Actions taken by the Director under division (B) of this 103339
section shall not be subject to appeal to the State Personnel 103340
Board of Review. 103341

Section 569.12. As used in this section, "municipal public 103342
safety director" has the same meaning as in section 145.01 of the 103343
Revised Code, as amended by this act. 103344

Not later than November 1, 2005, each municipal public safety 103345
director who is a member of the Public Employees Retirement System 103346
shall indicate to the retirement system, on a form supplied by the 103347
retirement system, a choice of whether to receive benefits under 103348
division (A) of section 145.33 of the Revised Code or under 103349
division (B) of that section. 103350

Section 606.03. If any item of law that constitutes the whole 103351
or part of a codified or uncodified section of law contained in 103352
this act, or if any application of any item of law that 103353
constitutes the whole or part of a codified or uncodified section 103354
of law contained in this act, is held invalid, the invalidity does 103355
not affect other items of law or applications of items of law that 103356
can be given effect without the invalid item of law or 103357
application. To this end, the items of law of which the codified 103358
and uncodified sections contained in this act are composed, and 103359
their applications, are independent and severable. 103360

Section 609.03. An item of law, other than an amending, 103361
enacting, or repealing clause, that composes the whole or part of 103362
an uncodified section contained in this act has no effect after 103363
June 30, 2007, unless its context clearly indicates otherwise. 103364

Section 611.03. DELAYED IMPLEMENTATION OF CENTRALIZED PUBLIC 103365
SCHOOL EMPLOYEES' HEALTH CARE BENEFITS SYSTEM 103366

Notwithstanding the amendments made to sections 9.833, 9.90, 103367
3311.19, 3313.12, 3313.202, 3313.33, 4117.03, and 4117.08 of the 103368
Revised Code by this act and the enactment of section 9.901 of the 103369
Revised Code by this act, the following amendments to a section or 103370
enactment of provisions shall not take effect unless and until the 103371
General Assembly, by subsequent enactment of law, confirms those 103372
amendments and provisions, orders their implementation, and makes 103373
such other specifications pertaining to that implementation as is 103374
then necessary: 103375

(A) All amendments to sections 9.833, 9.90, 3311.19, 3313.12, 103376
3313.202, 3313.33, 4117.03, and 4117.08 of the Revised Code. 103377

(B) The following provisions of section 9.901 of the Revised 103378
Code as enacted: 103379

(1) Division (A)(1); 103380

(2) The provision that authorizes the soliciting of bids in 103381
division (A)(3); 103382

(3) Division (F), except for the provision that creates the 103383
school employees health care fund in the state treasury; 103384

(4) Division (I)(1); 103385

(5) Division (I)(5); 103386

(6) Division (J), except for the provision that authorizes 103387
the School Employees Health Care Board to contract with the 103388
Department of Administrative Services for central services and 103389
reimburse the Department for such services; 103390

(7) Division (K); 103391

(8) Division (L); and 103392

(9) Division (M). 103393

(C) The provision in Section 203.12.02 of this act that 103394
extends the duties of the executive director and assistant to the 103395
School Employees Health Care Board to the Public School Employee 103396
Health Insurance Program being proposed for establishment and the 103397
provision requiring the reimbursement of the General Revenue Fund 103398
of \$2,700,000 by the School Employees Health Care Fund pending a 103399
future determination of the sufficiency of premium payments. 103400

Section 612.03. Except as otherwise specifically provided in 103401
this act, the codified sections of law amended or enacted in this 103402
act, and the items of law of which the codified sections of law 103403
amended or enacted in this act are composed, are subject to the 103404
referendum. Therefore, under Ohio Constitution, Article II, 103405
Section 1c and section 1.471 of the Revised Code, the codified 103406
sections of law amended or enacted by this act, and the items of 103407
law of which the codified sections of law as amended or enacted by 103408
this act are composed, take effect on the ninety-first day after 103409
this act is filed with the Secretary of State. If, however, a 103410
referendum petition is filed against any such codified section of 103411
law as amended or enacted by this act, or against any item of law 103412
of which any such codified section of law as amended or enacted by 103413
this act is composed, the codified section of law as amended or 103414
enacted, or item of law, unless rejected at the referendum, takes 103415
effect at the earliest time permitted by law. 103416

Section 612.06. Except as otherwise specifically provided in 103417
this act, the repeal by this act of a codified section of law is 103418
subject to the referendum. Therefore, under Ohio Constitution, 103419
Article II, Section 1c and section 1.471 of the Revised Code, the 103420
repeal by this act of a codified section of law takes effect on 103421
the ninety-first day after this act is filed with the Secretary of 103422
State. If, however, a referendum petition is filed against any 103423
such repeal, the repeal, unless rejected at the referendum, takes 103424

effect at the earliest time permitted by law. 103425

Section 612.09. The sections of law amended, enacted, or 103426
repealed by this act that are listed in this section are subject 103427
to the referendum. Therefore, under Ohio Constitution, Article II, 103428
Section 1c and section 1.471 of the Revised Code, the sections, 103429
and the items of law of which they are composed, take effect as 103430
specified in this section. If, however, a referendum petition is 103431
filed against any such section as amended, enacted, or repealed, 103432
or against any item of law of which any such section as amended or 103433
enacted is composed, the section as amended, enacted, or repealed 103434
goes into effect at the earliest time permitted by law that is on 103435
or after the effective date specified in this section. 103436

Sections 9.24, 120.52, 120.53, 131.23, 317.08, 317.36, 103437
323.01, 329.051, 340.03, 340.16, 1901.26, 1907.24, 2303.201, 103438
2305.234, 2744.05, 3111.04, 3119.54, 3121.12, 3121.50, 3702.74, 103439
4123.27, 4705.09, 4731.65, 4731.71, 4736.11, 5101.181, 5101.241, 103440
5101.26, 5101.31, 5101.36, 5107.26, 5110.01, 5110.05, 5111.021 103441
(5111.022), 5111.022 (5111.023), 5111.023 (5111.0115), 5111.025, 103442
5111.062, 5111.10, 5111.85, 5111.851, 5111.852, 5111.853, 103443
5111.854, 5111.855, 5111.856, 5111.89, 5111.891, 5111.892, 103444
5111.893, 5111.914, 5111.97 (5111.86), 5112.03, 5112.08, 5112.17, 103445
5115.10, 5115.11, 5115.12, 5115.13, 5115.14, 5115.20, 5115.22, 103446
5115.23, and 5119.61 of the Revised Code take effect October 1, 103447
2005. 103448

Sections 1711.531, 4753.03, 4753.06, 4753.071, 4753.08, 103449
4753.09, 5107.05, 5107.30, 5107.301, 5121.01 (5121.02), 5121.02 103450
(5121.03), 5121.03 (5121.01), 5121.04, 5121.05, 5121.06, 5121.061, 103451
5121.07, 5121.08, 5121.09, 5121.10, 5121.11, 5121.12, 5121.21, 103452
5121.30, 5121.31, 5121.32, 5121.33, 5121.34, 5121.35, 5121.36, 103453
5121.37, 5121.38, 5121.40, 5121.41, 5121.42, 5121.43, 5121.44, 103454
5121.45, 5121.46, 5121.47, 5121.48, 5121.49, 5121.50, 5121.51, 103455

5121.52, 5121.53, 5121.54, 5121.55, 5121.56, 5122.03, 5122.31, and 103456
5123.701 of the Revised Code take effect January 1, 2006. 103457

Sections 3301.0710 and 3301.0714 of the Revised Code take 103458
effect July 1, 2006. 103459

Section 612.12. Sections 101.391, 108.05, 109.57, 109.91, 103460
121.37, 121.38, 121.381, 121.382, 122.011, 122.083, 123.17, 103461
125.11, 125.60, 125.601, 125.602, 125.603, 125.604, 125.605, 103462
125.606, 125.607, 125.608, 125.609, 125.6010, 125.6011, 125.6012, 103463
125.831, 125.832, 126.25, 131.02, 133.09, 141.011, 141.04, 147.05, 103464
147.10, 147.11, 147.12, 147.371, 149.30, 181.251 (5502.63), 181.51 103465
(5502.61), 181.52 (5502.62), 181.54 (5502.64), 181.55 (5502.65), 103466
181.56 (5502.66), 307.86, 339.72, 339.88, 731.14, 731.141, 742.59, 103467
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3314.021, 3314.06, 3314.061, 3314.084, 3314.085, 3314.13, 3314.27, 103477
3314.28, 3316.043, 3317.013, 3317.016, 3317.017, 3317.02, 103478
3317.021, 3317.022, 3317.023, 3317.026, 3317.027, 3317.028, 103479
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3317.16, 3317.20, 3317.201, 3317.21 (3318.47), 3317.22 (3318.48), 103482
3317.23 (3318.49), 3318.33, 3319.06, 3323.091, 3323.14, 3323.16, 103483
3323.19, 3325.11, 3325.12, 3325.16, 3325.17, 3333.28, 3333.36, 103484
3334.02, 3334.19, 3365.01, 3365.02, 3365.04, 3365.041, 3365.05, 103485
3365.08, 3365.11, 3701.073, 3701.146, 3702.141, 3702.68, 3702.83, 103486
3712.03, 3714.073, 3715.04, 3721.011, 3721.03, 3721.032, 3721.07, 103487

3721.121, 3721.15, 3721.21, 3721.541, 3734.57, 3734.901, 103488
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5111.111, 5111.112 (5111.113), 5111.113 (5111.114), 5111.16, 103497
5111.161, 5111.162, 5111.17, 5111.176, 5111.19, 5111.191, 5111.98, 103498
5112.30, 5112.341, 5120.09, 5120.51, 5139.01, 5502.01, 5540.01, 103499
5540.09, 5731.39, and 6109.21 of the Revised Code as amended or 103500
enacted by this act, and the items of law of which such sections 103501
as amended or enacted by this act are composed, are not subject to 103502
the referendum. Therefore, under Ohio Constitution, Article II, 103503
Section 1d and section 1.471 of the Revised Code, such sections as 103504
amended or enacted by this act, and the items of law of which such 103505
sections as amended or enacted by this act are composed, go into 103506
immediate effect when this act becomes law. 103507

Section 612.12.01. The enactment by this act of new section 103508
4723.63 of the Revised Code, and the items of which it is 103509
composed, are not subject to the referendum. Therefore, under Ohio 103510
Constitution, Article II, Section 1d and section 1.471 of the 103511
Revised Code, the new section, and the items of which it is 103512
composed, go into immediate effect when this act becomes law. 103513

Section 612.12.03. New sections 3317.012, 5111.02, and 103514
5111.112 of the Revised Code as enacted by this act, and the items 103515
of law of which such sections as enacted by this act are composed, 103516
are not subject to the referendum. Therefore, under Ohio 103517

Constitution, Article II, Section 1d and section 1.471 of the 103518
Revised Code, such sections as enacted by this act, and the items 103519
of law of which such sections as enacted by this act are composed, 103520
go into immediate effect when this act becomes law. 103521

Section 612.15. The repeal by this act of sections 181.53, 103522
339.77, 742.36, 3301.31, 3301.33, 3301.34, 3301.35, 3301.36, 103523
3301.37, 3301.38, 3301.85, 3301.87, 3317.012, 3317.0212, and 103524
3317.0213 of the Revised Code is not subject to the referendum. 103525
Therefore, under Ohio Constitution, Article II, Section 1d and 103526
section 1.471 of the Revised Code, the repeals go into immediate 103527
effect when this act becomes law. 103528

Section 612.18. The sections of law amended, enacted, or 103529
repealed by this act that are listed in this section are not 103530
subject to the referendum. Therefore, under Ohio Constitution, 103531
Article II, Section 1d and section 1.471 of the Revised Code, the 103532
sections as amended, enacted, or repealed, and the items of law of 103533
which such sections as amended or enacted by this act are 103534
composed, go into effect as specified in this section. 103535

Sections 9.981, 125.05, 133.08, 133.081, 140.01, 154.11, 103536
183.28, 3301.80, 3314.074, 3317.06, 3317.50, 3317.51, 3319.22, 103537
3319.235, 3323.021, 3353.01, 3353.02, 3353.03, 3353.04, 3353.06, 103538
3353.07, 3506.17, 3704.035, 3704.14, 3704.142, 3704.143, 3704.17, 103539
3704.99, 3721.01, 3721.19, 3721.50, 3721.51, 3721.511, 3721.52, 103540
3721.56, 3721.561, 3721.58, 3722.01, 3722.02, 4117.24, 4503.103, 103541
5111.041, 5111.042, 5111.20, 5111.21, 5111.22, 5111.221, 5111.222, 103542
5111.223, 5111.23, 5111.231 (5111.232), 5111.235, 5111.24, 103543
5111.241, 5111.242, 5111.243, 5111.244, 5111.25, 5111.251, 103544
5111.254, 5111.255, 5111.257 (5111.258), 5111.26, 5111.261, 103545
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5111.34, 5111.65, 5111.651, 5111.66, 5111.661, 5111.67, 5111.671, 103548
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5111.686, 5111.687, 5111.688, 5111.871, 5112.31, 5123.01, 103551
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5123.0412, 5123.16, 5123.34, 5123.41, 5123.71, 5123.76, 5126.01, 103553
5126.035, 5126.042, 5126.054, 5126.055, 5126.056, 5126.057, 103554
5126.12, 5552.01, and 5705.091 of the Revised Code take effect 103555
July 1, 2005. 103556

New sections 3353.02, 3353.03, 3704.14, 5111.231, 5111.24, 103557
5111.257, 5111.34, and 5123.048 of the Revised Code take effect 103558
July 1, 2005. 103559

The amendment by this act of sections 5709.40, 5709.73, 103560
5709.77, and 5709.78 of the Revised Code takes effect January 1, 103561
2006. 103562

Section 612.21. The amendment or enactment by this act of 103563
sections 122.17, 122.171, 122.172, 122.173, 122.18, 150.07, 103564
150.10, 319.302, 323.152, 325.31, 351.01, 351.021, 351.06, 103565
351.141, 351.16, 718.09, 718.10, 1548.06, 2921.13, 2927.023, 103566
4301.43, 4505.06, 5101.184, 5101.98, 5703.052, 5703.053, 5703.057, 103567
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5739.025, 5739.034, 5739.035, 5739.08, 5739.10, 5743.01, 5743.03, 103576
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5743.112, 5743.14, 5743.15, 5743.16, 5743.18, 5743.19, 5743.20, 103578

5743.331, 5743.71, 5747.012, 5747.02, 5747.05, 5747.056, 5747.08, 103579
5747.113, 5747.212, 5747.331, 5747.80, 5747.98, 5748.01, 5748.02, 103580
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5751.051, 5751.06, 5751.07, 5751.08, 5751.081, 5751.09, 5751.10, 103583
5751.11, 5751.12, 5751.20, 5751.21, 5751.22, 5751.23, 5751.31, 103584
5751.50, 5751.51, 5751.52, 5751.53, 5751.98, and 5751.99 of the 103585
Revised Code provides for or is essential to implementation of a 103586
tax levy. Therefore, under Ohio Constitution, Article II, Section 103587
1d, the amendments and enactments, and the items of which they are 103588
composed, are not subject to the referendum and go into immediate 103589
effect when this act becomes law. 103590

Section 612.24. The repeal by this act of section 5731.20 of 103591
the Revised Code provides for or is essential to implementation of 103592
a tax levy. Therefore, under Ohio Constitution, Article II, 103593
Section 1d, the repeal is not subject to the referendum and goes 103594
into immediate effect when this act becomes law. 103595

Section 612.27. The amendment, enactment, or repeal by this 103596
act of the sections of law that are listed in this section 103597
provides for or is essential to implementation of a tax levy. 103598
Therefore, under Ohio Constitution, Article II, Section 1d, the 103599
amendments, enactments, and repeals, and the items of which any 103600
such amendment or enactment is composed, are not subject to the 103601
referendum and go into effect as specified in this section. 103602

Sections 5703.80, 5733.065, 5733.066, 5733.122, 5739.033, 103603
5739.12, 5743.02, 5743.32, and 5743.33 of the Revised Code take 103604
effect July 1, 2005. 103605

Sections 5739.012, 5739.03, 5739.16, and 5741.16 of the 103606
Revised Code take effect January 1, 2006. 103607

Section 612.30. (A) Except as otherwise provided in division 103608
(B) of this section, the amendments by this act to section 127.16 103609
of the Revised Code are not subject to the referendum. Therefore, 103610
under Ohio Constitution, Article II, Section 1d and section 1.471 103611
of the Revised Code, the amendments take effect July 1, 2005. 103612

(B) The amendment to division (D)(2) of section 127.16 of the 103613
Revised Code is subject to the referendum. Therefore, under Ohio 103614
Constitution, Article II, Section 1c and section 1.471 of the 103615
Revised Code, the amendment takes effect October 1, 2005. If, 103616
however, a referendum petition is filed against the amendment, the 103617
amendment, unless rejected at the referendum, takes effect at the 103618
earliest time permitted by law that is on or after the effective 103619
date specified in this division. 103620

Section 612.31. (A) Except as otherwise provided in division 103621
(B) of this section, the amendments by this act to section 307.695 103622
of the Revised Code are subject to the referendum. Therefore, 103623
under Ohio Constitution, Article II, Section 1c and section 1.471 103624
of the Revised Code, the amendments go into effect on the 103625
ninety-first day after this act is filed with the Secretary of 103626
State. If, however, a referendum petition is filed against the 103627
amendments, the amendments, unless rejected at the referendum, 103628
take effect at the earliest time permitted by law. 103629

(B) The amendments to section 307.695 of the Revised Code 103630
relating to community improvement corporations provide for or are 103631
essential to implementation of a tax levy. Therefore, under Ohio 103632
Constitution, Article II, Section 1d, the amendments take effect 103633
July 1, 2005. 103634

Section 612.33. (A) Except as otherwise provided in division 103635
(B) of this section, the amendments by this act to section 321.24 103636
of the Revised Code provides for or is essential to implementation 103637

of a tax levy. Therefore, under Ohio Constitution, Article II, 103638
Section 1d, the amendments are not subject to the referendum and 103639
go into immediate effect when this act becomes law. 103640

(B) The amendment to division (F) of section 321.24 of the 103641
Revised Code provides for or is essential to implementation of a 103642
tax levy. Therefore, under Ohio Constitution, Article II, Section 103643
1d, the amendment takes effect July 1, 2005. 103644

Section 612.36. (A) Except as otherwise provided in division 103645
(B) of this section, the amendments by this act to section 329.04 103646
of the Revised Code are not subject to the referendum. Therefore, 103647
under Ohio Constitution, Article II, Section 1d and section 1.471 103648
of the Revised Code, the amendments go into immediate effect. 103649

(B) The amendments to divisions (A)(3) to (9) of section 103650
329.04 of the Revised Code are subject to the referendum. 103651
Therefore, under Ohio Constitution, Article II, Section 1c and 103652
section 1.471 of the Revised Code, the amendments take effect 103653
October 1, 2005. If, however, a referendum petition is filed 103654
against the amendments, the amendments, unless rejected at the 103655
referendum, take effect at the earliest time permitted by law that 103656
is on or after the effective date specified in this division. 103657

Section 612.36.03. (A) Except as otherwise provided in 103658
division (B) of this section, the amendments to section 3301.0711 103659
of the Revised Code are subject to the referendum. Therefore, 103660
under Ohio Constitution, Article II, Section 1c and section 1.471 103661
of the Revised Code, the amendments take effect July 1, 2006. If, 103662
however, a referendum petition is filed against the amendments, 103663
the amendments, unless rejected at the referendum, take effect at 103664
the earliest time permitted by law that is on or after the 103665
effective date specified in this division. 103666

(B) The amendments to division (N) of section 3301.0711 of 103667

the Revised Code are not subject to the referendum. Therefore, 103668
under Ohio Constitution, Article II, Section 1d and section 1.471 103669
of the Revised Code, the amendments go into immediate effect. 103670

Section 612.37. (A) Except as otherwise provided in division 103671
(B) of this section, the amendments to section 3314.02 of the 103672
Revised Code are subject to the referendum. Therefore, under Ohio 103673
Constitution, Article II, Section 1c and section 1.471 of the 103674
Revised Code, the amendments go into effect on the ninety-first 103675
day after this act is filed with the Secretary of State. If, 103676
however, a referendum petition is filed against the amendments, 103677
the amendments, unless rejected at the referendum, take effect at 103678
the earliest time permitted by law. 103679

(B) The amendment striking the paragraph immediately 103680
following division (C)(1)(f)(iii) of section 3314.02 of the 103681
Revised Code is not subject to the referendum. Therefore, under 103682
Ohio Constitution, Article II, Section 1d and section 1.471 of the 103683
Revised Code, the amendment goes into immediate effect when this 103684
act becomes law. 103685

Section 612.38. (A) Except as otherwise provided in division 103686
(B) of this section, the amendments by this act to section 3314.03 103687
of the Revised Code are not subject to the referendum. Therefore, 103688
under Ohio Constitution, Article II, Section 1d and section 1.471 103689
of the Revised Code, the amendments go into immediate effect. 103690

(B) The amendment to division (A)(4) and the amendments 103691
adding divisions (A)(25) and (F) of section 3314.03 of the Revised 103692
Code are subject to the referendum. Therefore, under Ohio 103693
Constitution, Article II, Section 1c and section 1.471 of the 103694
Revised Code, the amendments take effect on the ninety-first day 103695
after this act is filed with the Secretary of State. If, however, 103696
a referendum petition is filed against the amendments, the 103697

amendments, unless rejected at the referendum, take effect at the 103698
earliest time permitted by law. 103699

Section 612.38.03. (A) Except as otherwise provided in 103700
division (B) of this section, the amendments by this act to 103701
section 3314.08 of the Revised Code are not subject to the 103702
referendum. Therefore, under Ohio Constitution, Article II, 103703
Section 1d and section 1.471 of the Revised Code, the amendments 103704
go into immediate effect. 103705

(B) The amendments to division (N) of section 3314.08 of the 103706
Revised Code are subject to the referendum. Therefore, under Ohio 103707
Constitution, Article II, Section 1c and section 1.471 of the 103708
Revised Code, the amendments take effect on the ninety-first day 103709
after this act is filed with the Secretary of State. If, however, 103710
a referendum petition is filed against the amendments, the 103711
amendments, unless rejected at the referendum, take effect at the 103712
earliest time permitted by law. 103713

Section 612.39. (A) Except as otherwise provided in division 103714
(B) of this section, the amendments by this act to section 103715
3317.024 of the Revised Code are not subject to the referendum. 103716
Therefore, under Ohio Constitution, Article II, Section 1d and 103717
section 1.471 of the Revised Code, the amendments go into 103718
immediate effect. 103719

(B) The amendment to division (J) of section 3317.024 of the 103720
Revised Code is subject to the referendum. Therefore, under Ohio 103721
Constitution, Article II, Section 1c and section 1.471 of the 103722
Revised Code, the amendment takes effect on the ninety-first day 103723
after this act is filed with the Secretary of State. If, however, 103724
a referendum petition is filed against the amendment, the 103725
amendment, unless rejected at the referendum, takes effect at the 103726
earliest time permitted by law. 103727

Section 612.45. (A) Except as otherwise provided in division 103728
(B) of this section, the amendments by this act to section 3702.51 103729
of the Revised Code are not subject to the referendum. Therefore, 103730
under Ohio Constitution, Article II, Section 1d and section 1.471 103731
of the Revised Code, the amendments go into immediate effect. 103732

(B) The amendment to division (G)(10) of section 3702.51 of 103733
the Revised Code is not subject to the referendum. Therefore, 103734
under Ohio Constitution, Article II, Section 1d and section 1.471 103735
of the Revised Code, the amendments take effect July 1, 2005. 103736

Section 612.48. (A) Except as otherwise provided in division 103737
(B) of this section, the amendments to section 5101.35 of the 103738
Revised Code are subject to the referendum. Therefore, under Ohio 103739
Constitution, Article II, Section 1c and section 1.471 of the 103740
Revised Code, the amendments take effect on the ninety-first day 103741
after this act is filed with the Secretary of State. If, however, 103742
a referendum petition is filed against the amendments, the 103743
amendments, unless rejected at the referendum, take effect at the 103744
earliest time permitted by law. 103745

(B) The amendment by this act to division (A)(3) of section 103746
5101.35 of the Revised Code adding a reference to "5101.461" is 103747
not subject to the referendum. Therefore, under Ohio Constitution, 103748
Article II, Section 1d and section 1.471 of the Revised Code, the 103749
amendment goes into immediate effect. 103750

Section 612.54. (A) Except as otherwise provided in division 103751
(B) of this section, the amendments to section 5111.02 (5111.021) 103752
of the Revised Code are subject to the referendum. Therefore, 103753
under Ohio Constitution, Article II, Section 1c and section 1.471 103754
of the Revised Code, the amendments take effect October 1, 2005. 103755
If, however, a referendum petition is filed against the 103756
amendments, the amendments, unless rejected at the referendum, 103757

take effect at the earliest time permitted by law that is on or 103758
after the effective date specified in this division. 103759

(B) The amendment by this act to division (B) of section 103760
5111.02 (5111.021) of the Revised Code striking the last sentence 103761
of that division (B) is not subject to the referendum. Therefore, 103762
under Ohio Constitution, Article II, Section 1d and section 1.471 103763
of the Revised Code, the amendment takes effect July 1, 2005. 103764

Section 612.57. (A) Except as otherwise provided in division 103765
(B) of this section, the amendments to section 5111.06 of the 103766
Revised Code are subject to the referendum. Therefore, under Ohio 103767
Constitution, Article II, Section 1c and section 1.471 of the 103768
Revised Code, the amendments go into effect on October 1, 2005. 103769
If, however, a referendum petition is filed against the 103770
amendments, the amendments, unless rejected at the referendum, 103771
take effect at the earliest time permitted by law that is on or 103772
after the effective date specified in this division. 103773

(B) The amendment to division (A)(1) of section 5111.06 of 103774
the Revised Code that inserts a reference to section 5111.061 of 103775
the Revised Code is not subject to the referendum. Therefore, 103776
under Ohio Constitution, Article II, Section 1d and section 1.471 103777
of the Revised Code, the amendment goes into immediate effect when 103778
this act becomes law. 103779

Section 612.63. (A) Except as otherwise provided in division 103780
(B) of this section, the amendment renumbering section 5111.88 as 103781
section 5111.97 of the Revised Code is subject to the referendum. 103782
Therefore, under Ohio Constitution, Article II, Section 1c and 103783
section 1.471 of the Revised Code, the renumbering amendment takes 103784
effect October 1, 2005. If, however, a referendum petition is 103785
filed against the renumbering amendment, the renumbering 103786
amendment, unless rejected at the referendum, takes effect at the 103787

earliest time permitted by law that is on or after the effective
date specified in this division.

(B) The amendment to division (B)(2) of section 5111.88
(5111.97) of the Revised Code striking "eighteen" and inserting
"twelve" is not subject to the referendum. Therefore, under Ohio
Constitution, Article II, Section 1d and section 1.471 of the
Revised Code, the amendment goes into immediate effect when this
act becomes law.

Section 612.66. (A) Except as otherwise provided in division
(B) of this section, the amendments to section 5727.84 of the
Revised Code provide for or are essential to implementation of a
tax levy. Therefore, under Ohio Constitution, Article II, Section
1d, the amendments go into immediate effect when this act becomes
law.

(B) The amendments striking divisions (B)(6) and (7) and
(C)(3) from section 5727.84 of the Revised Code are subject to the
referendum. Therefore, under Ohio Constitution, Article II,
Section 1c and section 1.471 of the Revised Code, the amendments
take effect on the ninety-first day after this act is filed with
the Secretary of State. If, however, a referendum petition is
filed against the amendments, the amendments, unless rejected at
the referendum, take effect at the earliest time permitted by law.

Section 612.69. (A) Except as otherwise provided in division
(B) of this section, the amendments to section 5727.85 of the
Revised Code are not subject to the referendum. Therefore, under
Ohio Constitution, Article II, Section 1d and section 1.471 of the
Revised Code, the amendments go into immediate effect when this
act becomes law.

(B) The amendments to section 5727.85 of the Revised Code
that insert new language into division (F), strike "February" and

insert "May," strike divisions (G) and (H) and the two unlettered 103818
paragraphs following, insert new division (H), and add an internal 103819
cross-reference to division (F) of the section are subject to the 103820
referendum. Therefore, under Ohio Constitution, Article II, 103821
Section 1c and section 1.471 of the Revised Code, the amendments 103822
take effect on the ninety-first day after this act is filed with 103823
the Secretary of State. If, however, a referendum petition is 103824
filed against the amendments, the amendments, unless rejected at 103825
the referendum, take effect at the earliest time permitted by law. 103826

Section 612.69.03. The amendments by this act to section 103827
5739.01 of the Revised Code provide for or are essential to 103828
implementation of a tax levy. Therefore, under Ohio Constitution, 103829
Article II, Section 1d, the amendments are not subject to the 103830
referendum and go into immediate effect when this act becomes law. 103831
However, the amendment to divisions (HHH) and (III) of the section 103832
goes into effect July 1, 2005, and the amendments to division 103833
(H)(1)(a)(vi), adding a new division (H)(1)(b), and adding a new 103834
division (H)(1)(c)(iv) of the section go into effect January 1, 103835
2006. 103836

Section 612.69.06. The amendments by this act to section 103837
5739.02 of the Revised Code provide for or are essential to 103838
implementation of a tax levy. Therefore, under Ohio Constitution, 103839
Article II, Section 1d, the amendments are not subject to the 103840
referendum and go into immediate effect when this act becomes law. 103841
However, the amendment to division (B)(18) of the section and the 103842
amendment striking through division (B)(35) of the section go into 103843
effect July 1, 2005. 103844

Section 612.69.09. (A) Except as otherwise provided in 103845
division (B) of this section, the amendments by this act to 103846
section 5739.17 of the Revised Code are not subject to the 103847

referendum. Therefore, under Ohio Constitution, Article II, 103848
Section 1d and section 1.471 of the Revised Code, the amendments 103849
take effect on July 1, 2005. 103850

(B) The amendments to division (C) of section 5739.17 of the 103851
Revised Code provide for or are essential to implementation of a 103852
tax levy. Therefore, under Ohio Constitution, Article II, Section 103853
1d, the amendments are not subject to the referendum and go into 103854
immediate effect when this act becomes law. 103855

Section 612.69.12. The amendments by this act to section 103856
5741.02 of the Revised Code provide for or are essential to 103857
implementation of a tax levy. Therefore, under Ohio Constitution, 103858
Article II, Section 1d, the amendments are not subject to the 103859
referendum and go into immediate effect when this act becomes law. 103860
However, the amendment to division (E) of the section goes into 103861
effect January 1, 2006. 103862

Section 612.72. (A) Except as otherwise provided in division 103863
(B) of this section, the amendments by this act to section 5747.01 103864
of the Revised Code provides for or is essential to implementation 103865
of a tax levy. Therefore, under Ohio Constitution, Article II, 103866
Section 1d, the amendments are not subject to the referendum and 103867
go into immediate effect when this act becomes law. 103868

(B) The amendment to division (A)(10) of section 5747.01 of 103869
the Revised Code is subject to the referendum. Therefore, under 103870
Ohio Constitution, Article II, Section 1c and section 1.471 of the 103871
Revised Code, the amendment takes effect on the ninety-first day 103872
after this act is filed with the Secretary of State. If, however, 103873
a referendum petition is filed against the amendment, the 103874
amendment, unless rejected at the referendum, takes effect at the 103875
earliest time permitted by law. 103876

Section 615.03. Except as otherwise specifically provided in 103877
this act, the uncodified sections of law amended or enacted in 103878
this act, and the items of law of which the uncodified sections of 103879
law amended or enacted in this act are composed, are not subject 103880
to the referendum. Therefore, under Ohio Constitution, Article II, 103881
Section 1d and section 1.471 of the Revised Code, the uncodified 103882
sections of law amended or enacted in this act, and the items of 103883
law of which the uncodified sections of law amended or enacted in 103884
this act are composed, go into immediate effect when this act 103885
becomes law. 103886

Section 615.06. Uncodified sections of law amended or enacted 103887
in this act, and items of law contained within the uncodified 103888
sections of law amended or enacted in this act, that are marked 103889
with an asterisk are subject to the referendum. Therefore, under 103890
Ohio Constitution, Article II, Section 1c and section 1.471 of the 103891
Revised Code, the uncodified sections and items of law marked with 103892
an asterisk take effect on the ninety-first day after this act is 103893
filed with the Secretary of State. If, however, a referendum 103894
petition is filed against an uncodified section or item of law 103895
marked with an asterisk, the uncodified section or item of law 103896
marked with an asterisk, unless rejected at the referendum, takes 103897
effect at the earliest time permitted by law. 103898

If the amending and existing repeal clauses commanding the 103899
amendment of an uncodified section of law are both marked with 103900
asterisks, the uncodified section as amended is deemed also to 103901
have been marked with an asterisk. 103902

An asterisk marking an uncodified section or item of law has 103903
the form *. 103904

This section defines the meaning and form of, but is not 103905
itself to be considered marked with, an asterisk. 103906

Section 615.90. If the amendment or enactment in this act of a codified or uncodified section of law is subject to the referendum, the corresponding indications in the amending, enacting, or existing repeal clauses commanding the amendment or enactment also are subject to the referendum, along with the amendment or enactment. If the amendment or enactment by this act of a codified or uncodified section of law is not subject to the referendum, the corresponding indications in the amending, enacting, or existing repeal clauses commanding the amendment or enactment also are not subject to the referendum, the same as the amendment or enactment.

Section 618.03. The amendment of sections 5112.03 and 5112.08 of the Revised Code are not intended to supersede the earlier repeal, with delayed effective date, of those sections.

Section 618.06. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

Section 122.74 of the Revised Code as amended by both Am. Sub. H.B. 356 and Am. Sub. S.B. 310 of the 121st General Assembly.

Section 307.37 of the Revised Code as amended by both Am. Sub. H.B. 175 and Sub. H.B. 231 of the 125th General Assembly.

Section 307.86 of the Revised Code as amended by both Am. Sub. H.B. 11 and Sub. H.B. 230 of the 125th General Assembly.

Section 2921.13 of the Revised Code as amended by Am. Sub. H.B. 12, Am. Sub. H.B. 95, and Am. Sub. H.B. 311 of the 125th

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| General Assembly. | 103937 |
| Section 3314.03 of the Revised Code as amended by both Am. Sub. H.B. 3 and Am. Sub. H.B. 95 of the 125th General Assembly. | 103938 |
| Section 3317.023 of the Revised Code as amended by both Am. Sub. H.B. 3 and Am. Sub. H.B. 95 of the 125th General Assembly. | 103939 |
| Section 3317.026 of the Revised Code as amended by both Am. Sub. H.B. 129 and Sub. S.B. 200 of the 124th General Assembly. | 103940 |
| Section 3704.035 of the Revised Code as amended by both Am. Sub. S.B. 18 and Am. Sub. S.B. 153 of the 120th General Assembly. | 103941 |
| Section 4503.571 of the Revised Code as amended by both Am. Sub. S.B. 120 and Am. Sub. S.B. 232 of the 123rd General Assembly. | 103942 |
| Section 4723.341 of the Revised Code as amended by both Am. Sub. H.B. 511 and Am. Sub. S.B. 180 of the 123rd General Assembly. | 103943 |
| Section 5739.01 of the Revised Code as amended by both Am. Sub. H.B. 95 and Am. Sub. S.B. 37 of the 125th General Assembly. | 103944 |
| Section 5739.02 of the Revised Code as amended by both Am. Sub. H.B. 95 and Am. Sub. S.B. 37 of the 125th General Assembly. | 103945 |
| Section 5741.02 of the Revised Code as amended by Am. Sub. H.B. 95, Am. Sub. S.B. 37, and Sub. S.B. 47 of the 125th General Assembly. | 103946 |
| Section 5743.03 of the Revised Code as amended by both Am. Sub. S.B. 242 and Am. Sub. S.B. 261 of the 124th General Assembly. | 103947 |
| Section 6121.04 of the Revised Code as amended by both Am. Sub. H.B. 601 and Am. Sub. H.B. 628 of the 123rd General Assembly. | 103948 |
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